

Monthly Report

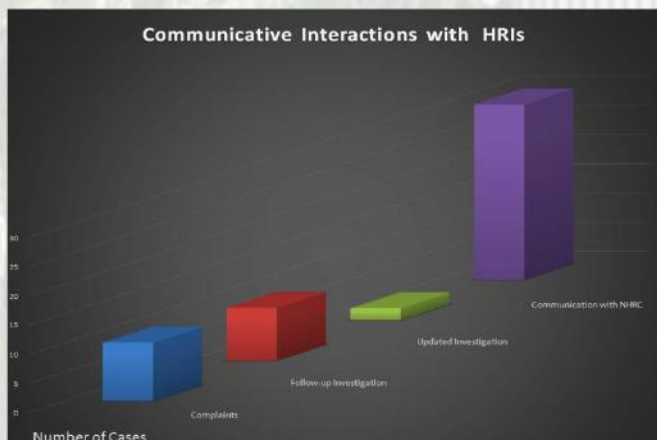
January 2020



Miles to go...

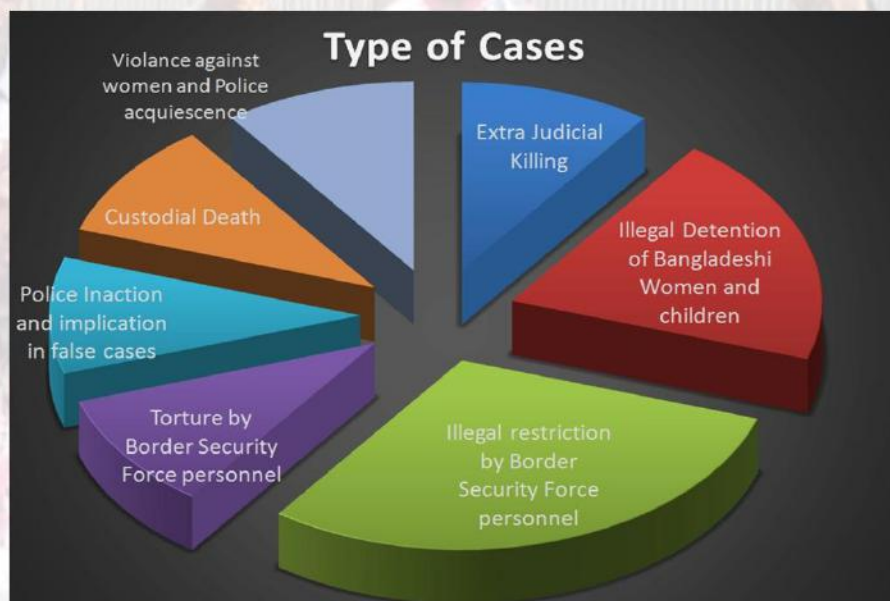


**Banglar Manabadhikar
Suraksha Mancha**



Banglar Manabadhikar Surakksha Mancha (MASUM) made 10 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 January 2020. During this period we provided our feedback on the directions issued by the NHRC in 9 cases and made follow-up complaints regarding 2 cases formerly lodged. The two follow-ups made this month were on Police acquiescence and BSF restriction. During this month, MASUM received directions from the NHRC in 30 cases.

Out of the ten complaints, three are on Illegal restriction by BSF personnel, two on illegal detention of Bangladeshi women and children and one each on Torture by Border Security Force personnel, Police Inaction and implication in false cases, extra judicial killing by the BSF, Violence against women and Police acquiescence and custodial death.



In the complaint regarding marginalisation of bordering populace, the victimization was collective and does not reflect in demographic and social classification of victims. Total numbers of victims in individual complaints were 88; all of them belong from the minority Muslim community. Among the victims 12 were males, 54 females and 22 were minors.



· Owing to our consistent intervention, roads, bridges and structures to let water pass through are being constructed in the erstwhile enclaves Falnapur and Nolgram.

· Roads are also being constructed in the erstwhile enclave Poschim Bakalir Chara. In addition to this, solar pumps for irrigation are being set up in the enclave.

· The National Human Rights Commission recommended a monetary compensation of Rs. 2 lakhs for Serajul Haque, a victim of extrajudicial killing by the BSF.

· Due to a lack of response by the police authorities in the case of torture of Kasem Seikh, NHRC directed the Director General of Police, West Bengal to appear in person before the Commission and present the required documents.



Achievements and Challenges: A brief overview



· Human Rights Defenders (HRDs) of MASUM constantly face threats on their life and liberty because of the work they do. While fighting against state atrocities, they are often implicated in fabricated charges by the state authorities. While the case against Mr. Kirity Roy had been dropped by the Supreme Court of India last year, another false case has been lodged against him and others at Dinhata Police station vide Case number 259/2018 dated 19.07.2018) under sections 341/186/353/427/506/34 of Indian Penal Code during the submission of deputation to the Sub Divisional Officer's office at Dinhata for securing the rights of fishermen..

· Our work in the District of Murshidabad is suffering due to organizational and circumstantial difficulties. The HRDs working in Murshidabad face severe threats and harassment from the administration as a result of which it is difficult to find stable ground while conducting field research.

· Prolonged trials in various courts are discouraging victims to continue fighting to achieve justice through legal mechanisms.



Custodial Death and Threat to Human Rights Defenders

On 21 January 2020, around 11:30pm, Azizul Pramanik was apprehended by the personnel of the Border Security Forces (BSF) for cross-border cattle smuggling. The events that followed are a gross miscarriage of justice and pose serious questions to the criminal justice system of India. The BSF personnel not only arrested Pramanik, they detained him for more than 11 hours in which they brutally tortured him. At 12 pm the next day, they brought him to Sitai Police station in a state where he was no longer able to walk or stand



without support. In spite of this condition, the BSF managed to get a prescription signed by a medical officer from the Sitai Government Hospital declaring Pramanik to be physically fit. Witnesses claim that the victim was lying on his stomach in the custody of the police and defecating blood because of his severe internal injuries.

Later in the day, he was referred to the Dinhata Subdivision Hospital where it was declared that he was brought dead. The medical practitioners here were pressurized by the police to issue a false death certificate, abdicating them of any responsibility in the death of the victim. Our team reached the victim's house on 23 January 2020 to conduct a fact-finding investigation. We were interrupted by the

Inspector in charge of Sitai Police Station, S. Bhattacharya and other police officials. They detained the family members of the victim, threatened them against revealing the facts and even offered to bribe them. They refused to file complaints and later on, lodged a FIR with severe irregularities and refused to share the details with us. Moreover, S. Bhattacharya threatened our team members with dire consequences if they filed any complaints against them.

During the autopsy, the inquest was conducted by the executive magistrate in complete violation of Section 176 (1) (A) of the Criminal Procedure Code. After the body was received by the family, severe external injuries were noted on the body and a reliable source also revealed internal injuries that could have led to the victim's death. The entire case reveals a nexus of impunity wherein torture is sanctioned, perpetrators receive protection and victims are denied justice.



[Video link](#)

"My brother could not walk, even so, the BSF personnel kept hitting him while taking him to the hospital. When he was in police custody, I asked him how he was feeling. He told me that he was in a lot of pain and he should be taken to a better hospital. It appeared to me that his ribcage had been broken, he couldn't sit up at all. There was blood coming out from beneath his waist and legs, his face was swollen."

Merina Bibi, Azizul Pramanik's Sister



"We were trying to submit the complaint of the incident to the Police. When Dipyaman (co-investigator) went out to make a phone call, S. Bhattacharya pointed his finger at me saying that will not spare me. He wanted us to take out any allegations made against the police from our complaint."

Sandip Dutta, Fact-finding team, MASUM

"From the sources of the incident, we came to know that the BSF personnel had stripped the victim naked and left him out in the cold all night, after brutally torturing him. The temperature then would have been 3-4 degrees. The BSF refers to killing of innocents while maintaining national security as 'collateral damage'. In no manner, can brutal murders such as this be deemed 'collateral damage'. It seems like the entire system of criminal justice is standing against human rights."

Dipyaman Adhikary, Assistant Secretary, MASUM



NRC protest in Bengal: State government's false promises

Chief Minister Mamata Banerjee has been vocally against the National Register of Citizens (NRC) and the Citizenship (Amendment) Bill, later Act (CAA), since their very inception in 2015. She has addressed the media, rallies and masses, assuring them that she will take all measures to ensure that the NRC and CAA are not enacted in West Bengal. Even so, she was not able to curb mass hysteria around the NRC, the suicides in West Bengal allegedly from the panic of being thrown out of the country and the communal hatred that the



BJP continues to brew in the state. Perhaps, this was because she passed a government order for putting a stay on the process of National Population Register (NPR) as late as 16 December 2019. Her speeches and assurances had been nothing but empty promises before she finally took this step. In November, the Karnataka Police and the Central government detained 60 people alleged to be Bangladeshi nationals and brought them to West Bengal with an intention of deporting them. Many human rights activists and associations held demonstrations against the incident and saw this as a tactical move towards implementing the NRC. In fact, following the incident, Karnataka built its first detention centre to restrict the movement of "illegal immigrants".

While all of this occurred in the State of West Bengal, the Chief Minister did not raise any objections to the incident. On the contrary, the Police in West Bengal was hostile to the journalists, activists and lawyers who tried to investigate into this incident. Further, many local leaders of the TMC allegedly participated in the destruction of public property, putting trains on fire and creating chaos in the wake of the anti-CAA protests, giving the BJP opposition the opportunity to call the civilian protests illegal and violent. On 29 January 2019, a local TMC leader is alleged to have shot two anti-CAA protesters and injured many in the Murshidabad district of West Bengal. While MPs of Congress, BJP and CPI (M) have been quick to attack the ruling party regarding this incident, Banerjee has not come up with any official statement on the incident. It is apparent that the ruling TMC has done little to support civilian protests against the NPR, NRC and CAA except increasing fear and paranoia amongst the general masses against the peaceful protesters.

Narratives Unheard



"My husband was coming out of the Masjid from his daily Namaz when he was shot by the TMC leader. He was not even involved in the protest rally. Police was there but did nothing. They rather asked the goons to fire at the protestors."

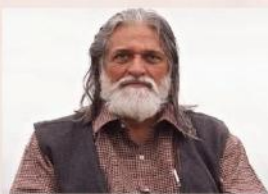
Aheda Biswas, wife of Anarul Biswas, victim in Jalangi firing incident, Murshidabad

"My son was not involved in the protest but the TMC goons started randomly firing on the crowd for no particular reason. My son was watching the rally from a distance when he was shot and police did nothing though they were present there. I want justice for my son's death"

Noor Sheikh, father of Salauddin Sheikh, victim in Jalangi firing incident, Murshidabad



Veteran Human Rights Activist Advocate Rajendra Sail Passes Away



Adv Rajendra Sail, one of the legends of Human Rights movement in the country breathed last around 4:30 pm on January 26. His association with People's Union for Civil Liberties (PUCL) has marked an era of engaging on the questions of Human Rights at the highest level in India. One of the early members of PUCL, he was the National Organising Secretary of it from early 1980s till late 1990s. His association with rural bonded labour led to the popular case on bonded labour in the Supreme Court of India in 1980s that led to the release of nearly 25000 Dalit caste based bonded labourers in Chhattisgarh. Later he was the Supreme Court appointed Commissioner on bonded labour issues.

He guided PUCL Chhattisgarh in the most difficult phase during the 2000s, when its then General Secretary Dr. Binayak Sen was arrested under anti-national and sedition laws. He was much instrumental in the recent struggles for demilitarisation of Bastar in Chhattisgarh. His key role in drafting PUCL's draft bill on Protection of Journalists that was submitted to the government of Chhattisgarh and the memorandum for the release of Adivasis falsely prisoners under the pretext of being Maoist associates from various jails in Chhattisgarh cannot be ever forgotten. He survived a massive heart attack and a paralytic stroke. Since then his body functions were reduced, his mobility curtailed. He will be missed by the human rights fraternity of the country.

Our Activities

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- On 15.01.2020, MASUM organized one meeting with media personnel and some other locals to start its work in Murshidabad district.

Upcoming Events:

A few members of the civil society including renowned theatre artist Sohag Sen, social activist Madhumita Kaur and academician Suchismita Dasgupta are visiting Cooch Behar from 19-21 February 2020. They seek to understand the ground realities of people who live on the other side of the border fence and the problems they suffer as a consequence of this. They intend to lobby with the administration regarding the rights of these people and advocate against their consistent marginalization.



Case briefs: January, 2020

• **Illegal Restriction by the Border Security Force:** Despite several complaints and attempts to challenge the incidents of illegitimate restrictions imposed by the Border Security Force personnel in the villages along the West Bengal - Bangladesh border, such incidents are rampant. Villagers residing along this 2217 kilometer International border are being victimized by regular whimsical restrictions from the BSF. In Basghata village under Bagdah police station area of North 24 Parganas district, the 107 BSF battalion has imposed severe restriction on the villagers. They whimsically open the fencing gates, by which the villagers having agricultural fields suffer the most. They have also imposed restriction on cultivating profitable crops such as sugarcane, jute, banana etc citing security reasons. The villagers of Madarganj village under Sahebganj police station of Coochbehar district also faces similar issues where they have to take permission from the BSF personnel attached with Kalmati 1 BSF BOP regarding every aspect of their lives.

The BSF even stops the school students and checks their school bags in the name of security. Similarly in Mahishmuri Debdebir Hat village under Sitalkuchi police station of Coochbehar the BSF personnel attached with Goutam BOP, 47 battalion have imposed severe restriction on the villagers. The BSF doesn't allow the villagers to take cattle and other agricultural equipments, such as tractors, to their field stating that those will be used for smuggling. We have lodged 3 complaints on these issues of human rights violation to the National Human Rights Commission in January 2020.

Illegal arrest and detention: Total 95 Bangladeshi people were arrested out of them 49 were women, 4 men and 20 minors. They were arrested in under section 14 of Foreigners Act. On the same day those Bangladeshi Nationals were appeared before Basirhat Additional Chief Judicial Magistrate's court and they were instructed to send at Dumdum Correctional Home for next 14 days. In another incident in the same district of North 24 Parganas, while the Bangladeshi nationals entered into the Indian Territory. The prosecution was registered against them merely on the allegation that they entered into India without any valid document. But the fact is that a large section of Bangladeshi people, particularly women are trapped by the traffickers. Poor Bangladeshis are enticed for better job in India.

Molestation and vandalising properties of villagers: Whimsical intimidation and rampant harassment on the villagers of Sebar kuti Dhadhial village, Cooch Behar district in West Bengal by the Border Security Force personnel took place. The BSF has not only harassed the poor marginalized villagers but also criminal trespassed into their house and offended the modesty of women publicly in the village. 18 to 25 Border Security Force personnel without any Lady BSF personnel criminally trespassed in the name of raiding. Border Security Force personnel also misbehaved with the family members of the house and threaten to implicate false charges of smuggling against them; even the women members were physically assaulted. Unfortunately no action has been taken yet.

Police inaction: Vitim, Rokeya Khatun Bibi was the wife of Mithoo Miyan, a civic volunteer of the Police at the Police station Kotwali-Cooch Behar was hung to death by her husband and in laws. The way the body was hung, it was apparent that it was not a suicide. Victim's parents were threatened. A meeting of the panchayat was also called to resolve the issue but in spite of this, the victim's husband and in-laws continued to be hostile to the victim. Mitthoo Miyan was arrested whereas the others involved in the commission of the crime was not arrested and inspite of living in their original residence, the police had reported that their family fled and was nowhere to be found.

Extra Judicial Killing: An incident of brutal killing and hiding the dead bodies of four poor marginalized Muslim youths from Deocharai village under Tufanganj Block and Tufanganj Police Station area of Cooch Behar district, by the perpetrator was reported. A group of ten people tried to cross Indo-Bangladesh border with a herd of cattle to Bangladesh, the Border Security Force personnel without given any intimation started 15 to 16 round firing and as a result one person, 4 people rushed to Bangladesh side and 4 other people had been missing from that time and due to our continuous intervention ultimately recovered the bodies under the water of Gadadhar river four days later which were tied with rope and stone. It is a clear case of intentional murder by the Border Security Force personnel and to conceal the crime they tried to hide the bodies of the victim.

Legal Activities: January, 2020

Supreme Court of India

Writ petition (Criminal) number 141 of 2015 was filed before the Supreme Court of India about the alleged killing of a Bangladeshi minor girl Felani Khatun by Border Security Force. The case was filed against the respondents namely Union of India, State of West Bengal, Border Security Force and the Central Bureau of Investigation and appealed for the constitution of a SIT/CBI team consisting of officers from outside the State of West Bengal to take over the investigation, to prosecute the offenders in accordance with the law and award compensation. On 02.01.2019 the matter was adjourned before the Bench of Chief Justice of India and Justice Sanjay Kishan Kaul at the stage of admission of the said criminal case. We received information from the website of Supreme Court of India that on 14.01.2020 the matter may be listed but no proceedings were conducted on the said date. It can be presumed from information available on the internet that the matter may be listed for hearing on 05.02.2020. Another Writ petition (civil) 218 of 2012 was filed before the Supreme Court of India where we prayed for an order declaring section 46 and 47 of BSF Act, 1968 is ultra vires to Article 14 and 21 of the Constitution of India. This case is still pending at the stage of final hearing.



Calcutta High Court



A new case—Nur Islam Sahajee vs. State of West Bengal & others (Writ petition 22359 (w) of 2019) was filed before the Calcutta High Court. The petitioner's son, Sohag Sahajee was a victim of extra judicial killing by the Border Security Force personnel. After investigation based on our complaint, the NHRC recommended that a compensation amount of 5 lakhs INR should be paid to the victim's family by the Ministry of Home Affairs. This compensation has not been received yet. Therefore, on 26.11.2019, Nur Islam Sahajee, filed a writ application in the nature of Mandamus with the High Court at Calcutta for directing the MHA to pay to the petitioner an amount of 5 lakhs INR as compensation in due compliance of the recommendation passed by the NHRC.

District Courts

Murshidabad

In this month we provided legal support in 14 prosecution cases among which 2 cases were dismissed as the informant was not presented before the Court after serving several notices; in 8 cases recording of witness statements has started and in 4 cases concerned authorities have not submitted their reports till date but the Magistrate has not taken any suo moto actions against the authorities. In some cases the court is further delaying orders, even in cases where proceedings have been completed. This is leading to a long delay in the deliverance of justice and causing our victims to suffer from mental and economical strain.



North 24 Parganas

In this month we provided legal support in 6 prosecution cases and 3 defense cases. In few cases in North 24 Parganas, proceedings could not take place due to the absence of Public Prosecutor. The Magistrate directed the District Public Prosecutor to appoint public prosecutors in those cases but no appointment has been done so far. There are several cases where case records are missing from the court room and no action on the part of the court officials to trace out those records. This contributes to a prolonged delay in justice and points to the systematic failure of the Criminal Justice System in the country.

Coochbehar

A false case has been lodged against Mr. Kirity Roy & others by the Dinhata Police Station vide 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. Mr. Roy received anticipatory bail from Sessions' Judge, Cooch Behar on 06.03.2019. On 04.01.2020 the date was given for attendance of the victim before the court and the next date will be fixed on 12.06.2020.

Activities at a glance



Victim's meet at Coochbehar district



Workshop with the district committee members of 'Amra Simantabasi' and 'Amra Chitmahalbari' in Coochbehar



Medical camp at Dinhata for torture victims of Coochbehar district



A village level meeting at Batrigach Fragment enclave in Dinhata of Coochbehar with the enclave dwellers



A meeting with the members of "Pramila Bahini" at Purba Mashaldanga erstwhile enclave



A village level meeting at Durganagar in Coochbehar