

Monthly Report

May 2020



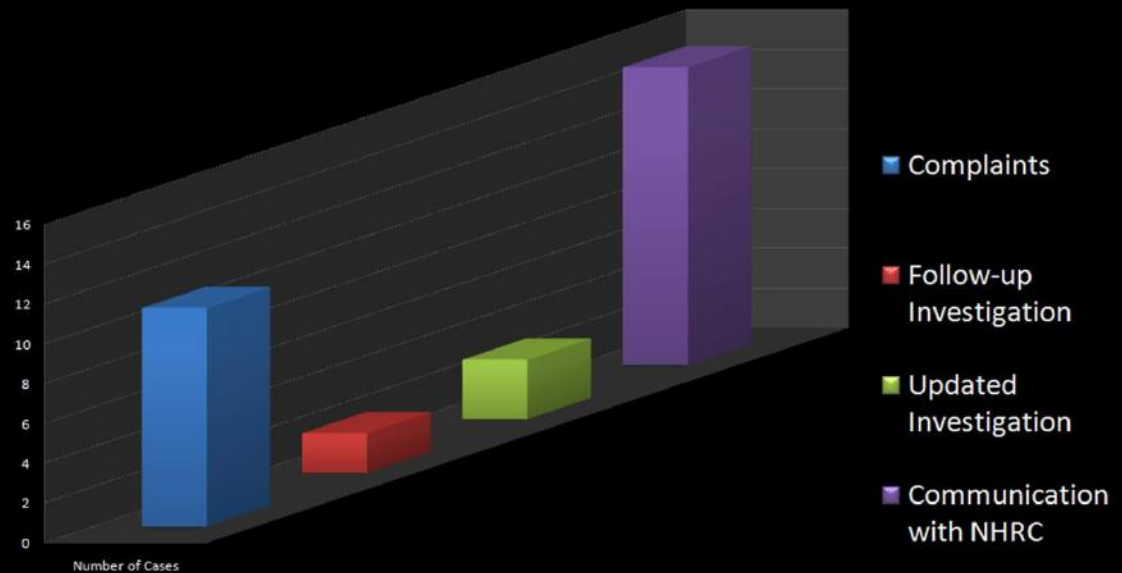
Miles to go...

**Banglar Manabadhikar
Suraksha Mancha**

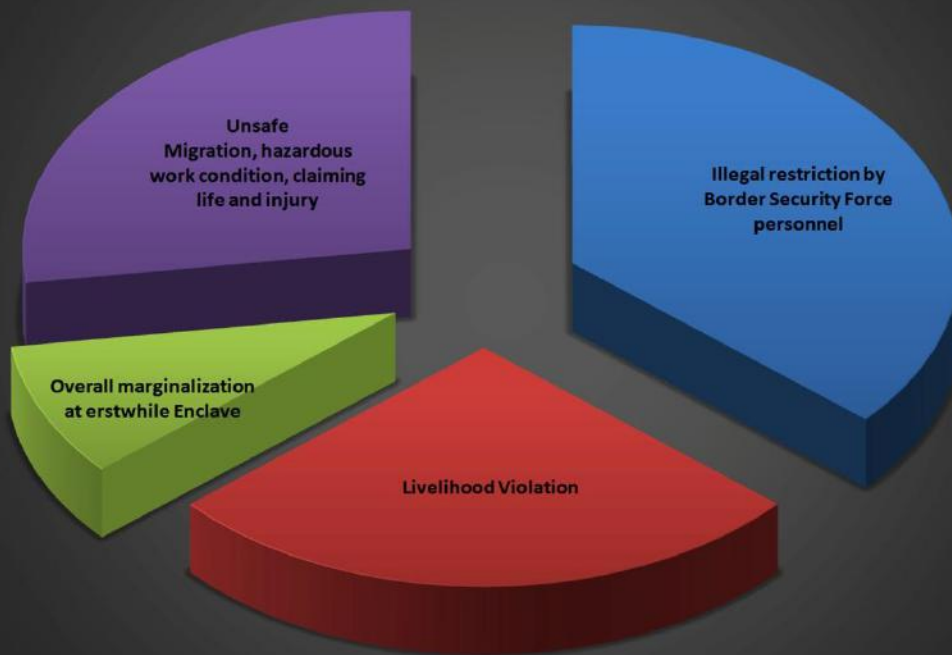


Banglar Manabadhikar Surakksha Mancha (MASUM) made 11 complaints of gross human rights violation before the relevant state authorities and different human rights institutions; especially the National Human Rights Commission during the month of May 2020. During this period we provided our feedback on the directions issued by the NHRC in 2 cases and made follow-up complaints regarding 3 cases formerly lodged. The three follow-ups made this month were each on BSF torture, livelihood violation and unsafe Migration, hazardous work condition, claiming life and injury. During this month, MASUM received directions from the NHRC in 15 cases.

Communicative Interactions with HRIs



Type of Cases



Out of the eleven complaints, four are on Illegal restriction by BSF personnel, three each on livelihood violation and Unsafe Migration, hazardous work condition, claiming life and injury and one on Overall marginalization at erstwhile Enclave. In all these complaints, the victimization was collective and not individuals.

Villagers protest against illegal restriction amidst lockdown

Banglar Manabadhikar Suraksha Mancha (MASUM) has witnessed a series of incidents of torture, extrajudicial killings, custodial deaths, enforced disappearances and so on by agents of the state at the Indo-Bangladesh border. Apart from this, the armed forces are also responsible for enforcing restrictions on the livelihood of poor villagers. In the last two years, MASUM has filed over 50 complaints to the National Human Rights Commission regarding incidents of harassment and restrictions on livelihood of villagers from three districts of West Bengal.

Due to the COVID-19 pandemic, India has been under a state-imposed lock down for the past 2 months.

Under these conditions, the personnel of the Border Security Force (BSF) have increased the restrictions imposed on the villagers. For accessing the agricultural fields on the other side of the border fence, the villagers are required to pass through the gates guarded by the BSF. Earlier, these gates were opened three times a day for an hour each but now, the gates remain close for the entire day. In two months, MASUM has filed eight complaints regarding these restrictions and the threat of survival posed to the residents.

One of these complaints was about village Mirpara Golenhati situated under Sitalkuchi Block in the District of Cooch Behar. Due to complete lock down the villagers are not allowed to go in their own fields to collect the crops. Due to this, their entire produce is going to waste. On 15 April 2020, Ministry of Home Affairs, Government of India issued an order (Memorandum number 40-3/2020-DM-I(A))

which clearly states that all agricultural and horticultural activities must remain functional during the pandemic. But the BSF, which is an authority under the command of the Home Department of Government of India has been violating the order of its own department.

Over the last 2 months the villagers have been consistently requesting the personnel of the BSF to open the gates but in vain. Due to illegitimate restrictions imposed by the BSF, the villagers are suffering a financial crisis, given the dire circumstances and lack of livelihood opportunities during the lock down. Therefore, on 9 May 2020 the villagers were forced to sit in demonstration before the closed gates and protested for their survival. Following the protest, the Company Commandant of Mirpara Border Out Post assured that he would look after their issues.

These are the difficulties of villagers residing near the Indo- Bangladesh border. MASUM demands that the restrictions imposed by the personnel of Border Security Force are called off immediately for the sake of the villagers.

Renowned human rights advocate Felipe Micheline passes away

Deepest Condolences for the loss of the extraordinary Felipe Micheline. He made significant contributions to the development of International Criminal Court and played a significant role on the ratification of the Rome Statute by Uruguay and as the main advocate in having Uruguay become the first State in the region to include Rome Statute crimes as part of its national legislation in 2006. He had excellent diplomatic and negotiating skills which helped him lead one of the strongest legislations on ICC across globe. He was the Vice-President of the Executive Board of UNESCO, (2005-2007) and Adviser to the Secretariat of the United Nations for the Commission on the Truth for El Salvador (1992 - 1993). Felipe Micheline was Human Rights Professor at the Law School Universidad de la República (UDELAR), Montevideo, Uruguay, and an Attorney specialized in Human Rights and International Justice. He received J.D. Law and Social Sciences, from UDELAR and Master of Law - L.L.M. from Columbia Law School. we are deeply saddened by this irreplaceable loss.



A cry for the lost

The last week of May is designated to commemorate the victims of enforced disappearances who have been stripped of their civil liberties by agents of the state. According to the International Convention for the Protection of All Persons from Enforced Disappearance (ICED), enforced disappearance of persons places them “outside the protection of the law”. By its very definition therefore, enforced disappearance is the negation of all fundamental and human rights including the Right to life and liberty.

Javaid Ahmed Ahanger, a 17 year old boy, was abducted by the Indian Army from his home Batamallo, Srinagar 30 years ago. His mother, Parveena Ahanger has been waiting since 30 long years to receive any news of her son. In 1994, she founded APDP (Association of Parents of Disappeared persons), a collective of families of victims of enforced disappearances seeking information and accountability from the state. More than 8000 cases of “involuntary abductions” have been recorded by the APDP and more than 7000 remain unknown.

The term, ‘enforced disappearance’ formulated in 1970, when some Human Rights lawyers of Chile started noticing a pattern where their key witnesses or prisoners disappeared out of the blue and were ostensibly held in the custody of the Chilean Security forces. This pattern led to the recognition of this heinous crime that was committed to repress voices against the government, political signatories or state agencies.

After this, enforced disappearances, were identified in many other countries like Argentina, Guatemala, Sri



Lanka and India. Enforced disappearance involves abduction, incommunicado detention, torture, psychological trauma and/or extrajudicial execution. When systematically committed in large numbers against civilians, it constitutes a crime against humanity.

The wives of disappeared people live like widows but are excluded from government schemes such as widow pensions. Due to patriarchal customs practiced in South Asia and by Islamic law women cannot own property before the death of her husband. This existential crisis overwhelms the ones dependent on the victim because of grief, uncertainty and lack of financial support.

Several reports have been obtained from Indian states like Manipur, Assam, Punjab and Kashmir where the Armed forces enjoy immunity from the exploitation of civilians. MASUM has worked towards monitoring the human rights violations at the international border between Bangladesh and West Bengal which is about 2024 kms long. The Border Security Force (BSF) maintains that these disappearances are voluntary, alleging that the missing persons had been involved in cattle smuggling and were now hiding for the law. However, in many of these cases, the personnel of the BSF have been witnessed by many residents while committing extrajudicial executions of the persons they claim to be missing. After killing these people, they disappear their bodies to bury any evidence of their crimes and shield themselves from inquiry. The victims of these incidents belong to extremely marginalized sections of society and their families do not have access to the resources to fight legal battles with the state.

The United Nations adopted the International Convention for the Protection of All Persons from Enforced Disappearance in 2006 as a legally binding instrument to prevent enforced disappearances. Even though India is a signatory to the convention since 2007, the convention remains unratified in the country. The Prevention of Enforced Disappearances Bill, 2018 was introduced in the Rajya Sabha in February, 2018.



The onus of protecting victims from heinous crimes such as enforced disappearances and guarantee the protection offered by human rights lies primarily on domestic law. Therefore, MASUM calls upon the Indian state to ratify the ICED, repeal AFSPA and open enquiries into the numerous complaints of enforced disappearances.



Case briefs: May, 2020

- **Restrictions on livelihood by the Border Security Force:** Villagers of 202 Khasbos Darikamari, Mirapara and Golenahati, Rajarbari and Kashipur have been suffering due to illegitimate restrictions on their livelihood by the Border Security Force. They do not have access to any basic amenities that are essential for survival, and the arbitrary restrictions of the BSF make survival even more difficult. Since the personnel of the BSF restrict them from accessing their agricultural fields beyond the fences, their crops are destroyed due to lack of proper care.



- **Livelihood Violation:** Residents of Debaipur, Char Saheb Nagar, Gobindapur and Gobra villages depend on daily wage labour and agriculture for means of sustenance. They have been suffering due to the restrictions imposed by the BSF on their lives on a daily basis. The villagers have not been provided with jobs as promised under MGNREGA. On the other hand, restrictions are being imposed on their practice of agriculture during the COVID-19 pandemic which is a gross violation of the order passed by the Ministry of Home Affairs, Government of India, Memorandum number 40-3/2020-DM-I (A) dated 15.04.2020 in the wake of the pandemic.



- **Marginalization of erstwhile enclave dwellers:** Dwellers of erstwhile enclave 14 Dhabalsuti have been forced to live under extreme penury and with the lack of any institutional support for over seven decades. Even after the implementation of the Land Boundary Agreement in 2015, the records of land entitlements received by them are inaccurate wherein all the villagers have been given less land than they previously owned. There are other clerical errors that are depriving them of facilities such as mortgage, lease or financial loans in exchange for their land. They are still deprived of proper drinking water facilities, roads, employment and so on. Moreover, they do not have valid identity documents or any evidence of their citizenship even after 5 years of their accession into Indian territory.

- **Unsafe Migration, hazardous work conditions:** 26 Bangladeshi Citizens were charged under Section 14 of the Foreigner's Act, 1946 and arrested by the Chapor Police station (Case number 174/2020) in Dhubri district of Assam and are currently in the custody of Dhubri district jail. The value of their financial loss under the circumstances would amount to more than Rs.1,50,000. For more than 55 days, about 300 Migrant workers of Cooch Behar and North 24 Parganas were stuck in Mangalore and Kerala due to the sudden implementation of the lockdown by the Central Government to control the pandemic. They did not have access to any social security schemes announced by the government during this period. During their stay, one of the migrant workers, Nijamuddin Sarder, was harassed by the police of the local police station Ernakulam, Kerala.

