

**Bangladeshi women and children including lap babies are sent to prison ignoring governmental (Union and state) orders. Impunity prevails**

**Kirity Roy** <kirityroy@gmail.com>

28 March 2022 at 14:46

To: NHRC Complaint <cr.nhrc@nic.in>

Cc: Secy Women & Child WB <secdsw@gmail.com>, "Home Secretary Govt of W.B." <wb.secyhome@gmail.com>, Home Ministry <hm@nic.in>, GOI MEA East <secyeast@mea.gov.in>, UN SR on Trafficking <OHCHR-srtrafficking@un.org>, SP Basirhat K P Barui <spbasirhatoffice@gmail.com>

To  
The Chairman,  
National Human Rights Commission,  
Manav Adhikar Bhawan,  
Block-C, GPO Complex, INA,  
New Delhi- 110023

28 March 2022

Respected Sir,

I am writing this complaint regarding detention of Bangladeshi women and children in West Bengal and accusing and treating them as criminals under Foreigners Act, 1946. Since long MASUM is trying to bring the on-going malpractice into light by making numerous complaints to the NHRC and other relevant departments. The authorities including police and Border Security Force are not at all concerned to enquire into whether the persons including women and children crossed the border from Bangladesh to India were the victims of human trafficking or not. Here I am appending three case details for your perusal.

**Case 1:** In connection with Hingalganj Police Station **Case no. 146/21** dated 03.09.2021 under section 14 of Foreigners Act, the following Bangladeshi women and children were arrested:

- 1) Ms. Asma Begam, wife of Sadek Sheikh, age- 40 years, residential address: - Village- Kodamtala, Post Office – Khoraliya Bazar, PS – Kalia, District - Norail, Bangladesh.
- 2) Ms. Swapna, daughter of Jalal Sheikh, Age- 35 years, residential address:- Village and Post Office - Mirzapur, PS and District – Norail. Bangladesh.
- 3) Ms. Poli Begam, wife of Md. Halim Sheikh, Age- 32 years, residential address:- Village Gopinathpur P.O Office – Hidia, P.S – Abhaynagar, District- Jessore, Bangladesh along with two babies a) Md Rehad Sheikh, Aged – 4 years, b) Suraiya, Aged – 4 years.

The victims are Bangladeshi nationals, who were trying to enter India from Bangladesh with the help of Bangladeshi tout on 03.09.2021 at around 07:15 P.M when she was apprehended by the ‘G’ Coy, BSF personnel attached with 08 Battalion, Boltala BSF BOP from 13 no ABAS Madan Mohan Vidyapith High School and handed over to the Hingalganj police station. The victim was produced before the Basirhat ACJM court on 04.09.2021 and sent to the Dum Dum Central Correctional Home for 14-day jail custody. They came to India in search of job. They had a plan to visit Bangalore or Mumbai for work purpose.

**Case 2:** In connection with Swarupnagar Police Station **Case no. 923/21** dated 30.10.2021 under section 14 of Foreigners Act, the following Bangladeshi women were arrested:

- 1) Ms. Aliya Begum, wife of Late Lutfur Shaikh, Age- 50 years, residential address: - Village – Parkhajura, Post Office – Khajura Bazar, PS – Monirampur and District- Jessore, Bangladesh.
- 2) Ms. Rosel Ahmed @ Rosel Daldar, daughter of Late Abdul Motlip, residential address: - Village – Doloir Goan, Post Office – Khogolibazar, PS - Companyganj and District- Silhat, Bangladesh.

Ms. Aliya Begum came to India from Bangladesh on 29.10.2021 at around 06:15 A.M at that time she was apprehended by the ‘F’ Coy, BSF personnel attached with 112 Battalion of Bithari BSF BOP and handed over to the Swarupnagar police station. On 28.10.2021 at around 12:45 P.M Ms. Rosel Ahmed @ Rosel Daldar was trying to return back to Bangladesh. At that time she was apprehended by the ‘F’ Coy, BSF personnel attached with 112 Battalion of Bithari BSF BOP and handed over to the Swarupnagar police station. Both of them were produced before the Basirhat ACJM court on 30.10.2021 and sent to the Dum Dum Central Correctional Home for 14-day jail custody.

**Case 3:** In connection with Basirhat Police Station **Case no. 907/21** dated 19.12.2021 under section 14 of Foreigners Act, the following Bangladeshi women were arrested:

- 1) Lata Begam, daughter of Abdul Rahaman, Age 40 years, residential address:- Village – Moonsafer Chor, PS – Sibpur, District – Norsindhi, Bangladesh.
- 2) Tashlima Khatun @ Priya Mondal, daughter of Late Ayub Hossain, Aged 23 years, residential address:- Village – Mamudpur, PS and District – Satkhira, Bangladesh.

On 19.12.2021 at around 05:10 P.M the victims were trying to return back Bangladesh. At that time they were apprehended by the 'D' Coy, BSF personnel attached with 153 Battalion of Panitor BSF BOP and handed over to the Basirhat police station. They were produced before the Basirhat ACJM court on 20.12.2021 and sent to the Dum Dum Central Correctional Home. On 19.12.2021 at around 06:00 P.M their medical examination has been done in Basirhat District Hospital.

Our fact finding reveals that the arrested Bangladeshi women and children entered India for the purpose of working in India as they are terribly poverty-stricken people with no jobs in Bangladesh. In several other instances they also enter India for the purpose of medical treatment as there are limited facilities in Bangladesh. Most of them work as domestic helper, construction worker and hotel workers in various locations of India. The victims are either trying to enter India through the border or return to their home in Bangladesh with the help of local touts, involved in cross border illegal movements (both side of the border), when they are being arrested by the Border Security Force (BSF) personnel. These touts / middlemen / *DHURS* are operating in connivance with border guards of both sides, India and Bangladesh. The Bangladeshi persons arrested were treated as accused under the Foreigners Act and no attempt is being taken up by the police or the concerned court to ascertain whether they were the victims of human trafficking or not. Such approach of the criminal justice system is against the advisory issued by the Government of India vide office memorandum No. 14051/14/2011-F.VI of Ministry of Home Affairs (Foreigners Division) Government of India Dated 1st May, 2012 clearly states as “(IV) it is seen that in general, the foreign victims of human trafficking are found without valid passport or visa. If, after investigation, the woman or child is found to be a victim, she should not be prosecuted under the Foreigners Act. If the investigation reveals that she did not come to India or did not indulge in crime out of her own free will, the State Government / UT Administration may not file a charge sheet against the victim. If the charge sheet has already been filed under the Foreigners Act and other relevant laws of the land, steps may be taken to withdraw the case from prosecution so far as the victim is concerned. Immediate action may be taken to furnish the details of such victims to the Ministry of External Affairs (Consular Division), Patiala House, New Delhi so as to ensure that the person concerned is repatriated to the country of her origin through diplomatic channels” and (v) During the interim period, pending repatriation, the victim may be taken care of in an appropriate children’s home, or “Ujjawala” home or appropriate shelter home either of the State Government concerned or of any NGO aided by the Government of India / State Government.’

I hereby want to recall the Memorandum of Understanding signed by India and Bangladesh on bilateral cooperation to prevent human trafficking in women and children; signed by both countries on 30 May 2015.

Requisite time to be allotted to the investigative agencies that apprehended women children are trafficked or traffickers. In this case, like previous instances, local police lodged FIR without enquiry.

I also hereby want to recall the Memorandum of Understanding signed by India and Bangladesh on bilateral cooperation to prevent human trafficking in women and children; signed by both countries on 6<sup>th</sup> June 2015.

Like our previous cases, in this case also governmental line departments runs mechanically, without following the rules they framed already. ([http://wbcdwds.gov.in/wbtf\\_link/pdf/operational-guideline.pdf](http://wbcdwds.gov.in/wbtf_link/pdf/operational-guideline.pdf))

I also want to mention that State agencies should pay respect to Constitution of India, in Article 51(c).

The present complaint reflects that the law enforcing agency by arresting the above stated persons and implicating them under the Foreigners Act as accused persons acted mechanically without giving any importance to legitimate entitlements of those arrested persons.

The incidents are not only violating the advisory of Government of India but in violation of Goal Number 16 of Sustainable Development Goals of UN, Government of India is a party to set the goals and obliged to adhere the same.

Under the circumstances I would request your authority to intervene in this present complaint and consider the following demands of justice for the victims: -

- Strict follow the rule and principle framed by the government.
- The whole matter must be investigated by one neutral investigating authority.
- The concerned authority must be directed to hold an inquiry in compliance with the advisory issued by the Government of India vide office memorandum No. 14051/14/2011-F.VI of Ministry of Home Affairs (Foreigners Division) Government of India Dated 1st May, 2012 and MOU signed by the Government of India with Government of Bangladesh should be honoured and pending the inquiry the victim women and children must not be treated as accused.
- The victim persons including children should be immediately repatriated to their own country and prosecution launched against them should be withdrawn at the earliest.
- The constant flouting of advisory of Ministry of Home Affairs (Foreigners Division) Government of India by various components of criminal justice administration should be dealt with concern and offenders must be punished accordingly

Thanking you  
Yours truly

Kirity Roy  
Secretary, MASUM

Hinglajal 1, 2  
Date  
Subindhu

3) Ab-111 Dibankar Sarkar  
3) GC/04 Dibankar Sarkar  
1) C/1080 Dibankar Chor  
Name of Accused Party :-  
সুন্দীয়া (১৯৫০-০৫)

১) Lata Begam (40 Yrs) D/O- Abdul Rahaman of Vill- Moonsafer Chor. PS- Sibpur. Dist.- Norsindhi, Bangladesh. 2) Tashlima Khatun @ Priya Mondal (23 Yrs) D/O- Lt. Ayub Hossain of Vill- Mamudpur, PS- Satkhira. Dist.- Satkhira, Bangladesh. 3) Md. Lutfur Rahaman (34 Yrs) S O- Lt. Abdul Sattar (Gaz of Vill- PO- Bhomra, PS-Dist.- Satkhira, Bangladesh & 4) Sk. Rajib (33 Yrs) S O- Sk. Shamsul of Vill- Dakshinpara Maheshatala, PO+PS- Maheshatala, Dist.- South 24 Pgs, Kolkata- 700141.

Essort party :-  
(1) RT/0  
(2) LC/04

Submitted  
2/15/2021

Accused Challo

Arrested A.C.J.M.  
Basirhat court, 24 Pgs (14)  
Through G.R.O Basirhat court.  
Ref: Basirhat PS Case No. 907/21, Dt.- 19/12/2021, U/S- 14 (C) Foreigners Act.  
30.10.21 U/S- 14(1)(C) Act

Accused Name & Address

1) Nisa Begum (30 Yrs)  
w/o Lt. Lutfur Shakhon  
Vill- Postkhajura.  
PO- Khajura Bazar  
PS- Moonsafer  
Dist- Jessore (B.D)

2) Rosel Ahmed @  
Rosel Dalder  
D/O- Lt. Abdul Mallip.  
Vill- Doleir Goun  
PO- Khajura Bazar  
PS- Moonsafer  
Dist- Silhal (B.D)

3) Fozil Hossain @  
Boblu (45 Yrs)  
S/O- Lt. Sakhad Goun.  
Vill- PS- Balli.  
PS- Basirhat PS  
Dist- 24 Pgs (14)

Es copy/ports  
2/226 Gopal Das  
el 426 Biswadeb Kundu.

Yours faithfully  
Kirity Roy  
Basirhat PS  
Dt. 30.10.21

Accused Challan.

In the Court of Ld. ACJM at Basirhat,  
North 24 Parganas.

Through GRO Basirhat Court.

Ref: - Basirhat PS Case No.- 907/21, Dt.- 19/12/2021, U/S- 14 (C) Foreigners Act.

Name of accused persons :-  
1) Lata Begam (40 Yrs) D/O- Abdul Rahaman of Vill- Moonsafer Chor. PS- Sibpur. Dist.- Norsindhi, Bangladesh. 2) Tashlima Khatun @ Priya Mondal (23 Yrs) D/O- Lt. Ayub Hossain of Vill- Mamudpur, PS- Satkhira. Dist.- Satkhira, Bangladesh. 3) Md. Lutfur Rahaman (34 Yrs) S O- Lt. Abdul Sattar (Gaz of Vill- PO- Bhomra, PS-Dist.- Satkhira, Bangladesh & 4) Sk. Rajib (33 Yrs) S O- Sk. Shamsul of Vill- Dakshinpara Maheshatala, PO+PS- Maheshatala, Dist.- South 24 Pgs, Kolkata- 700141.

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