

# Monthly Report

## April 2022



*Miles to go...*

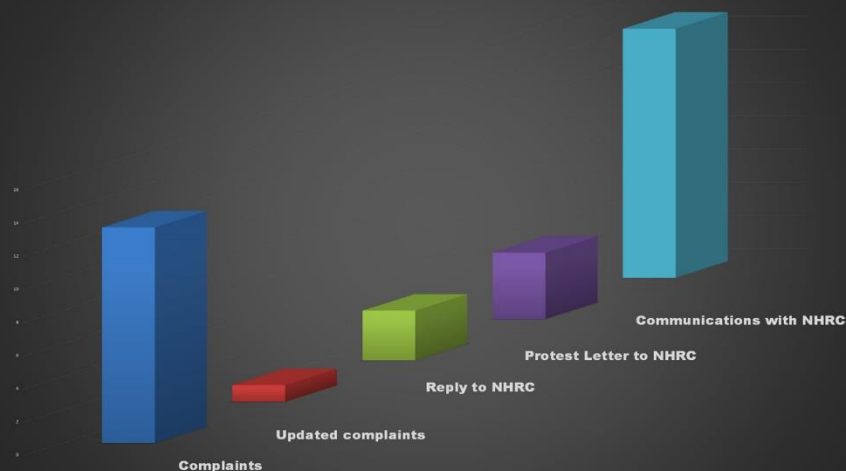
**Banglar Manabadhikar  
Suraksha Mancha**





Banglar Manabadhikar Suraksha Mancha (MASUM) made 13 fresh complaints of gross human rights violation before the relevant state authorities and different human rights institutions; especially the National Human Rights Commission during the month of April 2022. In cases, where our victims from previously lodged cases were threatened or intimidated, we have lodged 2 updated complaints. We have sent 3 replies in cases where the NHRC have asked for our comments. We have sent 4 protest letters to the authorities, where they have closed a case or sent overdated summons to our victims. During this month we have received 15 directions from the NHRC in various ongoing investigations.

Communicative Interactions with HRIs

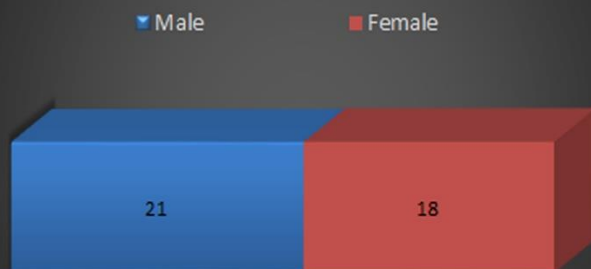


Type of Cases

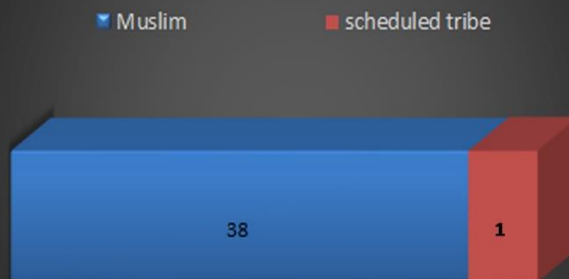


Out of the 13 complaints, four are on illegal detention of Bangladeshi women and children, three on torture by BSF personnel and three other on illegal restriction by BSF personnel. One complaint each were made on extra-judicial killings, Indian in Bangladeshi prison and illegal roping and handcuffing. Through these complaints we addressed the issues of 39 individual victims. Among them 38 belong from minority Muslim community and 1 from tribal community. Among the victims 21 were males and 18 were females. Among these victims 9 were minors.

Demografic Classification



Social Classification





## Our Activities

### North 24 Parganas district

#### Deputation to the Government authorities

On 11th April, 2022, a deputation program was held by Amra Simantabasi Committee with the support of MASUM before the Sub Divisional officer of Bongaon Sub Division. About 300 people from different border villages of Bongaon Sub Division participated in the peaceful demonstration. Later the deputation copy was handed over to the SDO. Residents living in bordering villages are regularly facing the illegitimate restriction by the Border Security Force personnel. The farmers of the said areas are not allowed to cultivate profitable crops like jute, corn, sugarcane etc. People raised these issues before the SDO and submitted a memorandum with demands to stop these arbitrary restrictions upon their lives and livelihood. SDO of Bongaon sub division assured the committee to take up these issues to the higher authority to minimize the problem.



### Malda district

#### Village level meetings



On 16.04.2022 MASUM organized a meeting with the villagers of Baidyanathpur village under Kaliachak III block. On 19.04.2022 another meeting was conducted with the villagers of South Kadamtala village under Kaliachak I block. The villagers of South Kadamtala village have formed the Amra Simantabasi village level Committee with assistance from MASUM. In all these meetings, the villagers mainly talked about the severe experience of torture and restrictions on livelihood that they face on a regular basis from the Border Security Force.

### Cooch Behar district

#### Village level meetings

During this month total 5 village level meetings were organized by MASUM. On 16.04.2022 two village level meetings were held at Sukarurkuthi village and Jhikri village. Both the villages are situated under Dinhata II Block. On 17.04.2022 three village level meetings were held at Jhaukuthi village, Uttar Balabhoot village and Dhadiyal village. All the three villages are situated under Tufanganj I block. On 20.04.2022 two village level meetings were held at Purba Chamta and Paschim Chamta village. Both the villages are situated under Sitai Block.



The main purpose of these meetings was to monitor and assess the issues of livelihood violation of the border villagers. It has come up in these meetings that till now the farmers are not allowed to cultivate profitable crops like Jute, Corn etc. Since the definition of the Indo-Bangladesh border has been changed by the MHA, it is also necessary to assess the actual situation of the border villagers, through these meetings.

On 19.04.2022, the border villagers of Cooch Behar have successfully formed a block level Amra Simantabasi committee at Dinhata II block. Another block level committee was formed on 21.04.2022 at Tufanganj I block.

**Achievement** - Nalini Sarkar (Name changed), a 16-year-old girl of North 24 Parganas district went missing from her aunty's home on 30.01.22 but the Bagda police were reluctant to file a case on the incident. MASUM took up the matter and lodged a complaint to the NHRC on 26.03.22. Soon following MASUM's intervention the Bagda police under Bongaon police district took swift action and initiated an investigation. The police thereafter were swift to rescue the victim from Nadia district on 29.03.22. She was then sent to a governmental home in Madhyamgram and later handed over to her family members on 01.04.22.



**Medical Camps** - In the month of April 2022 MASUM organized three medical camps for the torture survivors and their family members. These camps were organized with the help of United Nation Voluntary Fund for victim of torture - UNVFVT. On 19.04.2022 and 28.04.2022 two different medical camps were held at Dinhata and Tufanganj of Coochbehar where 64 victims and 30 victims availed the treatment under the supervision of Dr. Saokat Ali respectively. On 20.04.2022 another medical camp was held at Swarupnagar, North 24 Parganas where 38 victims availed the treatment under the supervision of Dr. Anasuyak Roy. The prescribed medicines were provided to the beneficiaries.





## Case Briefs: April 2022

- **Torture by BSF personnel:** In an incident, Mr. Titu Miya an innocent marginalized Muslim youth from Konamukta village of Cooch Behar district, had been severely beaten up and tortured physically by the BSF personnel attached with Narayanganj BOP 'A' Company without any valid reason. The police was informed about the incident; however they did not take any action.

In another incident, 4-5 BSF personnel attached with Gobra BOP attacked two innocent villagers belonging to the marginalized Muslim community. The jawans tortured the victim both physically and mentally accusing them of being involved in cross-border smuggling on the basis of a baseless assumption. The police took no action in this regard.

In another case 2 BSF personnel associated with Hakimpur BOP of Daharkanda village, North 24 Parganas inflicted severe torture on a marginalized Muslim youth, gravely injuring him on his back and his leg. Though the victim filed a written complaint to the Basirhat police station, no formal FIR has been registered against the perpetrators.



Video of **Titu Miya**

Video of **Majed Gazi**

- **Illegal restriction by BSF personnel:** MASUM registered 3 cases of illegal restriction by the BSF personnel in the month of April, 2022. In the case of the citizens of Ghonapara village, Cooch Behar district, the BSF associated with Ghonapara BOP 'B' company does not let the villagers cultivate the high profitable crops like jute and corn. These villagers are all dependent on agriculture as their only source of income.

In another instance, the BSF associated with Ramchandra BOP, imposed severe restrictions on the villagers of Choruigachi, North 24 Parganas. Since the plots of lands belonging to the population of the villagers is hedged within the barbed wire fences, the villagers are fully dependent on the BSF for opening and closing the border gates so that they can go to their own lands. Furthermore, the BSF also impose restrictions on the cultivation of profitable crops of the villagers. Due to this illegal restriction the villagers are forced to migrate to other parts of the country.

In another instance, the villagers of Dighalteri have been denied of their livelihood. The BSF associated with Dighalteri BOP 'D' Company has created their BOP in the middle of the cultivable lands. They do not allow the farmers to cultivate in these plots, furthermore, the BSF have created an embargo on the cultivation of highly profitable crops. Due to these restrictions the villagers in that area are incurring heavy losses.



- **Extra-judicial execution:** A poor marginalized Muslim youth named Mr. Serajul Haq from Sahebganj of Cooch Behar district was shot dead by the BSF personnel attached with 75 Battalion of Padma BSF BOP, who were patrolling the area. Serajul was allegedly involved with some illegal activities when he was spotted and shot by the perpetrators. The BSF personnel didn't make attempts to apprehend the victim rather they shot to kill him. The victim suffered bullet injury on his chest and managed to flee into Bangladeshi territory but soon succumbed to his injuries. As per our fact-finding, police personnel from Aditmari police station in Bangladesh recovered his body and sent for autopsy. However, for the next couple of days, the BSF or the police didn't take any initiative to recover the body of the victim from Bangladesh and hand it over to his family. MASUM lodged a complaint to NHRC, informing about this incident.

- **Illegal Detention of Bangladeshi women and children:** In the month of April, MASUM recorded 4 cases where Bangladeshi people belonging to poor marginalized families have been illegally detained in prison. The Bangladeshi persons arrested were treated as accused under the Foreigners Act and no attempts were taken up by the police or the concerned court to ascertain whether they were the victims of human trafficking or not. This approach is violating the MOU signed between the Government of India and the Government of Bangladesh on Bilateral Cooperation for Preventing of Human Trafficking especially trafficking in Women and Children. MASUM addressed and documented these cases and lodged specific complaints with the NHRC.

- **Indian in Bangladeshi prison:** MASUM addressed and documented the incident of illegal detention of 5 Indian citizen, who are languishing in the Bangladeshi prison even after the expiry of their term of imprisonment. All the victims are from Dhubri district of Assam and were arrested for making illegal entry into Bangladesh. However, they are still kept in Bangladeshi prison as 'Jankhalash' or released prisoners even after their terms have ended. Numerous numbers of such prisoners are being held in the prisons of both India and Bangladesh, where they are not released even after their terms are over. Despite the Calcutta High Court's order in a case put up by MASUM, to stop such illegal practice and take proper initiatives to release these prisoners and send them back to their homes, the government didn't any such steps yet. We have filed a complaint to NHRC demanding immediate repatriation of these victims.

- **Illegal roping and handcuffing:** Although handcuffing and roping is unconstitutional, it is openly being practiced by the Mekhliganj police of Cooch Behar district inside court premises. In the Prem Shankar Shukla vs. Delhi Administration case of 1980, the Supreme Court of India have put a ban on the use of ropes and fetters on accused persons. However, still the practice is rampant in several courts of West Bengal. MASUM lodged a complaint with the NHRC regarding the matter.





## Legal Activities Report: April 2022

### Activities in High Court at Calcutta

On 07.04.2022 one Criminal Revision case of Reba Bewa was listed in the cause list of the Calcutta High Court. Rajib Molla, husband of Ms Reba died of brutal custodial torture by the Raninagar police personnel. Additional Chief Judicial Magistrate, Lalbag court acquitted the perpetrator police personnel from all charges. MASUM supported the legal assistance of the victim's family and therefore one Criminal Revision case was filed before the High Court at Calcutta. On 31.03.2022, the concerned judge ordered to serve revisional application and copies of section 5 of the Limitation application to the opposite parties and directed to list the matter on 07.04.2022. On 07.04.2022 judge ordered the advocate for the State for communicating with the Officer-in-Charge of Raninagar Police Station for effect copy servicing to the opposite parties as they have transferred from the Raninagar Police Station. On 21.04.2022 advocate appearing for the state prays for accommodation for receiving the report from the Officer-in-Charge, Raninagar Police Station. The judge granted the prayer and listed the matter on 05.05.2022. Police Station for effect copy servicing to the opposite parties as they have transferred from the Raninagar Police Station. On 21.04.2022 advocate appearing for the state prays for accommodation for receiving the report from the Officer-in-Charge, Raninagar Police Station. The judge granted the prayer and listed the matter on 05.05.2022.



A false case had been lodged against Mr Kirity Roy, Secretary, MASUM being Dinhata Police Station Case number 259/2018 dated 19.07.2018 (GR 251/2018) under section 341/186/353/427/506/34 of Indian Penal Code during the time of submission of deputation to the Sub Divisional Officer's office at Dinhata for securing the rights of fishermen. Challenging the case Mr. Roy filed a quashing petition before the High Court at Calcutta on 25.08.2021 to rescind the false FIR against him and subsequent proceedings. On 03.03.2022 judge dismissed the application as non-appearance of the petitioner's advocate. On 18.04.2022 one restoration petition was filed in this regard before the Jalpaiguri Circuit Bench.

One fabricated case had been lodged against Mr Kirity Roy, Secretary, MASUM being Jalangi Police Station Case number 95/2019 dated 02.02.2019 (GR 465/2019) under section 341/120A/186/189/504/505 of Indian Penal Code during the time of a public meeting at Raipara market, Char Parashpur, Murshidabad for securing the rights of the bordering populace. Challenging the case Mr Roy filed a quashing petition before the High Court at Calcutta on 26.04.2022 to rescind the false FIR against him and subsequent proceedings. The petition was acknowledged and registered vide CRR case number 1447 of 2022.

### Sub-divisional Courts



This month we provide legal support in 06 prosecution cases in the Lalbag court among which four cases are in the statement recording stage of the victim and witnesses and two cases are pending for the report submitted by the concerned authority. In this month MASUM also supported 13 victims in the Lalbag court, Murshidabad where the false case against them was started.

In the court of Basirhat, we provide legal support in 04 prosecution cases and 04 defence cases.

### RTI activities

On 28th April 2022, we have submitted a fresh RTI application to the State Public Information Officer (SPIO), Department of Jails & Prison Directorate, West Bengal for getting the information regarding the under trial prisoners imprisoned at present in all Prisons/Correctional/ Sub Correctional/Special Correctional Homes in the state of West Bengal.

In April 2022, we received four communications from the concerned SPIOs in connection with our RTIs. On 27.12.2021 we lodged five RTIs regarding extrajudicial execution matters to the SPIO, Office of the Chief Secretaries in the states of West Bengal, Assam, Tripura, Meghalaya and Mizoram. On 09.04.2022 we received one reply letter from SPIO, Office of the Chief Secretary, Government of West Bengal where they provided a detailed list of extrajudicial execution in the bordering districts of West Bengal from 2011 to 2020. On 13.04.2022 we received one letter from the Superintendent of Police, Sadiya Assam where no information of extrajudicial killing was reported and on 19.04.2022 we received two replies from the Superintendent of Police, Goalpara, Assam and Dibrugarh, Assam. They also reported that no news of extrajudicial killing was reported from 2011 to 2020 in their respective district.



# Statement on Criminal Law Reforms



Banglar

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To  
His Excellency  
President of India  
Rashtrapati Bhawan,  
New Delhi – 110004

Date: 06.04.2022

Respected Sir,

*"For to be free, is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others." - Nelson Mandela*

I am writing you this letter in concern for the Criminal Procedure (Identification) Bill, 2022.

On 04.04.2022 in the lower house of the Indian Parliament (Lok Sabha) the Criminal Procedure (Identification) Bill, 2022 has been passed with voice vote on the bill. The Home minister of the country stated that the citizens of the country should not worry at all about the misuse of this Bill, adding that they cannot delay the employment of advanced technologies in the criminal justice system. We read the whole bill and as per our understanding, the Criminal Procedure (Identification) Bill, 2022 seeks to replace the Prisoners Identification Act, 1920. Section 3 of the said bill is related to the collection of measurement of arrested and convicted person. Here measurement refers to finger impressions, photographs, iris and retina scan, physical, biological samples and their analysis, behavioral attributes including signatures, handwriting or any other examinations.

First of all, the bill proposes the collection of measurements of arrested persons and detainees, aside from the convicts, which signifies that the accused person will also come under the purview of this bill. The basis of criminal jurisprudence that 'presumption of innocence until proven guilty' is being violated here. There is no relevancy to collect the measurement of the accused persons as in our country there are high levels of acquittals, a large number of under trials not facing their trials and suffering in jails. But the concerned bill will be providing power to take all these people's measurement unnecessarily.

Secondly, this bill is trying to empower the head constables to collect measurements. It is a mockery of the Criminal Procedure Code, as under which, none other than an officer with Sub Inspector rank can lodge an FIR, whereas, according to the Bill, anyone with the rank of a head constable will be able to collect the measurement.

The bill violates the spirit of our Constitution {Article 20(3)} as the privacy of my body is guaranteed in the Indian Constitution. The intention of the bill is to destroy the fundamentals of criminal jurisprudence that states - no one is guilty until proven by court of law. In Kharak Singh case [1964 SCR (1) 332], the Supreme Court, the guardian of our Constitution explained that life is much more than surviving as an animal. The bill is against this spirit of our constitution.

The bill also allows the police and prison officials to collect measurements regardless of the refusal by any person. Even refusal of the same is punishable under this bill. This is again a violation of the fundamental rights. The government is now trying to curb the 'right to refusal' of the accused and convicts.

Every citizen is entitled to the right to privacy. Thumb impressions, signatures, iris and retina scan that are being collected and stored under the guise of investigation; there are large avenues for abusing the same. The right to privacy ensured by the Supreme Court of India in the Puttaswamy case (AIR 2017 SC 416) is completely being violated in this bill.<sup>1</sup>

Prison statistics of India Report 2020<sup>2</sup> says that the total capacity of our prisons is 4,14,1033 while the present occupancy is 4, 88,511, which signifies that prisons are running at 20% overcapacity. Out of this the convicted people are only 1, 12,589 and under trials are 3, 71,848, which again signifies that 70% of the prisoners are under trials. These people are overstaying in the jail but the government is not worried about that. The government is only concerned with unethical surveillance upon the citizens of the country.

No bill regarding data protection has been tabled in the house of the Parliament; then how does the Parliament pass this bill before introducing a strong data protection bill and even not send it to the Parliamentary Standing Committee for evaluation.

This bill has violated the Article 14 (Right to equality), 21 (Right to Life and personal liberty) and 20(3) (Protection in respect of conviction of offences) enshrined in the Indian Constitution. MASUM strongly condemns and protests against the present Criminal Amendment (Identification) Bill, 2022. This new move of the MHA is an open attack on the Constitution of our country, human rights laws and present criminal justice system.

The apex court of our land upheld that *"Progressive criminologists across the world will agree that the Gandhian diagnosis of offenders at patients and his conception of prisons as hospitals-mental and moral-is the key to the pathology of delinquency and the therapeutic role of 'punishment' The whole man is a healthy man and every man is born good. Criminality is a curable deviance. The morality of the law may vary, but is real. The basic goodness of all human beings is a spiritual axiom, a fall- out of the advaita of cosmic creation and the spring of correctional thought in criminology."*

Therefore, I appeal to your good authority to save our Constitution and basics of criminal jurisprudence in the country. If this is not checked immediately, our country will turn into a surveillance state.

Sincerely,

Kirity Roy  
Secretary, MASUM  
&  
National Convener, PACTI

<sup>1</sup> [https://main.sci.gov.in/supremecourt/2012/35071/35071\\_2012\\_Judgement\\_24-Aug-2017.pdf](https://main.sci.gov.in/supremecourt/2012/35071/35071_2012_Judgement_24-Aug-2017.pdf)

<sup>2</sup> [https://ncrb.gov.in/sites/default/files/PSI\\_2020\\_as\\_on\\_27-12-2021\\_0.pdf](https://ncrb.gov.in/sites/default/files/PSI_2020_as_on_27-12-2021_0.pdf)



## Activities at a glance



**Formation of Tufanganj Block Committee in Cooch Behar district**



**Gathering in front of the Bongaon Sub-Divisional Office before submitting deputation to the SDO on border issues**



**Meeting with the villagers of South Kadamtala village in Kaliachak-I block of Malda district**



**Dr. Saukat Ali providing treatment to the victims of torture in Tufanganj of Cooch Behar district**



**Meeting with the villagers of West Chamta village of Cooch Behar district**



**Meeting with the villagers of Sukarurkuthi village of Cooch Behar district**