



Arbitrary detention of five Bangladeshi individuals, including a minor

Case IND 290208/ IND 290208.CC

Arbitrary detention/ Fear for safety

The International Secretariat of the World Organisation Against Torture (OMCT) requests your URGENT intervention in the following situation in India.

Brief description of the situation

The International Secretariat of OMCT has been informed by a reliable source and by Antenna International, a member of OMCT SOS-Torture network, of the arbitrary detention of five Bangladeshi citizens, including a minor, in Presidency Jail in Kolkata, India, since May 2007.

According to the information received, Mr. **Noor Islam Gazi** (32 years old from Choto Kupat), Mr. **Firdous Gain** (18 years old from Choto Kupat), Mr. **Saidul Islam** (16 years old from Hawal Bhanji), Mr. **Mohammed Saidul Islam** (40 years old from Kasirani) and Mr. **Rajaul Karim** (20 years old from Noabeki), all rag-pickers, were arrested along with other seven Indian citizens on 28 July 2005 by three policemen from Chanditala Police Station and taken to Chanditolla Police Station at Hooghly. Mr. Saidul Islam, the minor, was reportedly arrested in Janai while the other four Bangladeshi were arrested when resting in a shelter of Kona High Road Bridge.

On 31 July 2005, all twelve individuals were reportedly presented before the Additional Chief Judicial Magistrate of Sreerampore Court (Ref. Chanditala Police Station, Case No: 140/05 dated 30.07.05 under sections 399/*Making preparation to commit dacoity* and 402/*Assembling for purpose of committing dacoity* of the Indian Penal Code). The five Bangladeshi individuals were reportedly further charged because they were not able to present any valid residential documents (Ref. Chanditala Police Station, Case No: 141/05 dated 30.07.2005 under section 14 of the Foreigners' Act) and were sentenced by the court of the 3rd Judicial Magistrate of Serampore, Hooghly, on 7 August 2006 to thirteen months and seven days imprisonment and a fine of Rs. 100.-, prison term which they had already served as they were detained since their arrest.

According to the same information, although the five Bangladeshi individuals served their first prison term and were then reportedly acquitted on 16 May 2007 from the Court of Additional District and Sessions Judge of First Track Court, Serampore on the charges of preparation for committing dacoity and keeping army, they were not released and have since then remained detained in Presidency Jail in Kolkata.

It is further reported that Mr. Noor Islam Gazi is seriously ill, suffering from tuberculosis and regularly vomiting blood.

The International Secretariat of OMCT expresses its deep concern that the five above mentioned individuals remain in prison even though their sentence has expired and taking into account the serious condition of Mr. Noor Islam Gazi. OMCT recalls to India that according to article 9 (1) of the International Covenant on Civil and Political Rights (ICCPR) to which it is a State party, *no one shall be subjected to arbitrary arrest or detention*. OMCT is also particularly concerned about the fact that Mr. Saidul Islam is 16 years old and is legally a child both under international and national law and should be treated accordingly, which is reportedly not the case. OMCT calls on India to fully respect and implement the Indian Juvenile Justice Act 2000.

Further, as an elected member of the United Nations Human Rights Council, India should particularly guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Action requested

Please write to the authorities in India urging them to:

0. Guarantee in all circumstances the physical and psychological integrity of the five above mentioned individuals, including access to appropriate medical care if necessary;
0. Immediately release the above mentioned individuals;
0. Order a thorough and impartial investigation into these events in order to identify all those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
0. Guarantee that adequate compensation is awarded to the victims;
0. Ensure respect for human rights and fundamental freedoms throughout the country in accordance with national laws and international human rights standard.

Addresses

- Shri Manmohan Singh, Prime Minister of India, Prime Minister's Office, Room number 152, South Block, New Delhi, Fax: + 91 11 2301 6857
- Shri Shivraj Patil, Union Minister of Home Affairs, Ministry of Home Affairs, 104-107 North Block, New Delhi 110 001 India, Fax: +91 11 2309 2979.
- Justice K. G. Balkrishnan, Chief Justice of India, Supreme Court, Tilak Marg, New Delhi -1, Fax: +91 11 233 83792, Email: supremecourt@nic.in
- Justice Rajendra Babu, Chairperson, National Human Rights Commission of India, Faridkot House,

Copernicus Marg, New Delhi 110 001, Tel: +91 11 230 74448, Fax: +91 11 2334 0016, Email: chairnhrc@nic.in

- Ambassador Extraordinary and Plenipotentiary Permanent Representative to the United Nations (Geneva), Rue du Valais 9, 1202 Geneva, Tel: +41 22 906 86 86, Fax: +41 22 906 86 96, Email: mission.india@ties.itu.int
- Ambassador, Embassy of India in Brussels, 217 Chaussée de Vleurgat, 1050 Brussels, Belgium, Fax: +32 (0)2 6489638 or +32 (0)2 6451869

Please also write to the embassies of India in your respective country.

Geneva, 29 February 2008

Kindly inform us of any action undertaken quoting the code of this appeal in your reply

L'OMCT a son siège à Genève, en Suisse. Elle coordonne le réseau SOS-Torture composé de 282 organisations régionales et internationales dans 93 pays sur cinq continents.
Contact : omct@omct.org