

FAMILIES FIGHT TO BE UNITED



BANGLADESHI WIVES AND CHILDREN WITH A RIGHT TO BE HERE HAVE BEEN WAITING, SOME OF THEM MORE THAN 10 YEARS, TO JOIN THEIR HUSBANDS AND FATHERS. WHY IS THE BRITISH GOVERNMENT KEEPING THEM APART? THIS LEAFLET DESCRIBES WHAT IS HAPPENING AND WHAT YOU CAN DO TO HELP.

Bangladesh Divided Families Campaign

HOW THEY DIVIDE BLACK FAMILIES

This leaflet is about families split between England and Bangladesh. At the instigation of British post-war governments, men from Bangladesh came to England and have settled and spent a large chunk of their working lives here, in jobs like the night shift in the Lancashire cotton mills. About 10 years ago their wives and children began to apply to the Home Office to join them. Obviously, the right for exists under the present immigration laws. But now that black workers are no longer seen as economically useful, they are facing redundancies and more and more blatant racism on the streets, in the workplace, in the provisions of the welfare state and the National Health Service, and above all in the exercise of immigration control.

Hundreds of applications from families in Bangladesh have been turned down repeatedly. Ten years later many children have grown up and passed the qualifying age limit for entry to Britain, sometimes family members have died waiting - and still the family is trying to take up its right under the 1971 Immigration Act.

Applications can be rejected by Entry Clearance Officers in the British High Commission in Dhaka if they decide that the members of the family are not related to each other as they say they are. But how do you prove that you are married and your children are really your children, when the Immigration

authorities pay little or no attention to marriage or birth certificates and your family lives thousands of miles away? Last year Anwar Ditta's children joined their parents in Rochdale after an intense campaign which culminated in an investigation by "World in Action". Anwar won a great victory, but why should anyone have to go to such lengths?

Village Visit

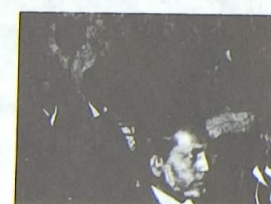
Lawyers and race relations workers have carried out their own investigations of Bangladesh divided families. Rochdale CRE and Oldham CRE have made village visits to collect evidence. In Feb. '82, Sushma Lal (solicitor, Manchester Law Centre) and Henry Mayor (priest, St. Agnes' church, Longlight) investigated 18 cases which had already been refused in the Sylhet district of Bangladesh, using interpreters and a cameraman to provide film, photographs, and tape recordings. By speaking to local villagers, teachers, religious leaders, and administrators, they found out whether the marriages and children were known as genuine in the villages. Each witness had only a part of the story, but taken together their views usually confirmed the relationships. In every family, the team found evidence that some children had been denied their legal rights to join their parents, and in most families all of the children applying for entry had a valid case.

Throughout Sylhet, people were angry at the treatment they and their fellow villagers had received from the British immigration authorities.

"At the end of the interview in the High Commission, they told us 'you can go now, we'll call you after 3 months.' It's about 2 years now - they never called us... Go anywhere loads of people know how many children Roshid Ali's got, they will tell you." (Saeed Ali, son of Roshid Ali, Sylhet district, Feb. '82)



CAMPAIGN



The campaign is calling for the following demands to be met:

1. That all independently investigated cases be allowed without delay on the basis of village visit reports.
2. That all other family cases which have been refused be allowed now, because independent village investigations, including those by the Manchester Law Centre team and UKIAS have consistently shown that, of the cases refused, the number of false applications is negligible and the suffering caused to families is unjustified.
3. That the burden of proof should be lifted from the applicants and placed instead on the Home Office to disprove the claimed relationships.
4. That appellants should be present at their own appeals.
5. That all children who are under 18 at the time of the first application should not be disqualified from future applications as a result of Home Office decisions.

The Campaign can be contacted at the Bangladesh Cultural Centre, Main Road, Oldham, Lancs., or by phone on 061 652 2532 or 678 4742/3; or through Manchester Law Centre, 595 Stockport Road, Longlight, Manchester (M6 12S 5111). Alternatively local Bangladesh Associations or Community Relations Councils should be able to put you in touch with the BDFC and any local groups.

"Immigration procedure has got to be a bit inhuman." (Home Office Representative Mr. Ward, in Abdul Wahid's appeal.)

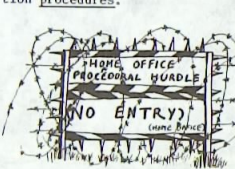
LEGAL RIGHTS

Although many aspects of British immigration and nationality laws are racist and sexist (see the case of Nehar, back page), the laws do appear to provide for many of these Bangladeshi families to be re-united. In a typical case a man will have come here from Bangladesh in the 1950's, legally and with no conditions limiting his stay.

1. His wife has a legal right of entry.
2. Unmarried children under 18 (at the time of application) have entry rights provided that neither parent stays behind in Bangladesh or if the UK parent can prove sole responsibility for their upbringing.
3. Unmarried daughters under 21 can enter if fully dependent on parents in the UK.
4. In 1980, changes in the "Immigration Rules" enforced the restriction that a man who settled here after 1973 must now prove that he can "support his family without recourse to public funds" and that his house is big enough to accommodate the family - unless of course he is a British citizen.

REALITY

Because the law does not prevent wives and children from entering Britain, the only way that successive governments could carry out their election promises to "stop immigration" (of black people) has been through immigration procedures.



Application

The family fills in a lengthy application form, in English.



Interview

The British High Commission (BHC) in Dhaka interviews the

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family. The average delay between application and interview was 19 months in the Manchester cases. Peasant women, many of whom have lived their whole lives in their father's and then their husband's village, bring their children 200 miles for this interview in the most affluent district of Dhaka. Surrounded by military staff, they are questioned by an Entry Clearance Officer (ECO), through an interpreter. The interpreters are invariably wealthy - this is supposed to guarantee that they will not solicit or accept bribes. By questioning different family members in turn, the ECO generally uncovers a series of "contradictions". The wife may say that her sister-in-law had 3 children, while the son says his aunt has 2 children. The facts may be that the 3rd child is dead, but the ECO concludes that the "wife" and the "son" are "not related as claimed". The interviews are not tape recorded, but an enormous file of ECO's statements and documents is built up. Years later a family will be haunted by the answers they gave at the 1st interview. If the interviewee mentions anyone else living in England, the ECO can quickly check his or her file as well. Of course, the files also contain errors made by the ECO's, which remain unchecked.

Often, the "contradictions" have nothing to do with the family's immigration status. The Manchester team watched one ECO interview a woman and her four children, all applying for entry. The ECO confirmed that he was satisfied the woman was their mother and the wife of the sponsor in England, but he doubted her age and her claim to have 4 older children - who were not applying for entry. "So what?" asked the team. The ECO thought it might be a tax fiddle, and so he deferred the case until the Home Office could investigate the husband. The delay would be about 9 months in all.

Identity Crisis

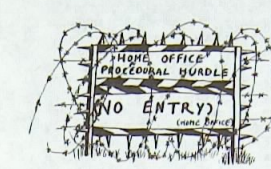
A senior officer defended this procedure on the grounds that the High Commission has to verify a person's identity. "They must be who they say they are. Not just what, but who. And not just say, but show. We don't make the rules." The ECO's expect to see full documentation of marriages and births. Failure to produce these counts against the application. But even if produced, all documents are automatically suspected as forgeries.

"Such documents were in Mr. Salton's experience easily obtainable in Bangladesh where any documentation was relatively available." (from the ECO's explanatory Statement in the appeal of Roshid Shaid)

Clive Rushton, Adjudicator at Anwar Ditta's appeal that the people seeking entry are not present. In order to "judge credibility", the Adjudicator will take into account any evidence no matter how dubious or irrelevant to the application, evidence which would be thrown out even of a normal court of law. Furthermore, the "burden of proof" is on the family to "prove" that they are related; i.e. you are guilty until you prove yourself innocent. In Anwar's case the Adjudicator summed up:

"I am unable to accept the credibility of the principal witnesses. In the circumstances, I cannot find that the appellants have on the balance of probabilities discharged the burden of proof upon them and dislaid the appeal."

An established "industry", in which agents play a major role, exists to provide or obtain suitable birth, marriage and death certificates, "attested" affidavits, passports containing false information or doctored passports containing genuine information. A family correspondence stretching back over a decade can be instantly created for the ECO's benefit.

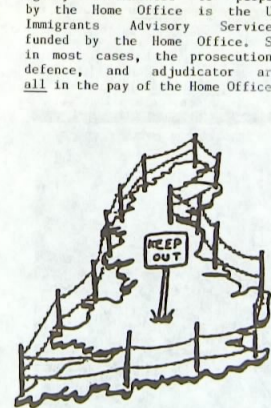


Appeal without appellants

Appeals against ECO refusals are heard in this country, in Leeds, Manchester, Birmingham or London. Neither the family in Bangladesh nor the ECO who made the decision are present at it! Officials in the British High Commission write out an 'explanatory statement' of what happened at the interview - this forms the basis of the Home Office case against the family. These statements are often prepared more than a year after the interview, from notes, often by someone who wasn't there at the time.

Impartiality?

Adjudicators are appointed by the Home Secretary. Once appointed they are accountable to no-one but receive £63 per day from the Home Office (1981 figures). There is no legal aid for representation at immigration appeals. The representing agency recommended to people by the Home Office is the UK Immigrants Advisory Service, funded by the Home Office. So in most cases, the prosecution, defence, and adjudicator are all in the pay of the Home Office!



Credibility on trial

"The object and purpose of an oral hearing is to enable the Adjudicator to have the benefit of hearing evidence given personally and from the impression of the witnesses and their demeanor to judge their credibility."

Remember that the people seeking entry are not present. In order to "judge credibility", the Adjudicator will take into account any evidence no matter how dubious or irrelevant to the application, evidence which would be thrown out even of a normal court of law. Furthermore, the "burden of proof" is on the family to "prove" that they are related; i.e. you are guilty until you prove yourself innocent. In Anwar's case the Adjudicator summed up:

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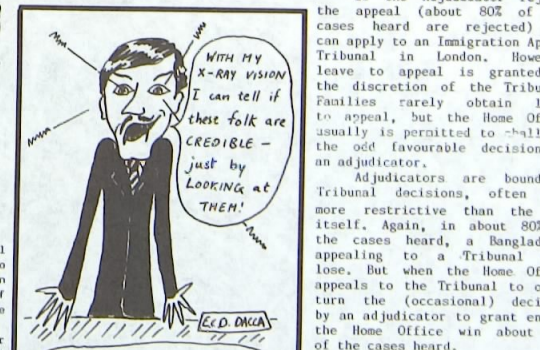
Tool of the Home Office

The Home Office uses the appeal system as a tool of justice and impartiality to the Immigration Act.

- (i) give a voucher of justice and impartiality to the Immigration Act.
- (ii) delay entry.
- (iii) pass the buck from the Immigration Minister (who could always intervene if he wanted and make discretionary decisions).
- (iv) humiliate and insult black people. This is done by attacking witnesses' integrity directly. It is also done by attacking religious and family culture which does not conform to a white middle-class nuclear family model. The Adjudicators deny the validity of the extended family, sneer at its obligations and other features of Bangladeshi life, and thereby make explicit the racist assumptions on which the law is based.

The sponsor's wife Rumiya Khatun said that the sponsor's sister Roshid Khatun had no children. The appellants said the same thing. The sponsor said she had 5 sons and 1 daughter all still living. The sponsor's explanation was "When I said she had 5 sons and 1 daughter I meant they were children by the other wife." ... I find it hard to believe that he thought he was answering that question by giving the number of children born to the other wife. ... it appears to me the sponsor and the appellants became even less credible than they appeared before the Entry Clearance Officer.

F. Anderson, Adjudicator at the 17th appeal of Roshid Shaid



MP's Help?

The Minister for Immigration (currently Timothy Raison) has power to make a discretionary decision outside the Immigration Rules on any application to come or remain here. He can overturn any court decision on compassionate grounds. In order to do this representations can be made through an MP. Raison has stated firmly that he is only prepared to receive representations from the constituency MP, and he will not receive delegations with respect to particular cases. So people are at the mercy of the political and personal persuasions of their particular MP (who may or may not be sympathetic).

UN DECLARATION OF HUMAN RIGHTS

Article 16 (1). Men and women of full age without any limitation due to race, nationality, or religion have the right to marry and found a family.

Article 16 (3). The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

UK DECLARATION OF HUMAN RIGHTS

"It is of the essence of the Immigration Act that people will be discriminated against on the grounds of race and nationality."

(Peter Scott, QC for the Home Office, Oct. 1980, opposing CRE Immigration Investigation.)

ACTION

1. Distribute copies of this leaflet and our petition form among your friends and in your organisation or Trade Union. Don't forget to return the petitions!
2. Organise meetings to discuss the issues; invite a speaker from the BDFC or other groups fighting racist immigration decisions. Support pickets of the Immigration Appeals, and other actions called by the campaign.
3. Write to the Home Secretary calling on him to review the cases on which village visits were made by independent investigators from the UKIAS and Manchester Law Centre.
4. Ask your MP to do the same. If s/he does, let us know, and we can give him, and you, details of other Parliamentary action we are taking.
5. Get your organisation, Trade Union or political party to pass a motion supporting the aims of the BDFC and send it to their MP and the Home Secretary.
6. Phone or write to us for our support packs:
 - * Petition forms
 - * Aims of the BDFC
 - * Copies of this leaflet
 - * Sample letter to the Home Secretary
 - * Sample motion for organisation
 - * Details of court activities

I/us..... representing.....

☐ express full support for the Bangladesh Divided Families Campaign and wish to be kept informed of its activities.

☐ wish to affiliate to the campaign and enclose affiliation fee (Individuals £1, groups £5)

☐ enclose donation of

signature.....

address.....

Please make cheques/P.O.s payable to Bangladesh Divided Families Campaign and return to Bangladesh Cultural Centre, Main Road, Oldham, Lancs.

1c), as this letter to Manchester Law Centre illustrates:

Dear Mr. Morris,

With reference to your letter of 19th March I cannot recall having heard from Mr. Raison. I do not know what his request was, but if it is for me to help him to get more of his family here I will not comply. I share the view of the vast majority of my constituents that immigration should be halted.

Yours Sincerely,
John Stokes
(M.P.)

Delays

Adding together the delays at all the stages in the process, it is generally about five years from the application date to a final decision. These are five years of administrative inefficiency and stalling. In one case examined by the Manchester Law Centre, the High Commission took 6 months just to translate some letters.

The Home Office has the power to speed up investigations, to reduce the length of interviews or to employ more staff. Instead, in 1982 it plans to remove 5 ECOs from Pakistan although families there are still waiting 20 months for interview.

In fact these delays are deliberately used to discourage applicants and to delay the entry of black families to "help" Government statistics - and if a few wives or children die in the meantime, or the family breaks up under the strain of separation, or baby girls are born in Bangladesh rather than Britain and thereby lose the right to bring their future fiancées here, so much the better for the statistics.

After 5 or more years of delays, if you lose the final appeal you can make a fresh application - if your children are still unmarried and are under 18. But all the old files will still count against you.

Cases investigated by M/CR Law Centre Feb. 1982

Average time between application and interview 1 year 7 months. Four applications waited 2 years or more before interview (13 applications)

Average time between application and appeal hearings 4 years 10 months. More than half the applications waited more than 5 years (12 applications).

Yours Sincerely,
John Stokes
(M.P.)

Conclusions

- 1) Thorough and independent investigations have revealed time and again that the appeal system gets it wrong on average 7 times out of 10, (figures for:
 - * Runnymede Trust report 1977
 - * UKIAS investigation 1981
 - * M/CR Law Centre visit 1982)
- 2) In general families cannot expect to be united through the legal process. If they do pass through all the hoops, they may well be more than 10 years before a wife and children come here. In some cases people have died waiting for their entry clearance.
- 3) Campaigns round individual cases can and do win. However hundreds more families remain divided, and will remain divided by the law unless there is enormous collective pressure to unite them.

6 Families Speak Out:

Abdul Wahid

In 1974 - soon after their mother Foyzun Nessa died - Anhar, Noshu, and Khosru first applied to join their father Abdul Wahid and his 2nd wife Mumilla Khatun in Oldham. Eight years later, they were finally getting justice, as the adjudicator ruled in their favour on Aug. 3, '82.

The road had been long. It was mid-'76 before ECO Watts interviewed them in Dacca. He discovered various puzzling discrepancies. When Mumilla Khatun had applied for entry in 1970, she had not mentioned Foyzun Nessa's son Ashraf. By 1981, another ECO was still puzzled. The answer? The ECO's didn't notice that their own case files stated that Ashraf was not born until Oct. 1971!

Watts uncovered other "puzzling" facts. Mumilla had said that her father died before her marriage, while the boys now said that he had died after the marriage. They later said they didn't know exactly when he had died.

Watts thought the boys looked younger than they said they were, and the High Commission doctor thought so too. (Recently, techniques of testing age by X Rays have been severely criticized by UK medical opinion.) And Watts found it strange that Abdul Wahid had married Foyzun Nessa when he was only 21!

Putting it all together, ECO Watts deduced that Foyzun

Nessa had never existed and the boys were not the sons of Abdul Wahid. The whole family had been invented so Mr. Wahid could claim tax relief.

APPEAL

When the sons appealed against this nonsense, it was another 2 years before Adjudicator Anderson read the files, listened to Abdul Wahid, and decided in 1978 that ECO Watts was right.

In Feb. '80, all four sons re-applied and by Nov. '81 they were being interviewed by ECO Langran. Langran concentrated on irrelevant details. For example he found that while Abdul Wahid had told the adjudicator that his sister's husband's 1st wife had 5 sons and 1 daughter, Anhar now mentioned 7 sons and 3 daughters, some very young. Langran refused the application.

In Feb. '82, the Manchester Law Centre team went looking for witnesses who knew the family. 4 independent interviews showed that villagers knew the 4 sons of Abdul Wahid by his 1st marriage and that there are two more sons as well. At the appeal hearing in July, the Home Office Representative attacked the team's credibility and informed them that "Immigration procedure has got to be a bit inhuman". Adjudicator Paterson decided enough was enough and allowed the appeal.

But just as we finished celebrating, the Home Office announced it was appealing against Paterson's verdict. Now Abdul Wahid faces a Tribunal in London, and the prospect of a long campaign.



Mumilla Khatun (wife of Abdus Shahid) and her children

Abdus Shahid came to England from Bangladesh in 1963, settled in the north and started working. His wife and children first applied in 1972 to join him. Since then the family have been through a succession of interviews in Dacca and appeals in Manchester and Leeds. The last appeal was turned down in May 1982. The same woman and the same children are about to start the process all over again. This family has made a consistent application for ten years to be re-united. The eldest son is now "too old" to apply according to the immigration rules.

The family has produced a mass of evidence supporting their application including:

- money order receipts for financial support sent to the family over a 20 year period, totalling more than £2,000.
- family photographs.
- family letters stretching back over more than ten years.
- old land transfer documents made to the wife at the time of marriage.
- affidavits, birth, marriage and school certificates, all undisputedly genuine.
- confirmation from the Tax Office that tax claims for the family had been re-instated after checks had been made.

PERSONAL VISIT TO FAMILY

At the last appeal, evidence was given by CRE workers who visited the family in December 1980. From their visit, there was no doubt whatever that the family correlated precisely with all the documentary and photographic evidence and with earlier statements by husband, wife and son at interview. There are even very striking family likenesses between the children and their parents.

Against this the ONLY evidence the Home Office has produced arises from 'discrepancies' between the statements of husband, wife and son at interview. But they relate to uncertainty about the exact age of other members of the family (eg wife's sister), or to confusion about the precise date of birth of a daughter who was never an applicant to come here anyway. But records of ages and dates of birth are not generally kept in Bangladesh. People are bemused by questions about their own age, let alone the ages of relatives.

In law, applications must be decided "on the balance of probabilities". The relevant information has been provided, is consistent and its authenticity is undisputed. But this evidence has been rejected, eye-witness accounts discounted, and peripheral information was used to reject the application.

10 YEAR AGONY

I have been trying for ten years for my family to come. I have high blood pressure and mental distress. I don't sleep. I have been to hospital for high blood pressure and a peptic ulcer.

When I heard about the latest refusal I was shocked and couldn't sleep for three days. I couldn't believe what I heard. When I sent the news to my son he tried to commit

suicide. My wife has been to hospital twice since we heard the news. My cousin has to guard my son to prevent him going out to commit suicide. He says "My life is ruined - I thought I was going to UK so I left school and my studies and now my hope of a future there has been killed and I have no future here either."

Abdus Shahid

Her Fiance Barred

23 year old Nehar's parents, her only sister, and all her brothers and her British born daughter are all permanently settled in England. Her eldest sister is married here with two children.

Nehar and her fiance were engaged for six years. His application for entry clearance to Britain reached the British High Commission in Dacca just 5 days after the Immigration Rules were changed in Nov. 1979. The new rules prohibit a woman from bringing her spouse here unless she was born in the UK.

Home Office promises of a sympathetic hearing collapsed when they refused the application in June '82. Meantime, Nehar visited Bangladesh - she now has a British born baby girl. She and her sister are very close; the whole family see their long term future together in the UK. Nehar is anxious to take out UK citizenship, to register her allegiance to the UK. However she is held in a double bind. Because her fiance lives abroad, she is unlikely to get citizenship, even though all her other ties are here. And unless she is a UK citizen, there is little hope that her fiance can come here.

EUROPEAN COURT NO HELP

Cases before the European court could lead to a relaxation of restrictions to include all UK citizen women, whether citizens by birth, registration or naturalisation. But this will still not include women such as Nehar. She has only the 'right of permanent settlement', and so while in theory entitled to all general civic rights, she does not have the opportunity to enjoy a full family life here. This right was taken away between the time she came and the time she was old enough to exercise it.



Nehar and her fiance before they heard the bad news.

...They refused my fiance's application. At present I am very upset and very sad for their decision. I have a baby who was born in Oct. '81. She is nearly one year old. I can't do anything for myself as well as my baby. I can't look after her properly for which she is not growing well. I can't sleep very well and can't eat

very much, for this reason I am losing my weight. I am always thinking about my life. I have nothing to do except die. I am suffering some physical and mental diseases. I can't go to Bangladesh because my father, mother, three brothers, one sister, and also my brother-in-law are living here. Nehar Nessa Khatun

They asked how many puppies have your dogs had - children don't count these things, and how many rooms. Then after these questions they sent my children for X ray and said the age is different...

They believe their X rays, not me. I give school certificates, birth certificates, photographs, and a letter witnessed by my Union Council Chairman signed by 40 neighbours to be judge. I swore on the Holy Koran but they still didn't believe me.

If we were English we would get visas.

If I could go to court in Bangladesh many, many witnesses would give evidence and I would surely win my case.

Instead, I applied again and they called my children for interview after 18 months, gave them a very short interview and refused them again.

Forid Uddin

11,200 people (1981 figures) who have the right to live together in this country are being deliberately kept apart. Some of them have been waiting 10 years or more.

I have made application twice and each time lost. I don't get any justice. The Divided Family Campaign is best. I am heartbroken to be living without my wife and children; I can't see them everyday. Whenever I eat food I think of my children.

Abdus Samad

Forced to return



Nasira, her sons, and Law Centre witness Henry Mayall

My children were here, and they were crying for me, and so it was not possible for me to stay there.

Nasira Bhanu (wife of Hamdu Miah) Bangladesh, Feb. 1982

My wife wrote to me saying how can I come leaving my three children. I told her to come

with the children allowed and we would appeal but we lost the case in Manchester. We can't live without them, my wife went back straightaway; she doesn't sleep at night and she won't stay with me and our children here - our children there want their mother with them. How can it be justice when they are my children?

Hamdu Miah