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**APC Meeting Underscores
REGIONAL FRAMEWORK FOR ORDERLY MIGRATION**

Speakers at a Consultation emphasised that government, private sector and civil society should form a strategic partnership in managing temporary labour migration and their efforts should be supported by the international community. A South Asian Sub-Regional Meeting of the APC was held in Dhaka, Bangladesh on 29-30 August 2000.

The meeting attempted to address the complex issue of labour migration in a globalising world focussing on the South Asian Region. It dealt with three themes: comprehensive policies for foreign employment, labour migration in Bangladesh and capacity building for temporary employment.

The various aspects of foreign employment were elaborated in the discussion paper prepared by IOM. It focussed on the dynamics of temporary labour migration in South Asia. While appreciating the need for temporary movement of people for employment, the paper brought out the problems and tensions, arising due to, for example, presence of irregular migrant workers. The participants felt that the ageing population in some of the developed countries combined with emergence of “knowledge-worker” will set the trend of future labour migration worldwide. The need for appropriate training for developing knowledge-worker to meet the global demand was expressed. The paper suggested some policy responses to address the problems associated with temporary labour migration.

There was a general consensus that national foreign employment policy should be consistent with the existing international regime and labour market situation. The policy, participants suggested, should be comprehensive, flexible and effective. It should include, inter alia, a pragmatic national foreign employment programme, a programme to protect migrant workers, a sound remittance management system and a comprehensive programme for reintegration for return migrants.

The participants felt that establishment of an orderly labour migration regime, beneficial for both sending and receiving countries, can effectively address the difficulties in managing the global flow of labour. As a first step towards establishing such a regime, participants suggested that a comprehensive national policy should be put in place.

The paper on Bangladesh elaborated the existing national labour migration system which combines role of both the government and the private sector. It also recognised effective role of the government in removing negative impact of competition among various agencies. The participant felt that government intervention can ensure a sound and balanced policy for labour migration. The role of government in protecting right of migrant workers were also recognised.

The need for capacity building was identified as one of the most important activities to ensure effective migration management. It was noted that capacity of three groups namely, governments, migrant and private-NGO sector should be enhanced in a systematic and realistic manner. It was also recognised that the process of capacity building should begin with need assessment, realistic national objective setting, administrative infrastructure and policy review. The participants requested IOM to

further strengthen its country programme in South Asia to enhance their capacity in management of temporary labour migration. They also identified some areas, which need immediate attention. Those were institution building, information dissemination, pre departure training, remittance management and reintegration of return migrants.

The participants recognised the need for information campaign the potential migrants about possible risks and available assistance as well as existing laws, customs, values and obligations.

IOM has been implementing programmes for development of institutional framework in the migration management. These programmes focus on review of national policies and reorganisation of legal and administrative framework for migration management to enable governments to meet the current migration challenges. IOM has also developed programmes for better use of information technology in migration management

The meeting recognised that there are many similarities in the labour migration situation of the South Asian countries. To evolve a conducive environment in this area, adoption of a regional approach would perhaps be the most appropriate strategy. There was also an understanding that South Asian countries should jointly work towards building a regional framework for orderly and humane movement of labour across border. The participants opined that regional forum like the APC can provide an appropriate forum for consultations among the regional countries to remove tension resulting from labour migration. They commended the informal, non-binding and flexible APC approach in addressing the sensitive issue of migration. International organizations like IOM, UNHCR and ILO could play constructive role in harmonising the policy regimes and developing regional mechanism for migration in South Asia.

The meeting was hosted by the Ministry of Labour and Employment, Government of Bangladesh and was attended by representatives of Bangladesh, Bhutan, Nepal, Pakistan, Sri Lanka. IOM, UNHCR and the APC Secretariat also participated.

Viewpoint:

ADVANTAGES OF ACCESSION TO 1951 REFUGEE CONVENTION

M M Sunnah

Introduction

1951 Refugee Convention and its 1967 Protocol govern refugee status on the universal level. These two international legal instruments have been adopted within the framework of the UN. Till 1 June 1997, 134 states have become parties to the Convention or to the Protocol or to both instruments. Both the Convention and the 1967 Protocol provide for cooperation between the Contracting States and the Office of the United Nations High Commissioner for Refugees (UNHCR). This cooperation extends to the determination of refugee status, according to arrangements made in various contracting states. Bangladesh has ratified different human rights instruments like *International Covenant on the Rights of the Child* and *Convention on the Elimination of all Forms of Discrimination against Women*. Bangladesh, being a developing country and not a party to any of the above-mentioned instruments relating to refugees, have been hosting a large number of refugees and displaced persons since its inception. Moreover, it does not have its own legislation relating to the refugees. In order to ensure constitutional rights to refugees who are for the time being in Bangladesh, the existence of a legal normative framework can only address such issues. Scholars and professionals in the field believe, based on their wide experience, that establishing such a framework is vital for two reasons: (a) to enhance the protection of genuine refugees, and (b) to enable the state to manage properly the refugee and migratory flows. The latter is true when the states have to deal with individuals crossing the border but also when the states face problem of a large-scale influx. Accession to 1951 Convention leads to build a normative framework, which again makes it possible to distinguish between real

refugees who are fleeing serious abuses of human rights and people who are escaping from poverty or from the course of justice.

A normative framework can spell out the right and obligation of refugees who have been admitted by governments either on an individual or group basis. Ideally a normative framework will consist of a national legislation which is supported by an accession to the 1951 Convention.

Advantages of Accession to 1951 Refugee Convention

There are several advantages of acceding to 1951 Convention. Given the current international political climate and continuing refugee-producing events, the advantages of accession by a state to the Convention and the Protocol can best be explained as follows:

- Accession constitutes an undertaking to apply minimum humanitarian standards of treatment in respect of refugees. These standards were elaborated in the Convention and have now been endorsed by a very large majority of states.
- Accession contributes to the improvement of relations between a refugee's country of origin and the country of asylum. Tensions between these countries in connection with the granting of asylum will be eased where the country of asylum is seen to be acting in accordance with its obligations under international refugee instruments, particularly as these instruments underline the peaceful and humanitarian nature of asylum. Indeed, paragraph 5 of the Preamble of the Convention urges states to do everything within their power to prevent refugees' problems from becoming a cause of tension between them. Similar exhortations can be found in paragraph 4 of the Preamble and Article 1 of the United Nations Declaration on Territorial Asylum of 1967; Article 2 of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa; Conclusion 4 of the Cartagena Declaration on Refugees and Paragraph 3 of the Council of Europe Declaration of Territorial Asylum.
- Accession underlines the importance attached by the acceding state to cooperation with the international community and UNHCR in their efforts to find solutions to refugee problems. States have generally acted in accordance with the long-standing humanitarian tradition of granting refugees asylum until conditions in their countries of origin allow them to repatriate voluntarily. Accession does not impose upon states a legal obligation to admit refugees on a permanent basis. Rather, it serves to strengthen the universal tradition of asylum by placing it within the more solid framework of an international convention.
- Accession greatly facilitates UNHCR's task of mobilising international support to address refugee situations that may arise in any country. A sudden, large influx of refugees into a developing country often imposes severe economic strains and may require a diversion of already scarce resources away from the local population. Such situations call for special measures of assistance, which are best provided through co-operation with the wider international community.
- Accession to international refugee instruments further serves to: (i) manifest the profound concern of States for the plight of refugees, and their desire that solutions be found to the problem of refugees; and (ii) acknowledge and strengthen the universal character of international refugee law, in recognition of the universal character which refugee problems and the search for solutions have assumed.

Again, from UNHCR experience, it is believed that there are some common concerns of states regarding accession to the Convention and the Protocol. Some of these concerns are addressed below one by one.

The first concern is *whether there are any costs involved in accession*. The answer is no. Acceding to the Convention and the Protocol does not expose a country to any charges or costs.

The second concern is *whether State Parties are obliged to resettle a “quota” of refugees*. Again the answer is no. Neither the Convention, nor the Protocol obliges signatories to resettle a quota of refugees.

The third concern is *whether the Contracting States are required to give permanent asylum to all refugees who arrive at their borders*. The answer is, in short, no. The principle of *non-refoulement* (contained in Article 33) is the main obligation imposed upon State by the Convention. In practice, states frequently distinguish *non-refoulement* from durable asylum.

The right to seek asylum is a basic human right contained in Article 14 of the Universal Declaration of Human Rights (UDHR). Accordingly, a refugee must not be prevented from entering a country in order to seek protection or be forcibly returned to his or her country of origin or any other country where he or she could face persecution. However, neither the Convention, nor the Protocol or the UDHR impose upon states an obligation to grant asylum on a durable basis. Particularly in situations of large-scale influx, international solidarity will come into play to alleviate the burden such influxes impose upon the receiving states.

In any event, the protection afforded by the Convention and Protocol is not meant to be permanent. The objective of solving the refugee problem, i.e., to ensure that refugees can safely and voluntarily return to their countries or origin as soon as possible, is an integral part of the system of international protection for refugees epitomised by the 1951 Convention and 1969 Protocol.

The fourth concern is *whether a state party is obliged to protect criminals who arrive within its territory and claim refugee status*. The answer is again, no. Elaborately, even though they may otherwise qualify as refugees, some persons are deemed not to be deserving international protection under the Convention and Protocol. These include persons who have committed a crime against peace, a war crime, a crime against humanity or a serious non-political crime outside the country of refuge prior to their admission to the country where asylum is sought.

The fifth concern is *whether a state party is obliged to give land to all refugees who arrive on its territory*. Neither the Refugee Convention, nor the Protocol requires state parties to give preferential treatment to refugees with regard to the acquisition of land. Article 13 of the Convention only requires Contracting States to accord to refugees a treatment as favourable as possible, and not less favourable than the accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property. Therefore the answer is, in short, no.

Finally, people on the move, whether they are asylum seekers, recognised refugee or migrant workers should, of course, be covered by the specific or general protection of human rights, with the limitation foreseen in human rights law (specially for aliens).

AUSTRALIAN GOVERNMENT ATTACKS RIGHTS FOR REFUGEES

The Australian National Committee on Refugee Women (ANCORW) expressed its deep concern on the position taken by the Australian government under the pretext of improving the effectiveness of United Nations committees. It claimed that the government’s position has major implications for refugees and asylum seekers, both within and external to Australia.

ANCORW in its statement accused the government launching a scarcely veiled attack on the office of the UNHCR, and for confusing human rights conventions and the committee process with humanitarian law. The measures that the Australian government proposed can only be interpreted as strategies to restrict the movement of people who can no longer stay in their country of origin due to a well founded fear of persecution. In a changing world, the nature of forced migration and people movement has altered dramatically. The effects of globalisation on the developing world and the changing nature of warfare, which involves civilians, women and children more than ever before, has

meant that an increasing number of people are in need of international protection. The very nature of refugees is changing but it would appear that the reforms suggested by the Australian government, rather addressing these changes in a humanitarian framework aimed at finding a global answer to the problem, are aimed at punitive measures more designed to protect Australian national borders. The government aims to maintain a level of affluence within Australia regardless of what is happening in the countries, which are producing much of the wealth that Australians enjoy, at the expense of the human rights of refugees and asylum seekers.

ANCORW further observed that it would appear that Australia is putting its national interest above international law. The response from government is complex and crosses a number of issues. There is disquiet amongst refugee advocates on Australia's mandatory detention of asylum seekers and the conditions experienced by asylum seekers whilst in custody. Australia has already refused representatives of the Human Rights Committee access to Australia to visit these facilities. An important part of the government's proposed measures and reforms is to restrict visits to Australia by treaty bodies and special rapporteurs unless there are compelling reasons to do so. It is implicit that it is the government who decides what are compelling reasons.

The statement that Australia will reject unwarranted requests from treaty committees to delay removal of unsuccessful asylum seekers from Australia is inexcusable, and will return people who are under the protection of the Torture Convention will be returned to their country of origin when the United Nations is still not satisfied that their safety will be guaranteed/

John Pace, Director of the Australian Human Rights Centre, UNSW, has said that the year 2000 has seen a steady and highly disturbing drift of Australia away from its traditional role as an important human rights power. There are grave implications in the line of argument that the government is pursuing. It does not only affect Australia's relationship with the United Nations. The explicit attack on the treaty committees will be seen by nations who have poor human rights records as encouragement to continue their blatant breaches of the conventions.

In the past, Australia has been seen as a leader in the human rights field. It is tragic that Australia's leaders now seem prepared to undermine international treaties by undermining the committees that implement them. In answer to the question of why this has happened, John Pace stated that an examination of the 29 August press release invariably reflected a confused and deep lack of understanding of the natures of international human rights law, its place in international relations and its relevance to the protection of human rights at the national level. This confusion was further compounded by a clear misunderstanding of the complimentary role and responsibility of non-governmental organisation in human rights issues.

REGIONAL MEETING URGES ADDRESSING PROBLEMS OF MIGRANT WORKERS

The conditions of the temporary migrant workers in both the host and home countries have been discussed at a regional meeting. The meeting titled *Pre-departure, Post Arrival and Reintegration Programme for Migrant Workers* was held at Genting Highlands, Malaysia, on 13 September 2000. It was participated by 110 delegates from 14 countries from the South and South-east Asian countries, with representatives from governments, recruiting agencies, UN agencies, and NGOs.

Participants in the meeting identified poverty, conflicts, forced displacement and inequalities in developing countries, along with the demand for cheap, flexible, contractual, and deregulated labour as causes for the increase and changed pattern of migration processes. They also identified migration process turned into a multidimensional, multi-sectoral, and regional in nature. Feminisation of migration was also brought into the discussion. In analysing the policies related to migration, the following issues were identified:

- Policies looked at the migrant workers as a commodity, and a source of revenue;

- Gender selectivity in recruitment has increased in feminisation of migration, where women are employed in isolated and individualised work conditions. This has brought about abuse, sexual violence, discrimination, and violations of fundamental rights;
- Policies more concerned with national security tended to monitor the control of migrant flows rather than their protection issues;
- With few exceptions, lack of any comprehensive policy concerning the protection and rights of migrant workers; and
- Little importance given to health, reproductive health and HIV/AIDS issues.

The meeting identified the following issues that should be incorporated in the policies to be developed for the migrant workers:

- Pre-departure, post arrival or reintegration programmes as part of the migration process, inter-related and in continuum;
- Recognition of the empowerment of migrant workers and their families;
- Development of programmes reflecting the regional dimension to be stated in multilateral and bilateral agreements;
- Development of community-based programmes ensuring the participation of families of migrant workers; and
- Reflection of migrant and gender perspective and culture sensitivity in the programmes.

A number of key areas in the development programmes for the migrant workers identified in the meeting were information dissemination including general and reproductive health, consequent changes in cultural and social factors, services including counselling and development of support services, and recognition of different types of migrants both departing and returning.

UPDATE

EVICTION OF BROTHELS

High Court Judgement

On 14 March 2000 a High Court Division bench of the Supreme Court declared the forcible eviction of the prostitutes from Tanbazar and Nimtoli brothels at Narayanganj illegal and without lawful authority. The Court also termed the treatment meted out to the sex workers by police and local civil administration in the name of rehabilitation on 24 July 1999, as inhumane. The Court declared the profession of sex workers 'not illegal', and they could seek their rehabilitation by following the necessary procedures laid down in the law through appropriate forum. The prostitutes of the above-mentioned brothels were evicted in July last year and were taken to the Kashimpur Vagrants Centre in Ghazipur. Following the eviction five organisations on behalf of a coalition of 85 human rights bodies filed a writ petition before the High Court Division bench on 1 August 1999 (*Independent*, 15 March). But the Supreme Court Appeal Division has stayed the judgement till 30 April (*Jugantar*, 31 March).

The Court ordered to release the evicted sex workers from the Kashimpur Vagrant Centre at Ghazipur, and also declared that the sex workers will not be evicted from the Daulotdia and Razbari brothels without their consent and proper rehabilitation (*Sangbad*, 15 March). The declaration explained that legally there is no bar on the profession of prostitution. In a democratic country like Bangladesh the police has the responsibility to protect the citizens' rights and ensure their protection. Since the sex workers paid their house rents, according to law, the tenant cannot be evicted without prior notice. Later they were taken to the vagrant centre, but they did not fall in that category.

Nevertheless, oppression by the police force continued on the sex workers over the issue of extortion, often turning into looting by the force. On 11 July, police raided the Daulotdia brothel and used firearms seriously injuring two, and arresting 19 persons (*Independent*, 12 July).

Reaction of the Human Rights Organisations

Human rights organisations expressed mixed reactions following the High Court judgement. One group of human rights leaders termed it as a victory welcoming the judgement, while another group stressed that the victory could be achieved only when the evicted would get their homes back (*Independent*, 15 March). In a meeting called by *Sanghati* (solidarity) on 30 March, 85 organisations expressed their satisfaction and welcomed the judgement. In this meeting the displaced prostitutes demanded return to their place of residence from where they have been evicted (*Prothom Alo*, 31 March). The Bangladesh Society for Employment of Human Rights took preparation to file case for compensation after it had procured a copy of the judgement (*Sangbad*, 23 March). In another meeting of *Sanghati* held on 30 March, speakers declared that they would re-establish their right over the two brothels at Narayanganj (*Sangbad*, 31 March).

Later on 24 July under the banner of *Sanghati*, the NGOs staged a demonstration in front of National Press Club demanding rehabilitation of six thousand sex workers evicted from the Narayanganj brothels last year. According to a recent survey report on the eviction, rehabilitation and present condition of the sex workers presented at the programme, only 267 were taken to the Vagrant Centre. It was alleged that those sent to the centres have become victims to the officers as well as other employees. The organisers urged the government to allow the evicted to return to their previous place of residence (*Independent*, 25 July).

Impacts of Eviction

After the eviction of the two brothels in Narayanganj, different illegal centres have emerged. A number of the evicted persons became floating sex workers. The business of locally produced alcohol, and some other drugs have spread (*Sangbad*, 23 March). In a study done by Research Evaluation Associates for Development, it was revealed that 60% of brothel sex workers and 81% of floating women sex workers in eight major cities and towns including Dhaka are suffering from sexually transmitted diseases. The study reported that most of the two categories sex workers are aware of HIV/AIDS identifying sexual contact as the source. Many of them complained about their sudden evictions and others desired registration, which they claimed not to be an entirely illegal demand (*Independent*, 14 March). Moreover, harassment on the sex workers continued after the eviction, as 16 of the evicted persons were detained in jail in name of safe custody. They were neither convicted nor under-trial prisoners but they were forced to stay in jail (*Independent*, 13 May).

Reporter: Shahzada M Akram

UPDATE

TRAFFICKING IN WOMEN AND CHILDREN

“Human trafficking is considered the third largest source of profits for organised crime after guns and drugs”— was the observation of US Deputy Secretary of State, Ralph Boyce, who was speaking at a regional conference in Manila on *Combating Human Trafficking* on 29 March 2000. It was also identified in the conference that poverty, political instability, ignorance and indifference act as principal causes of trafficking of women and children. Suggestions were put forward therefore to strengthen inter country adoption of laws, abolition of mail order bride rules and establishing regional centres or networking that will help countries share information on human trafficking in order to prevent trafficking as well as provide care for victims (*Independent*, 30 March).

Being an underdeveloped and densely populated country, Bangladesh has become a safe haven for the traffickers. There is a large net work of traffickers in bordering areas of Jessore, engaged in illegal human trade in collaboration with a section of dishonest border security personnel. Women of minority community and poor families of remote villages are the prime targets of this mafia network. They pick up women and children on temptation of providing them with employment in lucrative positions in garments and other factories. Some are kidnapped or got married with a trafficker. In

many cases the stepfather or other relations sell off children. In reality the victims are supplied to different brothels in India and Pakistan or are sold as domestic aide. Children are forced to work as camel jockey. Blood, kidneys and skeletons of trafficked persons have become commodities of illegal trade in India (*Sangbad*, 15 May).

Over the last few months several known cases of trafficking took place. It is claimed that five hundred women had been trafficked through Satkhira border alone, in the last ten years (*Janakantha*, 9 August). In most cases, the traffickers got released through the loopholes of existing national laws on trafficking. It was also reported that it is the human rights organizations, which plays the pivotal role in taking action against traffickers (*Janakantha*, 10 August). Again it has been revealed from a research conducted by Bangladesh National Women Lawyers Association that each year 7000 women and children are trafficked in neighbouring countries. Another study shows that more than 7,00,000 women and children are trafficked in foreign countries in the last twenty years. Among them 5,00,000 women and adolescent girls have ended up in different Indian and Pakistani brothels (*Sangbad*, 18 August).

On 31 March 2000 a minor boy named Shohag was rescued who was allegedly being trafficked to England from Zia International Airport by one Rafiqul Islam. Later the alleged trafficker managed to escape. Collusion between an organised trafficker group and a section of airport immigration officials is suspected behind the incident (*Sangbad*, 8 April).

In another incident 150 children aged between 10-15 years were trafficked to Chittagong by truck from Kurigram town on 29 March 2000. The same day police rescued nine children from the hands of alleged traffickers at Rangpur Railway Station and arrested two women traffickers (*Independent*, 12 April). One of the common route of trafficking is by land, through which hundreds are trafficked to India and Pakistan everyday. Four of such traffickers were arrested along with seven women and a child from the Kaliganj border of Satkhira, from where the women were planned to be sent to India. They admitted that the traffickers promised them of overseas jobs. Most of the women and girl children assured for job overseas end up as prostitutes and other degrading jobs (*Sangbad*, 18 May).

In late February 2000, a young man named Kamruzzaman Rassel was cheated and taken to Calcutta with false assurance of job in the Maldives. After their arrival in Calcutta the trafficker Rafique Ahmed Fuad confined the victim in a hotel for 65 days and demanded more money from the relatives of the victim. Earlier he took Tk.75,000 as his fee to provide him with overseas job. Finally he was apprehended and handed over to the police while collecting money from the relatives of another victim Kudrat Ali in Benapole border and was sent to Pabna jail. It was revealed from the incident that Fuad worked in collaboration with an Indian gang (*Sangbad*, 2 June).

On 28 March a special tribunal court of women and children repression affairs at Natore convicted one Montaz Ali for trafficking Maksuda Begum in early 1991 to Pakistan through India with the help of international women and children trafficking gang. The victim came back to the country from Pakistan in June 1997 with the help of a Dhaka-based women lawyers' association. On her arrival she filed a case against Montaz Mia and after examining all evidences and witnesses the court awarded him to life term with rigorous imprisonment (RI) and fined him Tk 10,000 in default to suffer another 5 years RI in a human trafficking case (*Independent*, 29 March).

An incident of attempt to trafficking took place in Nilphamari on 4 May 2000, when an H.S.C examinee alleged that he was kidnapped by a gang of traffickers. He managed to escape and able to return to his place after a long journey from where he was confined in a microbus along with some dead bodies in Peerganj, a border area (*Jankantha*, 13 May).

Reporter: Syeda Rozana Rashid

ACTIVITIES OF THE UNIT
July – September 2000

Publications: Issue 12, April – June 2000 of the Unit newsletter, *Udbastu* (the Uprooted), was published in September 2000.

Issue 13, July – September 2000 of *Udbastu* (the Uprooted), was published in September 2000.

Monthly Meeting: Three monthly meetings were held in July, August and September. In July, one paper was presented on *Present Condition of the Chittagong Hill Tracts* by Arifur Rahman, Department of Political Science, and Student Associate of RMMRU. In August, a paper on The CHT Land Issue was presented by Obaidul Haque, Lecturer, Department of International Relations, Dhaka University, and Research Associate, RMMRU. In September, Syeda Rozana Rashid, Research Associate of RMMRU presented a paper on Institutionalisation of the Welfare of Migrant Workers of Bangladesh. All the presentations were followed lively discussions from the floor.

Visitors: On 31 July 2000, Mr. Marius Born, a reporter from Switzerland paid a visit to the Unit. A discussion took place on different aspects and issues of the condition of the stateless persons, ethnic minority and the marginalised section, and the displaced persons of Bangladesh.

Dr. Petra Dannecker from the Department of Sociology, Development Research Center, University of Bielefeld, Germany visited the Unit on 3 August and had a discussion on different aspects of female migrant workers of Bangladesh.

On 10 August, Ms. Beverly Brar from UNDP, New Delhi, visited the Unit to have a discussion on the conditions of the migrant workers of Bangladesh.