

Monthly Report

May 2021

Miles to go...

Banglar Manabadhikar
Suraksha Mancha



Editorial

Dear Friends,

We hope that you and your loved ones are safe during these devastating times. During the second wave of the pandemic, we lost many friends, well-wishers and comrades. Their loss has been deeply saddening and disillusioning for our organization. We extend our deepest condolences to their families and to all those who have experienced this loss during this time. We pledge to undertake their unfinished work ahead.

In the past month, due to the lockdown and increased risk of infections, a lot of our work was affected. Two of our colleagues contracted the coronavirus during this time and are now recovering. Field based activities such as conducting fact findings, monitoring human rights violations, and organizing medical camps had to be shut down. We hope to resume our work on the ground as soon as the conditions are a bit better. Meanwhile, we have continued to extend our support to the victims of torture and to other civil society networks in any possible manner.

While it has been heartening to see the groundbreaking work being done by frontline health workers, laborers, farmers, independent journalists and activists, it has been equally disappointing to witness the sheer apathy of the government towards the suffering of the entire country. The government, led by Prime Minister Narendra Modi, completely ignored the warnings of scientists regarding the possibility of a second wave in India. The PM Cares Fund, for which the Prime Minister solicited contributions from the entire country in the name of providing for healthcare services, ventilators, hospital beds, quarantine facilities and so on, has clearly not been used for these purposes. Therefore, we think that the number of persons who died due to lack of government facilities should be considered as state sponsored killings. Moreover, the Prime Minister encouraged mass gatherings in the Kumbh Mela and during the election rallies in West Bengal, flouting all protocols of social distancing as well as the government officials have contributed to several unscientific opinions like cow dung and cow urine to be the remedy of this pandemic.

During the past few months, we also witnessed the State Assembly elections in West Bengal. We reported incidents of political violence and killings by the central armed forces during polls. Immediately after the Bharatiya Janata Party lost the elections, the Central Bureau of Investigation arrested four standing MLAs of the Trinamool Congress in the Narada Scam Case. The arrests were made without approaching the Speaker of the House as is the norm. Justice Arindam Sinha, a sitting judge of the Calcutta High Court condemned the actions of a Division Bench of the court, stating that a transfer petition can only be listed before a single judge. Using central agencies to stifle dissent and discredit opposition parties has become an essential tool in the hands of the ruling BJP.

During this time, the government also adopted the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which overtly violate the fundamental rights of the freedom of speech, expression and dissent. The Centre and the government of Uttar Pradesh have initiated criminal proceedings against many people who posted on social media seeking covid-related assistance. WhatsApp has even taken the government to court regarding the new rules, and has expressed grave concern regarding the clause which requires intermediaries to disclose the identity of the first originator of any information. We released a statement on the issue, which is provided below in this report.

After the devastating impact of Cyclone Amphan in West Bengal last year, parts of rural Bengal were severely affected yet again by Cyclone Yaas. Many agricultural lands were flooded and crops were destroyed, trees were uprooted and many areas experienced massive flooding. Chief Minister Mamata Banerjee took an account of the losses and has also assured that a field survey would be conducted to study the impact in detail. Along with this we also demand that the corruption related to the cyclone relief and infrastructure should come to an end and the perpetrators punished.

In many ways, this year has proved to be even more challenging than the previous one. But in spite of all obstacles, we hope. We hope for accountability, justice, equality and reparations. We hope for a world free of coronavirus and autocratic regimes. We hope social bonding to prevail instead of social distancing. We hope to continue our fight against injustice and in that hope, lies our salvation.

Kindly

Obituary

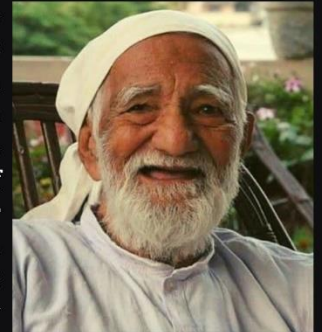
Justice Dilip Kumar Basu



D.K. Basu – Former Calcutta High Court judge and MASUM's friend, Justice D. K. Basu passed away on 9th May, 2021. Justice Basu started his career as an Advocate at the Calcutta High Court and also practiced in the Supreme Court of India. He was elevated as a judge of the Calcutta High Court in 1987. Later he also served as the Chairman of Legal Aid Services, West Bengal (LASWEB) and as the Chairman of the National Committee for Legal Aid Services – India. He is most famously remembered for his association with the case 'D.K. Basu vs State of West Bengal', highlighting the Supreme Court's detailed guidelines for police to follow while making arrests and detention. His unanticipated demise is a huge loss to MASUM and the human rights fraternity as a whole.

Sundarlal Bahuguna

MASUM mourns the death of renowned environmentalist, Sundarlal Bahuguna due to Covid-19 on 21st May, 2021 at the age of 94. Bahuguna was the face of the Chipko movement, which began with the courageous stand of women in Reni village in Uttarakhand in March 1973 campaigning to defend the Himalayan ecosystem. He was married to Vimla Bahuguna, a Gandhian social activist and also a leader of the Chipko movement, who was able to inspire him towards Gandhian philosophy of activism. In 1981 Sundarlal Bahuguna refused to accept the Padma Shri award over the government's refusal to cancel the Tehri dam project despite his protests. In 2009, he was awarded the Padma Vibhushan award. He tested Covid positive and was admitted in hospital on 8th May with oxygen deficiency. We are deeply saddened by this great loss.



Smarajit Jana



A leader of the rights movement for sex workers in India and a public health expert, Dr Smarajit Jana, passed away due to COVID-19 related complications in Kolkata on 8th May, 2021. Dr Jana was the founder of Durbar Mahila Samanwaya Samiti and Durbar Sports Academy. He was also a member of the National AIDS Control Organisation's (NACO) steering committee. He fought for the legal reorganization for sex worker and in 2016 the sex workers got the legal reorganization through the issuing of ration cards, voter cards and Addhaar cards. His advocacy helped the sex workers to get free ration at the lockdown period. Dr. Jana was the Chairperson of 19th World AIDS conference Hub held in Kolkata 2012 and worked as a board member of the Indian Chapter of Bill and Melinda Gates Foundation, Executive member of the Regional Partnership Forum under UNAIDS & UNFPA and served as a key member of the National AIDS Council(NACO) chaired by the Prime Minister of India. We are deeply saddened by his untimely demise.

Obituary

Braja Roy



Braja Roy, pioneer of body donation movement of the country, passed away on 13th May, 2021 due to COVID 19 related complication at Sambhunath Pandit Hospital in Kolkata. He was the founder of the organization, named Ganadarpan, which was India's oldest organization facilitating body donation. It is sad that his body could not be donated to the anatomy department of medical college as per his wish, as he was Covid affected. He will always be remembered by MASUM and we extend our deepest condolences to his family and friends.

Narayan Banerjee (Nadu Banerjee)

Narayan Banerjee, former assistant secretary and founder member of Association for Protection of Democratic Rights (APDR) and APDR BBD Bagh branch passed away on 24th May, 2021 due to COVID 19 related complication. We are deeply saddened by his demise.



Sudipta Sen



Sudipta Sen, the Vice- President of Association for Protection of Democratic Rights died on 6th May, 2021. Our heartfelt sympathies to his friends and family.

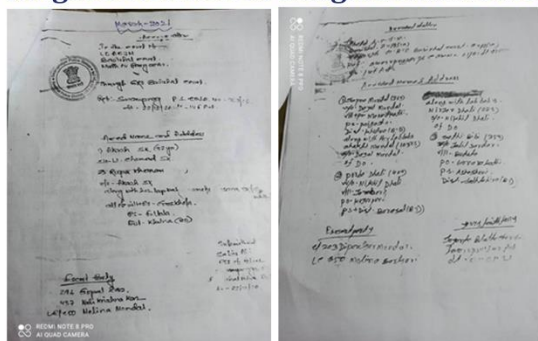
Case Briefs: May, 2021

Extra Judicial Killing – During May we documented an incident of firing and execution of a poor Muslim youth belonging from Other Backward Caste of Soladana village under Basirhat I Block and Basirhat police station area of North 24 Parganas district in West Bengal. Deceased was involved in smuggling activities for the last one month. On 03.04.21 at about 4.30 am when the victim went through the Ichamati river for smuggling, some BSF personnel attached with Galpara Border Out Post, 'D' Company, Battalion number 85 surrounded him and fired four round bullets directly without any warning. The bullets directly hit the chest of the victim. Even the body of the victim was not taken to the hospital immediately after shooting rather was left to die at the place of occurrence.



Firoza Begum, Mother of the victim

Illegal Detention of Bangladeshi women in Indian prison- This month we have documented 7 incidents where 13 Bangladeshi women and 1 lap baby were detained in Indian prison. All these poor and vulnerable persons were trafficked to India with the help of local touts for better livelihood. They were apprehended under the Foreigners Act and sent to correctional home for 14 days. But even after their sentence period they are being illegally detained in jail custody. MASUM sent complaint to the National Human Rights Commission on these incidents.



Legal Activities: May, 2021

Calcutta High Court



Due to spread of second wave of Covid 19 virus, Government of West Bengal announced partial lockdown. High Court at Calcutta also issued notification regarding the Court registry and Benches would be functioning in a restricted manner and hear only very urgent matters in this pandemic situation. Therefore, any of our pending cases in the High Court at Calcutta was not listed in the cause list for this month.

Sub-divisional Courts

New case filing: With the assistance of MASUM Mr. Barnali Mondal, a victim of BSF torture filed one complaint case before the Additional Chief Judicial Magistrate, Lalbag on 03.05.2021 vide CR case number 155 of 2021.

In this month we provide legal support in 05 prosecution cases in the Lalbag court where these cases are pending and the Magistrate calls for report from the concerned authority. We also supported 13 victims in the court of law where false case against them was started. In this month we provide legal support in 02 prosecution cases and 01 defense cases in Basirhat Court, North 24 Pargana.



Statement release: May, 2021



Banglar

Manabadhikar Suraksha Mancha (masum)

40A, Barabagan Lane, Serampore,
Hooghly - 712 203 West Bengal, India

Phone : +91-33-2622-0843 /45,
Tele Fax : +91-33-2622-0843
E-mail : masumindia@gmail.com
Web : www.masum.org.in

MASUM's Statement against the Government of India's adaptation of the new IT rules, which violates the fundamental rights of the Indian citizen

27th May, 2021

MASUM condemns the adoption of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("Intermediary Guidelines"), by the Government of India that violates the fundamental right of the Indian citizenry to freedom of speech and expression enshrined under Article 19(1)(a) of the Constitution of India. The rule also violates other fundamental rights guaranteed under Part III of the Constitution and the freedom of press, privacy and creative thinking.

Since the BJP-led government came into power in 2014, the intention of the government was to unleash a series of attack on anyone and everyone criticizing the activities of the government. Be it suppressing decent voices by arresting of individuals protestors, creating new laws against peaceful protests and movements or regarding the opposition voice as anti-nationals, this government has left no stones unturned to force stop criticisms towards itself. The new IT rules are no exception to this practice. The phrases like, "Public order" and "Public safety" used by the Government of India has been discussed elaborately by the apex court of the country since Ramesh Thapar case in 1950's and rejected. Government of India should pay respect its own Constitution and its Articles i.e. 19 & 141.

On the very beginning it can be stated that the premise of the Intermediary Guidelines is faulty. The rule contains several usage of vague words, for instance, "insulting", "libelous" or "inconsistent" that may lead to an overly broad law that leads to a chilling effect on rights of the subjects. Secondly, Rule 4(2), of the Intermediary Guidelines containing the part of Due Diligence by Intermediaries, dictates that intermediary providing services primarily relating to messaging shall enable identification of the first originator of the information, which implies the dissolution of the end-to-end encryption process. Identification of originators is desirable in situations of national emergency, disruption of public order and law and order crisis and not in normal circumstances; never at the cost of absolute violation of privacy.

These new Intermediary Guidelines by the Government of India, to regulate digital media and online streaming platforms, were made official by the Union on 25 February 2021. These rules are loaded with discrepancies and obscurities, as well as go beyond the governmental authorities, to propagate and appears to be against constitutional provisions. The government does not have legislative support to frame rules to administer Over The Top (OTT) platforms and online publishers of news. Under the IT Act, the government can make rules only for intermediaries and the definition of intermediaries is not broad enough to cover OTTs and online media. Thus the introduction of the amendment is being necessary for the government to enable control over such platforms and media.

In other words, the amendment of the Intermediary Guidelines by the government is another attempt to suppress the voice of the decent in the country. Unethical monitoring through this new IT rules is another provision to restrict peaceful protest and establishment of opposition by curbing freedom of speech and expression of the Indian citizenry. Apart from that, the government is trying to extract confidential information from private companies and violate the privacy of a citizen only to achieve political gains, which is not only unethical but illegal as well. "Freedom of speech and expression includes the right to impart and receive information which includes freedom to hold opinions" – U.O.I. VS. Assn. for Democratic Reforms

Under the circumstances, we put forward our protest, through this statement, on the event of adapting the Intermediary Guidelines by the government, with the purpose of attacking the decent voice. We demand immediate revoking of the draconian rule by the government and implementation of constitutional regime.

(Kirty Roy)
Secretary
MASUM