

**Another incident of trafficking of women from Bangladesh. Disregard to international laws in India.
Systematically wrongs done**

Kirity Roy <kirityroy@gmail.com>

22 March 2022 at 14:22

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

Cc: Chief Secretary Gov of WB <cs-westbengal@nic.in>, DG BSF <edpde@bsf.nic.in>, "DG & IGP, West Bengal Police." <dgpwestbengal@gmail.com>, DM North 24 Pgs <dm-bar-wb@nic.in>, SP Basirhat K P Barui <spbasirhatoffice@gmail.com>, Bangladesh Dy High Commission <mission.kolkata@mofa.gov.bd>, "Indian Deputy High Commissioner, Bangladesh" <dhc@hcidhaka.gov.in>, MHA JS Border Management <jsbm@nic.in>, MHA JS Human Rights <jshr-mha@nic.in>, GOI MEA East <secyeast@mea.gov.in>, MEA SAARC Director <dirsaarc@mea.gov.in>, "UN SR VAW Ms. Rashida Manjoo" <vaw@ohchr.org>

To

22 March 2022

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

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 Swarupnagar Police Station **Case no. 15/22** dated 06.01.2022 under section 14 of Foreigners Act, the following Bangladeshi woman was arrested:

1) Ms. Khadija Sheikh, daughter of Md. Kalam Sheikh, age - 25 years, residential address: - Village- Mallickpur, Post Office – Makandpur, PS – Terokhada, District - Khulna, Bangladesh.

The victim is a Bangladeshi national. In 2009 she got married. In 2015, after her divorce she kept her girl child in Bangladesh with her parents and came to India. Since the last 6 years, she has been staying in Mumbai with Mr. Mokbul (presently her husband). On 06.01.2022 at around 12:05 P.M she was trying to return back to Bangladesh to meet her daughter and parents. At that time she was apprehended by the BSF personnel of 112 Battalion of Bithari BSF BOP from 11 no. outpost. She was handed over to the Swarupnagar police station. The victim was produced before the Basirhat ACJM court on 07.01.2022 and sent to the Dum Dum Central Correctional Home.

Case 2: In connection with Swarupnagar Police Station **Case no. 135/2022** dated 18.02.2022 under section 14 of Foreigners Act, the following Bangladeshi woman was arrested:

1) Lija Gazi, daughter of Late Babu Gazi, Age - 26 years, residential address:- Village – Sukto Gram (Bazar), PS – Kalia, District – Narail, Bangladesh.

On 17.02.2022 at around 05:45 P.M the victim was returning back to Bangladesh from India. At that time she was apprehended by the 'B' Coy, BSF personnel attached with 112 Battalion, Amudia BSF BOP and handed over to the Swarupnagar police station. The victim was produced before the Basirhat ACJM court on 18.02.2022 and sent to the Dum Dum Central Correctional Home.

Case 3: In connection with Hingalganj Police Station **Case no. 25/22** dated 13.02.2021 under section 14 of Foreigners Act, the following Bangladeshi woman was arrested:

1) Ms. Ananna Rani Mondal, daughter of Ashok Kumar Mondal, Age- 35 years, residential address: - Village – Karaterdiya, Post Office – Jhalakhai, PS – Chetalmari and District - Bagerhat, Bangladesh.

On 13.02.2022 at around 04:30 P.M the victim came to India from Bangladesh in search of job but she was apprehended by the 'B' Coy, BSF personnel attached with 118 Battalion, Pargumti BSF BOP and handed over to the Swarupnagar police station. The victim was produced before the Basirhat ACJM court on 14.02.2022 and sent to the Dum Dum Central Correctional Home.

Our fact finding reveals that the arrested Bangladeshi women entered India for the purpose of working in India as they are terribly poverty-stricken people with no jobs 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.

I also want to mention several international laws as cited by ILO, mainly on trafficking, human trafficking, slavery, women and child trafficking, are grossly violated in India. Our previous complaints regarding this issue are not properly addressed.

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: -

- 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 during the inquiry the victim women must not be treated as accused.
- The victim women 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 stern action must be taken against the violators of the above referred advisory.

Thanking you
Yours truly

Kirity Roy
Secretary, MASUM
Kirity Roy
Secretary
Banglar Manabdhikar Suraksha Mancha
(MASUM)
&
National Convenor (PACTI)
Programme Against Custodial Torture & Impunity

Accused Challan

In the Court of Ld. ACJM at Basirhat, North 24 Parganas
(Through GRO Basirhat Court)

Ref: Swarupnagar PS Case No- 135/2022, Date- 18.02.2022, U/S- 14 Foreigners Act.

Name of Bangladeshi National:-

(1) Uja Gazi (26 Yrs) D/O-Late Babu Gazi of Vill-Sukto Gram, PO-Sukto Gram (Bazar), PS-Kalia, Dist-Narail (Bangladesh).

Escort Party:-
(1) O/AS Naipen Mondal

(2) O/ 996 Gopal Gazi.

e.g. 155B mohana Saha

Submitted

Accused Challan

In the Court of
Ld. Additional Chief Judicial Magistrate
Basirhat, North 24 Parganas

Through GRO Basirhat Court, North 24 Parganas

Ref: Swarupnagar PS Case No- Swarupnagar PS Case No-15/22, Date-06.01.2022, U/S-14 Foreigners Act.

Accused name & address:-

(1) Sheikh Sheikh (25 Yrs) D/O-Md. Kalam Sheikh of Vill-Mallickpur, PO-Makandpur, PS-Terokhada, Dist-Khulna (Bangladesh).

(2) S/O-Late Dhiren Halder of Vill-Ambariya, PO-Kalikabari, PS-Moriganj, Dist-Bagerhat (Bangladesh).

Escort Party:-

(1) Naipen Mondal

(2) Biswas

(3) Naipen Mondal

Yours faithfully

S. S. Jansen
Swarupnagar PS
Basirhat PD
Date-07.01.2022

Accused Challan

In the Court Of
Ld. Additional Chief Judicial Magistrate,
Basirhat Court, North 24 Parganas.

Through GRO Basirhat Court

Ref: Hingajon PS Case No- 25/22, Date- 13.02.2022, U/S-14 Foreigners Act

Particulars of Accused person

(1) Anwarul Karim Mondal (55 Yrs) D/O- Ashok Kumar Mondal of Vill- Karerdiya, PO-Jhalakhat PS- Chetumari, Dist- Bagerhat, Bangladesh

Name of Escort Party:-

(1) O/AS Naipen Mondal

(2) O/AS Naipen Mondal

Submitted
for
Hingajon P.S.
14-2-2022