



Banglar Manabdhikar Suraksha Mancha (MASUM) observed International Day for Victims of Torture at Kolkata Press Club. To commemorate the day MASUM organized a civil society and media interface from 2.00 PM to 4.00 PM where renowned human rights protagonists; Dr. Binayak Sen and Ms. Miratun Nahar were speakers. The interface started with mass songs and continued with an introductory speech by Mr. Biplab Mukherjee; Secretary of MASUM. 11 victims/ survivors of torture and family members of extra judicially killed deposed before the gathering. Mr. Kirity Roy; the Founder Secretary of MASUM dealt with the issue and elaborated the torture scenario in West Bengal and India; he also linked the individual torture incidents with legalities and its violation. Dr. Binayak Sen relates the role of the doctor with incidents of torture and its documentation. Ms. Miratun Nahar made praises for MASUM initiatives and called

civil society to speak out against continuance of torture.

Later, a procession consisting with torture victims from districts marched to Raj Bhaban and a delegation of MASUM; constituted with Mr. Subhprattim Roychoudhury, Mr. Subhrangshu Bhaduri and Mr. Dipyaman Adhikary went to office of the Governor and submitted a memorandum. Police blocked the procession well before the Governor's house where Mr. Kirity Roy, Mr. Biplab Mukherjee and Mr. Naren Ghatak addressed the procession and mass songs were sung. The procession chanted slogans for immediate ratification of UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to come up with domestic legislation on torture by Government of India.

The text of memorandum submitted to the Governor is appended under.



To watch the video of that programme, please go to Gallery-> Video in MASUM's website.

Memorandum to the Governor

Banglar Manabadhikar Suraksha Mancha (MASUM) is a human rights organization having commitment on extension and promotion of human rights at grassroot levels. 26th June is being the International Day for Victims of Torture and we are observing the day with international human rights fraternity from our inception. To observe the day, we the activists of Banglar Manabadhikar Suraksha Mancha (MASUM) wants to attract your kind attention on the rampant violation of rights of the people, physical aggression upon marginalized populace by men in uniform of different hues and other procedural violations recurrently taking place in our province. We are deeply concerned with the repetition of such illegal acts by the Police and Border Security Force personnel with unresponsive attitude by the criminal justice administration, human rights institutions and even the lower courts.

In a democratic country no one is above the law. So, killing a person or physical aggression against a person without adequate and just judicial proceedings or requisite provisions of laws is equally condemnable, heinous and should be treated as cognizable crime. In a recent direction, Constitution Bench of apex court of our country clearly ordered that “Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence” – (Lalita Kumari versus Government of Uttar Pradesh (2014) 2 SCC 1) but we confronted with several instances, where police purposefully refused to register FIR, where a person is being tortured by men in uniform; Police or Border Security Force personnel. Most ironically the investigations over the inhumane torture and atrocities to marginalized populace are being conducted by the police and other agencies who were actually involved with the crime and most of the time violates the genuineness and impartiality of the investigation, it is infringing the basic premise of natural justice; *Nemo iudex in causa sua*. The connivance of police and Border Security Force along the Indo- Bangladesh bordering districts of West Bengal has been proven by their acts; where in most of the cases of BSF torture and extra judicial killings, police refuses to take appropriate actions as per the guidelines of apex court and National Human Rights Commission. The sizeable sections of the marginalized people at Indo- Bangladesh bordering districts are facing economic, social, physical and psychological subjugation and forced to live in utter despair.

Banglar Manabadhikar Suraksha Mancha (MASUM) with the aggrieved always tried to draw attention of human rights institutions, governmental agencies and police and civil administration, but we are sorry to say that the above mentioned agencies, responsible to deliver justice and extend and ensure rights of people, failed not only in every account but keeping their silence in majority of the cases or issues, with total indifference. The persons in higher echelon of political parties, peoples’ representatives, members of PRIs and executives of state also not interested to address these issues. Here I want to mention that our organization MASUM made 1370 complaints to the highest echelon of civil and police administration, head of the provincial government and Home Ministry of Government of India but not in a single instance the civil and police administration acknowledged our complaint. Our complaints to the administration unheeded, not in single instance offenders in uniform get arrested or prosecuted and not in single case, the administration recommended for compensations. The investigating agencies made BSF personnel scot free, though in our various complaints we comprehensively proved that the BSF personnel fired and killed. The administrative agencies never tried to extend justice to the marginalized populace who are being systemically tortured and killed. In only 26 cases NHRC recommended for financial compensations, that too from state’s exchequer not from the pockets of the offenders and never recommended for an adequate proceeding/ prosecution. We have also facilitated 105 specific criminal cases in lower courts, where the victims plead for justice but all these cases facing negligent and unresponsive attitude from the components of criminal justice administration and due to that all these cases are still pending; in majority of the cases, years passed but the police not completed their investigations.

Our experiences shows that in border area where persons were killed extra judicially by the BSF in regular intervals or torturing civilians, are enjoying impunity as nobody could dare to file specific criminal case under appropriate sections of Indian Penal Code, out of extreme fear and no one willing to be a witness of such incidents. On the contrary in every such case BSF files a frivolous counter case against the deceased.

In India government is failing in their duty to provide the public with an honest, efficient, effective service from its criminal justice arm which is essential to deliver justice and ensures the rule of law and an environment of safety and security which is an essential component for democracy. Countries which are practicing democracy with democratic

governance require democratic criminal justice system. The only legitimate criminal justice practices are those help to create an environment free from fear and conducive to the realization of people's human rights. The existing police system in Indian state is a legacy of colonial rule that have been shaped by post-colonial histories. The consequences of poor policing include brutality and torture, extra-judicial executions, a lack of due process, procedural violations, impunity, corruption, bias and discrimination and public fear, anger and resentment. The policing demands a greater transparency.

Criminal justice institutional reforms fundamentally depend upon: (i) understanding the problems that adversely affects the performance of the criminal justice apparatus; (ii) the state having a policy to address these problems in a time-bound manner. Unfortunately the fate of the criminal justice process in India is such that, right from the registration of a complaint, the processes and procedures followed are flawed. And, these flawed procedures are undertaken by the state police; which are infamous for its criminality, and where efficiency is unknown and, unfortunately, to date, investigation of crimes depends exclusively on confession statements extracted by investigators, often by the use of brute forms of torture. Torture, is not outlawed in India despite it being considered a crime against humanity globally. Moreover, even the Indian judiciary abounds with judges who believe that by torturing the true culprit an investigator commits no crime. This must change. Crime investigation, drawing upon advancement in technology and science, calls for the constitution of a resourceful, trained, and equipped division of forensic investigators. However, this is the lowest priority for the Indian government. It is the responsibility of the Indian state to provide all necessary training and infrastructure to law enforcement agencies so the prevailing unscientific ineptitude can be replaced with quality investigative work.

The issue of police reform becomes pertinent in the era of functional democracy. Even the Supreme Court gave a direction in 2006 to the centre and states on police reform but there hasn't been much change ever since. Most of the states, particularly large ones, have been delaying the implementation of the six directions given by the Supreme Court on police reform, and then the Supreme Court is not serving a contempt notice to the states which are not complying with its directives. There is no willingness among the political class and bureaucrats to comply with the apex court's guidelines. After independence a commission on police reform has been constituted under Mr. Dharam Veera but his recommendations have not been obliged by the different shades of Indian ruling elites. The apex court of India in 2005 strongly opined for police reforms in course of making judgment on famous Prakash Singh case. But nearly a decade passed thereafter; West Bengal like many other states has not taken a positive initiative over the issue or come up with any concrete steps to reform the police administration.

The need of the hour is to draw attention of policy makers, police organizations, and activists at the grassroots, civil society groups, the media and the general public as major component for an urgent reform in policing. To furthered a discourse for reform and the implementation of democratic policing. The situation can change through a combination of advocacy, education, research, networking and campaign.

All these facts are exemplify and likely to the horror created by the police and BSF in bordering districts of West Bengal, as both the law enforcement agencies are hand in glove and trying to shield each other. We are attaching a list of complaints and its status but the list is too a tip of the iceberg as numbers of violations are concerned. All these acts by law enforcing agencies are with utter disrespect to procedures, rule of law and guarantees given in accordance to the Constitution of India.

As you are the constitutional head of the province, you have the responsibilities to check these torturous acts perpetrated by the personnel of the police and BSF. Urgent and adequate intervention on mentioned issues and incidents by you will be highly solicited and appreciated.

On this given context, we are placing few demands before you and request you to convey our demands to the highest body of policy makers.

Demands

- The incidents of torture, extra judicial killings and procedural violations must be adequately and impartially investigated
- Specific criminal cases with adequate penal provisions must be initiated according to the criminal procedure code of India against all the accused/ offenders attached with police and security forces; BSF. The accused should be arrested, prosecuted and punished according to the law.
- The victim/ survivors must be adequately compensated from the salaries and other benefits of the offenders

- Border Security Force personnel must be shifted to actual international border throughout the Indo- Bangladesh bordering
- Government of India must ratify Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and come up with domestic legislation on torture

Sincerely Yours

A handwritten signature in black ink, appearing to read 'Biplab Mukherjee', is written over a faint, dotted grid background.

Biplab Mukherjee

Secretary

Banglar Manabadhikar Surakksha Mancha (MASUM)