

# Miles to Go....

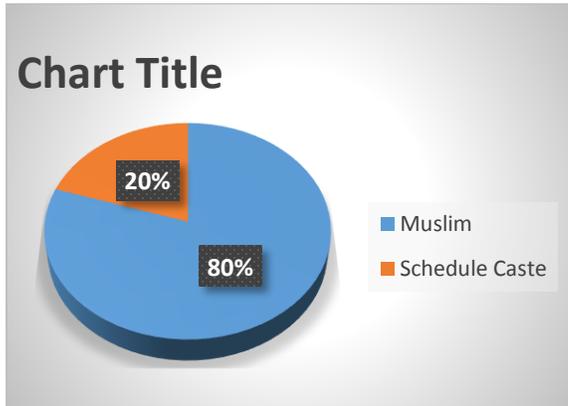


## Monthly Report April- 2018

Banglar Manabadhikar Suraksha Mancha

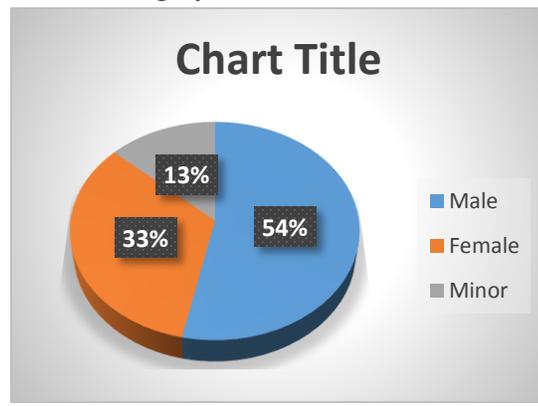
**B**anglar Manabdhikar Surakksha Mancha (MASUM) made 26 complaints before the relevant authorities and human rights institutions; especially National Human Rights Commission during the month of April 2018, during the period 12 replies and 2 updates have been made to National Human Rights Commission. A statement on Capital Punishment also being released in April 2018, after the promulgation of an ordinance for sanctioning death penalty for rape on a minor below 12 years. Out of 26 complaints; one about enforced disappearance of a person from BSF custody, one about illegal detention, six about torture by Border Security Force, one about unsafe migration and death at workplace, five about illegal roping and handcuffing of accused during production before the court, two about illegal arrest and detention of Bangladeshi women, one about violence against woman and subsequent police acquiescence, two about illegal restriction of movements by BSF, five about marginalization of enclave dwellers and two about imminent threat of forcible land acquisition for Bharatmala road construction. Total numbers of victims in regular complaints were 15; out of that 12 were Muslims, 3 belong to Schedule Castes community. 8 were male and 5 women and 2 were minor. In complaints regarding marginalization of bordering populace, marginalization of enclave dwellers, illegal roping and handcuffing and forcible land acquisition; the numbers of affected was in numbers and not calculated as number of victim.

**Social Classification**



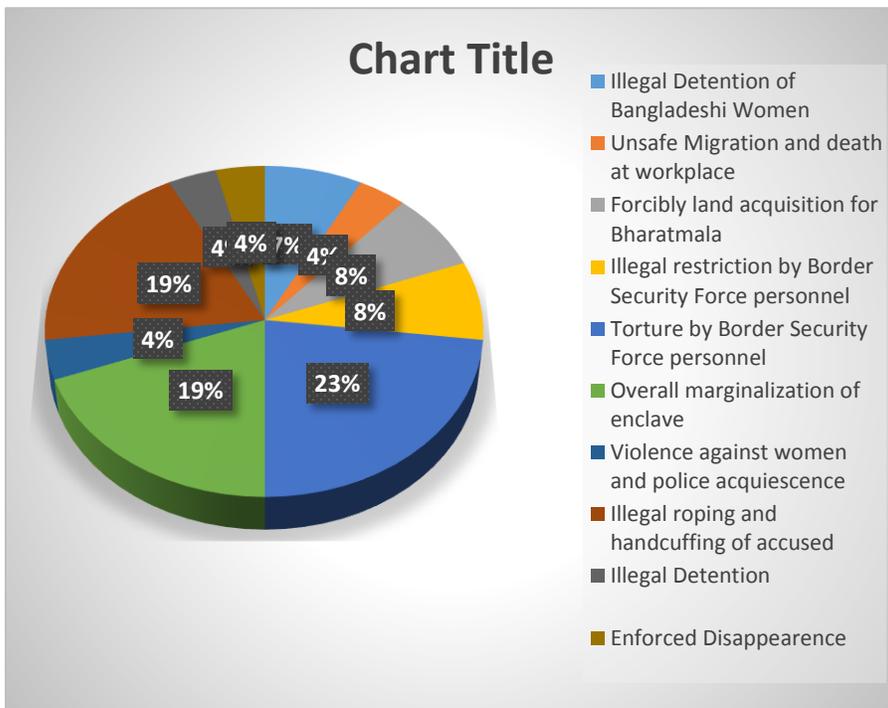
Muslim	12
Schedule Caste	3

**Demographic Classification**



Male	8
Female	5
Minor	2

**Classification of Violence and Marginalization**



Illegal Detention of Bangladeshi Women	2
Unsafe Migration and death at workplace	1
Forcibly land acquisition for Bharatmala	2
Illegal restriction by Border Security Force personnel	2
Torture by Border Security Force personnel	6
Overall marginalization of enclave	5
Violence against women and police acquiescence	1
Illegal roping and handcuffing of accused	5
Illegal Detention	1
Enforced Disappearance	1

## Statement on Capital Punishment



Banglar

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23.04.2018

An ordinance providing the death penalty for rapists of girls below 12 years of age and other stringent penal provisions for rape has been promulgated on 21.04.2018. The ordinance viz. 'The Criminal Law Amendment Ordinance, 2018', amends Indian Penal Code, Code of Criminal Procedure, Indian Evidence Act and Protection of Children from Sexual Offences Act. President Mr. Ram Nath Kovind on 22.04.2018 signed an ordinance to pave way for providing stringent punishment, including death penalty, for those convicted of raping girls below the age of 12 years. The Union Cabinet approved the ordinance to allow courts to award death penalty to those convicted of raping girls under 12 years.

The non-committal and contravening attitude toward the human rights doctrine is reflected in stand of the State regarding the capital punishment; the Indian government is committed to the retention of the death penalty. In December 2007 India was among the minority of countries who voted at the United Nations General Assembly against a moratorium on executions. India retains the death penalty as punishment for a number of crimes including murder, kidnapping, terrorism, desertion, inducement to suicide of a minor or a mentally-retarded person and has more recently in 2013 come to include the offence of rape in certain circumstances. It is mandatory for second convictions for drug trafficking offences. Death sentences are carried out by hanging. In 1983 the Supreme Court upheld the constitutionality of this method, stating that it: "involves no barbarity, torture or degradation." But all these mentioned crime or offences has not minimized, rather increased day by day.

Banglar Manabdhikar Suraksha Mancha (MASUM) strongly opposes the hanging or execution by any form to any individual by the State, because it is inhumane and barbaric. Further it has shown that neither it is effective in deterring the crime rate nor any justice can be done to anyone by this practice; instead through this practice, progressive civilization returns back to medieval barbarism.

We repose our faith in abolition of death penalty. Our past gave us impetus that hanging of Dhanajoy Chatterjee did not minimize the number of rape or murder in West Bengal, and India.

In investigating the offence and the trial of an accused and conviction of a person, human error obviously involved in the process; which cannot be ruled out in any case, and after the execution, it becomes irreversible if any error is found later on. In our country mostly, the poor and the under-privileged bear the brunt of the capital punishment as they are financially incapable to defend themselves within a faulty legal system, which has become a commodity for the riches to enjoy with. A crime has its root in the socio-economic-cultural system of this country. Without ending the very discrimination in the society and legislating stringent and impartial penal laws for criminal activities; the purpose would not be served.

The abolition of Capital punishment is call of the civilized society. As many as 124 countries have either abandoned the practice or abolished the death penalty. The retributive theory of punishment is not acceptable to the modern world and international forum. During the 3<sup>rd</sup> Cycle of Universal Periodic Review of India in 2017, as well 13 Countries suggested Government of India for immediate abolition of Capital Punishment.

Indian government is intentionally shying away from ratifying **United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) & Second Optional Protocol to the International Covenant on Civil and Political Rights**, aiming at the abolition of death penalty to achieve its limited and parochial political goal.

Banglar Manabdhikar Suraksha Mancha (MASUM) demands the complete abolition of death penalty in our country.

## **Brief on Update information provided to NHRC**

Previously we lodged one complaint to NHRC and that was registered vide NHRC case number 561/25/6/2016-PF. The summary of the incident is given below.

Mr. Bachcha Mia is a permanent resident of Pathantuli village under Sitalkuchi police station of Coochbehar district. He is an agricultural labourer. They are large family of 20 members including Mr. Mia, his wife, 5 sons and daughters-in-law, grandsons and granddaughters. All the family members reside in same house but their rooms, kitchens and cowsheds are separate. Mr. Bachcha Mia has one married daughter namely Ms. RanuBibi and she lives at her in-laws house at Sitai area. Reportedly, she tried to commit suicide by consuming poison following a family dispute with her husband. Due to deterioration of her health, she was shifted to Coochbehar Sadar Hospital (MJN Hospital). On hearing the news of her daughter being sick after consuming poison, the whole family rushed to the said hospital on 30.01.2016 at about 8 a.m.

On the mentioned date, during the wee hours of morning at 3 am, 25 to 30 BSF personnel led by Assistant Company Commander Mr. Naveen Kumar attached with 'C' company of Baramoricha Border Outpost under 21 BSF Battalion, all in their uniform and with service rifles, daggers and sticks in their hands arrived at Mr. Bachcha Mia's house. At that time, all the family members were at the MJN Hospital and their house was locked. The BSF guards forcibly broke open the boundary wall made of tin and wire with their dagger. Thereafter, they trespassed into their house through the broken portion of the wall and directly went to their five separate cowsheds. The BSF guards found 9 cows and one calf in their cowshed. The BSF guards immediately stole all 9 cows and brought to their outpost, before they left the place, the BSF guards ruthlessly beat the calf inside the cowshed and due to the beating; back bone of the calf was broken. One Mr. Azizar Mia, member of Golenowhati gram panchyat witnessed the incident and asked the BSF guards not to take the cows with them. However, the errant BSF guard did not pay any heed of his request. The victim family came to know about the theft on 31.01.2016 in the morning. Meanwhile, BSF guards submitted all cows to Sitai custom office. Reportedly, the said custom office already sold all the 9 cows to another person.

On 1.02.2016 Ms. Halima Bibi made written complaints to the Sitai custom office and Sitalkuchi Police Station successively, wherein she requested the respected authorities to return their 9 cows (estimated market value nearly Rs. 90,000) and also want a neutral enquiry upon the incident. But, both the agencies did not take any cognizance on the basis of the complaint.

Meanwhile, Naveen Kumar, Assistant Company Commander lodged one written complaint against Mr. Bachcha Mia and his five sons namely Mr. Hakim Mia (aged 38 years), Mr. Karim Mia (aged 38 years), Mr. Jainal Mia alias Mithun (aged 27 years), Mr. Mainal Mia alias Bullu (aged 24 years) and Mr. Abu Box Mia (aged 27 years) with many others which was registered vide Sitalkuchi police station case no. 26/16 dated 31.01.2016 under sections 143/186/353/427/326/379/411 of Indian Penal Code and under R/W 4 of P.D.P.P Act. Mr. Naveen Kumar alleged them as a cattle smuggler. In this complaint the BSF assistant company commander blamed that Mr. Jainal Mia attacked their vehicle driver Mr. Dinesh Kumar with bamboo stick and Mr. Kumar received cut injury mark on his head due to this attack. Mr. Naveen Kumar further added that the cattle smuggler group ransacked their service vehicle (bearing registration no WB74 N 4607) while they were performing their official duty. The BSF guards demanded that they seized 6 numbers of cattle from the outskirts of village Pathantuli.

## **Update Information**

Mr. Bachcha Mian has almost 15 Bighas of agrarian land which is situated just inside the fence. To cultivate that land Bachcha Mian and his family members use the Gate Number -4 in Baromoricha Border Out Post of E Company under Battalion Number – 100. But after lodging the complaint by the wife of the victim to Officer in Charge of Sitalkuchi Police Station, the Border Security Force personnel deliberately prevent Mr. Bachcha Mian and his family members to access and cultivate their own land. For more than last one year, Bachcha Mian and his family members restricted to visit their own field. Due to this they failed to cultivate on their field whereas cultivation is the only source of income for the family. Now Bachcha Mian and his family members are living in deep financial crisis.

On 14.12.2017 Bachcha Mian lodged one written complaint to Sub Divisional Officer of Mathabhanga but without any respite.

On 18.04.2017 our organization lodged a complaint before the National Human Rights Commission in the matter of subjugation and harassment on the life and livelihood of the villagers of Amudia, Police Station-Swarupnagar, and District-North 24 Parganas. In this matter the villagers submitted a mass petition before the District Magistrate, North 24 Parganas on 23.02.2017.

The Commission registered the complaint lodged by our organization vide **case no. 572/25/15/2017-PF/OC**. In pursuance of the direction issued by the Commission in the said case, the Under Secretary to the Government of India, Ministry of Home Affairs(H. R. Division) issued one letter dated 19.06.2017 addressing the Director General of Border Security Force, New Delhi to investigate the matter. We came to know from the villagers of Amudia that no investigation took place till date as no one from the BSF authority contacted them for the purpose of the investigation; on the other hand till date not received any report from the BSF through the Commission.

Under such conditions our organization lodged an update over this matter on 12.10.2017. The summary of the incident is given below.

On 02.09.2017 at about 7.30am Mr. Madhai Mondal, son of Late Basudeb Mondal, residing in village-Amudia, Police Station-Swarupnagar went to Sonai River to catch fish. But seeing him one of the BSF personnel posted at BSF BOP Tarali and BSF BOP Tarali Mini Camp under 76 BSF Battalion hurt him by throwing a stick and started to threaten him by using filthy languages. The Company Commander of Tarali Mini BSF Camp also threatened him saying that he would be lifted from his residence at any time and be implicated in false narcotic cases. The BSF personnel also threatened to put him behind the bar for long period by implicating him in false case under the N. D. P. S. Act. The BSF personnel cut off the fishing net and broke the bamboo structure built by him to catch fish. Mr. Madhai Mondal was threatened with dire consequence if he dared to catch fish again in Sonai River. During the incident the BSF personnel told him that he provoked the villagers to file complaint against BSF and he would be taught a good lesson for that. Mr. Madhai Mondal and his family members are under deep mental trauma and fear since then for facing false criminal charges. On 04.09.2017 the victim submitted a written complaint before the Block Development Officer, Block-Swarupnagar describing the whole incident and he prayed for adequate protection. He also sent a similar written complaint to the Superintendent of Police, North 24 Parganas by registered post on 04.09.2017. Our fact finding team met with the victim Mr. Madhai Mondal and the local villagers and they stated the incident as described above as true.

The incident of torture and intimidation happened upon the victim Mr. Madhai Mondal on 02.09.2017 in the hands of the perpetrator BSF personnel clearly indicated that the BSF personnel operating in Amudia village are desperate to manufacture a clean chit for themselves in connection with proceeding in NHRC Case no. 572/25/15/2017-PF/OC by threatening and intimidating Mr. Madhai Mondal and spread the incident as a panic among rest of the villagers of Amudia village so that they could be compelled to withdraw their complaint against the perpetrator BSF personnel. The situation is alarming and required urgent intervention by the Commission for proper protection of the villagers of Amudia village.

### **Update Information**

At the referred area, mainly religious minority Muslims and people from Schedule Caste communities live and the populace is under relentless torture, humiliation and harassment by BSF personnel. The villagers showed their frustration while informed the fact finding team that no initiative has been taken for their respite.

In 1998 Central Public Works Department (CPWD) constructed Indo-Bangladesh Border Road (IBBR) at that area but not erected any fence at the vicinity but later Border Security Force personnel of Amudia Border Outpost of Battalion number- 76 erected temporary fence at that area with bamboo and wire. By erecting the temporary fence at the area; the BSF started restricting all social and economical activities of the villagers. The BSF personnel started to control the lives of the people at the area. Every time and again the villagers have to deposit their identity card to use IBBR. BSF misplaced the identity cards more often and sometime out of rage destroy

the same, as a result populace face hardships. Villagers restricted from moving their crops from the agrarian land to their grocery by using the road and fishermen restricted from catching fish at the adjoining river and moving their produce to the market, resulting a great financial loss.

Not only the farmers and fisher folk, even the school going kids also complaining against perpetrator BSF personnel. Those students mainly girls bear lewd comments and gesture from the posted BSF personnel. It was reported that the BSF personnel even snatched their admit cards or other required identification documents and destroy them in rage.

The villagers lodged one complaint to Sub Divisional Officer of Basirhat; district 24 Parganas (North) on 19.01.2018 but without any respite.

## Complaint and Fact Findings

### Details of Enforced Disappearance



**Mr. Selim Sheikh**, aged about- 33 years, son of Sajjad Sheikh, residential address at village-Ghoshpara, Post Office-N. K. Babupur, Police Station-Ranitola, District- Murshidabad, West Bengal, was an agricultural labour and belonged to a poverty stricken family. In his family he had responsibility to maintain his wife and three minor children. He was the sole earning member in the family. The victim could not fulfill the basic demands of his family from his meager income as a day labour. So, he sometimes worked as courier in cattle smuggling. As a courier he used to transport cattle and cross such cattle through the border from India to Bangladesh. On 18.07.2015 at midnight he went for such cattle smuggling from an area which was near to BSF Mini Camp under Harudanga BSF Camp. But he did not return home afterwards and his family did not get any information of his whereabouts till date. However, the family members of the victim heard in the locality that the victim was caught and killed by the BSF. The victim's family members searched for him continuously and they had several times approached before the local police and local authorities, but the police neither registered the matter nor took up any enquiry. The family members of the victim hopelessly waited for years for proper action. Ms. Abida Bibi being the wife of the victim sent a written complaint to the Superintendent of Police, Murshidabad on 23.03.2018 through registered post stating that her husband had went to border for cattle smuggling on 18.07.2015 at midnight but since then he did not return home. In the written complaint she suspected that her husband was murdered by BSF personnel of BSF Mini Camp under Harudanga BSF Camp and caused the disappearance of the body of her husband to conceal their crime. Till date she did not get her husband's body. In the written complaint she prayed for a neutral inquiry into the matter and appropriate legal action. But till date no response has been made on her complaint. The situation remains the same.

**Details of Illegal Detention**



Wife of Selim Mistry

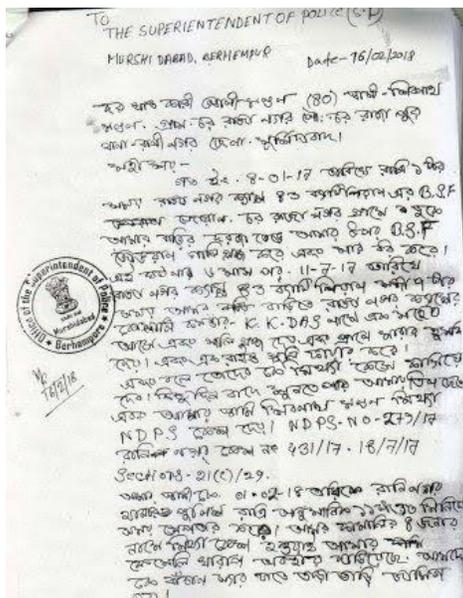
**Mr. Selim Mistry**, son of Mr. Abdul Khalekh Mistry of village- Nityanandakati, Police Station- Swarupnagar of 24 Parganas (North), was forcibly apprehended by Mr. Bablu Seikh; a Civic Volunteer attached with Swarupnagar Police Station. On 24.04.2018 at around 9:20 Pm, he came to Mr. Selim Mistry's residence by a motorcycle and brought Mr. Selim Seikh to Sawarupnagar PS by pillion as alleged by the family. As reported, he was brought to the police station in connection of one alleged killing of one Amir Malik. The onset of the incident was the continuous violence related to coming Panchayet election. Here it should be referred that Mr. Selim Mistry's wife, Ms. Mafuja Mistry filed nomination for this election from opposition party's ticket. Thereafter on 22.04.2018 at around 12 midnight, the political hooligans attached with ruling party attacked Mr. Selim Mistry's residence. There were 20-22 persons in attacking party. Amir Malik was among them. While the attacking party ; who were armed with sticks and rods, making threatening calls to Selim and his family, the neighbours of Selim came forward and restricted them to make any physical aggression and by their resistance, the attacking party left the spot. Selim informed the incident to Swarupnagar PS a nd a police party came to his residence at 12.30 AM of 23. 04.2018. The police party recorded statements of Selim and his family members in their mobile

phones; as alleged by Ms. Mafuja Mistry wife of Mr. Selim Mistry. After that the police left the place. Later, on 23.12.2018, at early morning, a body was found at Balti village under Swarupnagar police station, later it was identified as Amir Malik's body. A large section of people were apprehended from the locality and it is apprehension of the family of Selim Mistry that in connection of this murder of one Amir Malik, Mr. Selim Mistry was lifted on the mentioned date and time from his house. On 26.04.2018 at 12.42 PM, Ms. Mafuja Mistry; wife of Mr. Selim Mistry informed the incident to the Sub Divisional Police Officer; Basirhat Sub Division of 24 Parganas (North) district through short message service (SMS) from her phone with number 8167754650 to SDPO's mobile having number 9434485105 and 9734997779. We contacted Additional Superintendent of Police- Barasat on his mobile at 2.02 PM today; 26.04.2018 and he assured us that he will look after the matter, at 2.10 Pm, we made a call to the Superintendent of Police- 24 Parganas (North) on his mobile phone but it was not responded. From 24.04.2018 to till date, Mr. Selim Seikh has been detained in Swarupnagar Police Station and not produced before court. He was lifted from his home by the Civic Volunteer without issuing any arrest memo or notice/ summon. We have strong apprehension that he undergone intense physical torture and psychological stress during his illegal detention and his physical- mental integrity in stake. Till date the family members we were not informed about his whereabouts. This was a gross violation of Constitutional Guarantee

under Article 22 of Indian Constitution, Sections 57, 50, 50 (A) and 57 of Criminal Procedure Code of India and the guidelines issued by the Apex Court in DK Basu Judgment ( reported in AIR 1997 SC 610)

**Details of Torture perpetrated by BSF**

**Mr. Shibnath Mondal** aged about 53 years, belongs to Schedule Caste community, resides in village – Char Rajapur, under Post Office- Munsipara, Police Station- Raninagar, and District – Murshidabad. Mr. Shibnath Mondal and his family members were continuously targeted by Border Security Force personnel from Rajanagar Border Outpost of Battalion Number – 83 and police personnel of Raninagar Police Station. On 22.03.2017, MASUM lodged one complaint for the victims namely Mr. Gopal Sarkar, Ms. Bhabani Mondal (wife of Mr. Shibnath Mondal) and Mr. Sudhangshu Mondal, all residing at village-Char Rajapur, Police Station-Raninagar, and District-Murshidabad. On 11.07.2017, at about 7pm, while Mr. Shibnath Mondal, husband of Ms. Bhabani Mondal, and his two sons with their wives were sitting on the courtyard of the house, Mr. K. K. Das, Company Commander of Rajanagar BSF Camp, Battalion-83 entered with another BSF officer who



was in civil attire. The said Company Commander all of a sudden started beating the family members with fists and verbally abused them with filthy languages accusing them as they were cattle smuggler. When Mr. Shibnath

Mondal protested, the said Company Commander took out his revolver and threatened him by saying that he will kill Mr. Shibnath Mondal. Even he fired one round in the air and told Mr. Shibnath Mondal that he and his family members will be implicated in false criminal case and left the house. On 19.07.2017 at about 6pm in the evening the police personnel of Raninagar Police Station came to the house of Ms. Bhabani Mondal in search of her husband Mr. Shibnath Mondal and three sons namely Mr. Sarajit Mondal (age-22years), Mr. Abhijit Mondal (age-19 years) and Master Biswajit Mondal(age-17 years). Later, Ms. Bhabani Mondal and her family came to know that Raninagar Police Station registered one criminal case on 18.07.2017 being FIR no.431/2017 under section 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act on the complaint of BSF. In the said case Ms. Bhabani Mondal's husband and the aforesaid three sons were implicated as accused persons. Mr. Shibnath Mondal lodged written complaints before the Superintendent of Police, Murshidabad on 21.07.2017 and 01.08.2017 narrating the whole incident. This was revealed from our fact finding report that two sons of Mr. Shibnath Mondal namely Mr. Sarajit Mondal and Mr. Abhijit Mondal were in Kerala for job at the date mentioned in the FIR against them. Moreover they were at Kerala last 3 months from the date of complaint. The fabrication of police case is evident by this fact. In continuation of these incidents on 01.02.2018 at around 11 pm police personnel from Raninagar police station arrested Mr. Shibnath Mondal from his residence. On the next day he was produced in Berhampore Special NDPS court and his bail application was rejected. Now he is in Berhampore jail as under trial prisoner. After this incident, Mr. Sarajit Mondal and Mr. Abhijit Mondal were frightened enough and to evade evident arrest not returning their home. On 16.02.2018 Mrs. Bhabani Mondal lodged one complaint before Superintendent of Police of Murshidabad and stated their helplessness.



**Mr. Abdul Seikh**, son of Late Hosen Seikh, aged about-34 years, by religion-Muslim, residing at village- Char Gopalpur, Police Station-Islampur, District-Murshidabad, West Bengal, India. On 26.03.2018 at about 8am Mr. Abdul Seikh was cutting grass in a field for bringing grass for his domestic cattle. The field was located near BSF Out-Post no.7 under Harudanga BSF Camp. At that time he saw that few unknown persons were running into Indian side and four BSF jawans were chasing them. Being unable to apprehend those unknown persons, the BSF personnel came to the victim and asked him the identity of those persons. The victim replied that he did not know those persons. The BSF personnel became angry and abused him in filthy languages. They began to assault him by fists, kicks and beating by sticks and rifle butts on his face, hands, legs, back and chest. He sustained bleeding injuries on several parts of his body. The BSF personnel left the place by committing such murderous assault upon the victim also threatened him not to report the incident to any other person. He was lying there on the ground without any medical attention. He was rescued by the villagers. They brought him to his home. He was afraid to go to any doctor

due to fear of further harassment from BSF. So he stayed at home and tried to recover by taking medicines from a local quack doctor. But his physical condition deteriorated with each passing day. He took courage to get medical treatment and on 02.04.2018 he received medical treatment from a registered medical practitioner at Lalbagh. On the next day i.e. on 03.04.2018, the victim himself sent a written complaint through registered post to the Superintendent of Police, Murshidabad stating the incident of torture and custodial violence committed upon him by the perpetrator BSF personnel. The written complaint was delivered to the Office of the Superintendent of Police, Murshidabad on 04.04.2018 but till date no action has been taken by the Superintendent of Police, Murshidabad. The written complaint disclosed information of commission of cognizable offences by the perpetrator BSF personnel, but in spite of this, the Superintendent of Police, Murshidabad failed to discharge his lawful duty by not recommending the written complaint to be treated as F. I. R. till date. The victim is the only earning member in the family, but at present he lost his ability to work. He used to work as day labour and also by grazing cattle. He has six dependants on him such as his wife Ms. Armina Bibi(aged about-33 years) and five minor children. They are secondary victims as they have been reeling under extreme financial crisis due to loss of earning of the victim. Besides that the family incurred huge expenses in the medical treatment of the victim.





with definite intention to kill him ran the tractor over his right leg and left the place immediately. The victim boy sustained fracture injury on his right leg. The eye-witnesses namely Mr. Saddam Molla, Mr. Moni Seikh and other local people witnessed the incident. They stated that they saw the incident where the perpetrator BSF jawan with intention to kill the victim boy ran his tractor over the right leg of the victim. The victim boy was rescued from the place of the incident and admitted in a private hospital for medical treatment. He is still under medical treatment. The family of the victim boy went to Raninagar Police Station for lodging complaint, but the police refused to take complaint. On 19.01.2018 the mother of the victim boy sent a written complaint through registered post to the Superintendent of Police, Murshidabad stating the incident. The written complaint was delivered to the Office of the Superintendent of Police, Murshidabad on 23.01.2018 but till date no action has been taken by the Superintendent of Police, Murshidabad. The written complaint disclosed information of commission of cognizable offences by the perpetrator BSF personnel, but in spite of this, the Superintendent of Police, Murshidabad failed to discharge his lawful duty by not recommending the written complaint to be treated as F. I. R. till date. Besides that the family of the victim boy incurred huge expenses in his medical treatment.

### **Details of Unsafe Migration from Indo- Bangladesh bordering areas and Death at Workplace**



**Bikash Mondal**, son of Mr. Nakul Mondal from district-Murshidabad, West Bengal was a migrant labour and only earning member in his family. His family resided at village- Hasanpur, Akherignaj, Police Station-Ranitala, District-Murshidabad. The family of the deceased lost their agrarian land due to subsequent River erosions of Padma River and used to migrate distant land in search of livelihood like millions other from the area. The work and living conditions were horrendous at the destinations for these impoverished migrant labours. The opportunity of job and social security schemes in their natives are in shambles; forcing the gentry for unsafe migration. Bikash Mondal worked as construction worker in Greater Noida of Uttar Pradesh under a construction company namely Ashoka Buildcon Limited. On 07.03.2018 the victim fell from a

four storied building at the construction site in Greater Noida while working as a construction worker under the said construction company. In a severe injured condition (poly trauma) he was admitted in a private hospital namely Kailash Hospitals Ltd. on 07.03.2018 at 11.27 hours for medical treatment. On the same day at 16.03 hours he expired in the said hospital. The hospital issued a death summary report stating the cause of the victim was “fall from height-Polytrauma, severe chest injury, B/L Haemo pneumothorax, pelvic injury urethral injury, Haemorrhagic shock”. Later the post mortem examination on the body of the victim was held. However the family of the victim has no clue whether the police put any effort to find out whether there was negligence in safety measures at the place of occurrence from where the victim fell from height or any unnatural death case has been initiated or not. In PME report, there is no reference of any UD Case number. The body of the victim was transported by train for the purpose of handing over his dead body to his family members. On 09.03.2018 the victim's body was cremated by his family members. His wife, two minor children and parents were his dependants. The construction company under which the victim worked felt no obligation till date to pay the compensation amount payable under the present law to the family of the victim though he died in the course of his employment. Ms. Santana Mondal being the wife of the deceased victim submitted a written application before the District Magistrate, Murshidabad on 19.04.2018 through registered post seeking adequate financial support by stating the above mentioned facts and circumstances. However till date no action has been taken by the District Magistrate, Murshidabad on her application. The United Nations Committee on Economic, Social and Cultural Rights defines poverty as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.

## Details of Illegal Roping and Handcuffing



Complaint was to redraw the attention on the ongoing practice of roping and handcuffing of prisoners during their production before courts. On 10.04.2018 the prisoners tied up with rope on their waist and were produced at District Judge's court at Murshidabad. The prisoners were either under trial prisoners or first time produced in court. The police personnel remove the ropes before their (prisoners) entry into the court room. But after hearing is over, they were again tied up with rope and taken back to court lock-up or correctional home in prison van. The captured pictures on 10.04.2018 are proof of the ongoing practice of tying the prisoners with ropes in the excuse of securing their custody. Tying the prisoners with ropes is carried out by the police personnel as a general practice. Such practice is against the guidelines issued by the Supreme Court of India in several verdicts on using handcuff and other fetters on prisoners during transit from jail to court and back. Despite the Supreme Court of India ordered prohibiting using handcuffing and other fetters, flagrant violations continue in West Bengal. Handcuffing and roping of detainees and prisoners remains widely prevalent despite judicial interpretation clearly establishing that it is against the protection of right to life guaranteed under Article 21 of the Constitution of India. It is very painful when the relatives and the children of the prisoners see them with ropes and handcuffs in court premises.



The plight of persons who are falling victims of a system wherein handcuffing of detainees and prisoners remains widely prevalent despite judicial interpretation clearly establishing that it is against the protection of right to life guaranteed under Article 21 of the Constitution and is thus seeking appropriate directions upon the concerned authorities being part of our criminal justice system to ensure that they refrain from curtailing the liberty of people in any manner. It has been the experience of our organisation In the course of its activities that handcuffing and tying of the detainees with rope or chain, is rampant in almost all parts and corners of the State. Handcuffing is all the more prevalent and prominent in Court compounds wherein the persons upon being arrested and/or from custody are being produced. Our organisation has already submitted several complaints before the Commission with documentary evidences to show that handcuffing and tying of the detainees with rope or chain continues to be prevalent in parts of the State. Another incident of roping inside the court compound of District & Sessions Judge, Berhampore on 16.02.2018 where some prisoners were tied up with rope on their waist and taken for production before the Special Court under NDPS Act. The captured pictures on 16.02.2018 are proof of the ongoing practice of tying the prisoners with ropes and

handcuffing in the excuse of securing their custody.



It has been the experience of our organisation in the course of its activities that handcuffing and tying of the detainees with rope or chain, is rampant in almost all parts and corners of the State. Handcuffing is all the more prevalent and prominent in Court compounds wherein the persons upon being arrested and/or from custody are being produced. Our organisation has already submitted several complaints before the Commission with documentary evidences to show that handcuffing and tying of the detainees with rope or chain continues to be prevalent in parts of the State. In this regard our fact finding revealed that on 12.03.2018 few prisoners were produced at the compound of Berhampore District Judges' Court by police personnel and those prisoners were tied up with rope on their waist. The pictures attached with this present complaint show the incident.

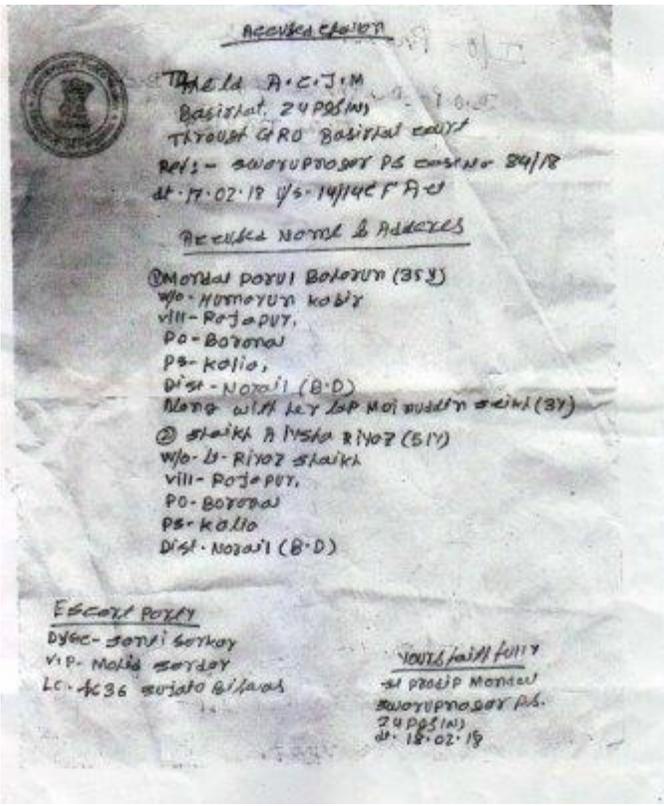


Our fact finding shows the continuing prevalent practice of handcuffing the detainees and/or roping and and/or chaining them, in clear and flagrant violation of the principles and/or guidelines of the Apex Court and the National Human Rights Commission and our organisation firmly believes that until and unless the practice is strictly curbed by passing necessary orders and directives upon the concerned authorities by the Commission, the same would continue till time without end. In this regard our fact finding revealed that on 24.03.2018 at about 1pm two prisoners were produced at Malda Court by police personnel and those two prisoners were tied up with rope on their waist. The pictures attached with this present complaint show the incident.

Prevalent practice of handcuffing the detainees and/or roping and and/or chaining them, in clear and flagrant violation of the principles and/or guidelines of the Apex Court and the National Human Rights Commission and our organisation firmly believes that until and unless the practice is strictly curbed by passing necessary orders and directives upon the concerned authorities by the Commission, the same would continue till time without end. In this regard our fact finding revealed that on 07.03.2018 few prisoners were produced at the

compound of Berhampore District Judges' Court by police personnel and those prisoners were tied up with rope on their waist. The pictures attached with this present complaint show the incident.

**Details on Illegal Arrest and Detention of Bangladeshi women**



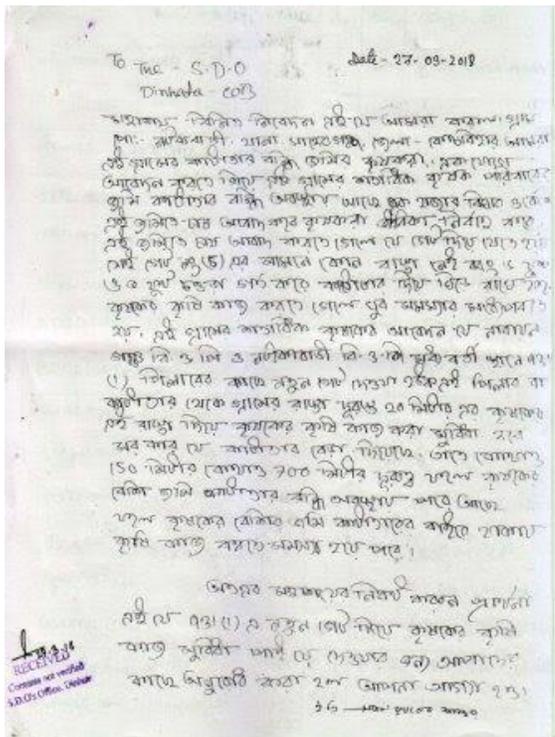
**Ms. Mondal Parul Baharun**, wife of Mr. Humayun Kabir, Age-35 years, Address: Village- Rajapur, Post Office- Bororal, Police Station- Kolia, District- Norail; Bangladesh and **Ms. Shaikh Alysha Riyaz**, wife of Late Riyaz Shaikh, Age-51 years, Address: Village – Rajapur, Post Office- Bororal, Police Station- Kolia, District- Norail; Bangladesh have been rotting in prison and they do not know when they will be freed from indefinite period of detention. They were arrested on 17.02.2018 at around 3.30 PM by Border Security Force personnel of Bithari Border Outpost of 76 BSF Battalion and handed over to Swarupnagar Police Station; district- 24 Parganas (North); while they were entering to India from Bangladesh as reported. Swarupnagar Police Station initiated a criminal case vides Swarupnagar PS Case No. 84/18 dated 17.02.2018 under sections 14 and 14 (C) of Foreigner Act. The mentioned women spent that night at custody of Swarupnagar Police Station; where no separate arrangement for women detainee is available. On 18.02.2018 they were produced before the Additional Chief Judicial Magistrate's Court- Basirhat and sent to Dumdum Central Correctional Home on that day for 14 days judicial remand. They are still languishing at Dumdum Central Correctional Home. Mr. Pradip Mondal; Sub Inspector of Swarupnagar PS is the

Investigating Officer of the case. The chain of circumstances starting from arrest, production in court and subsequent detention in prison of those Bangladeshi women reveal that no attempt has been taken up by any authority such as the police or the concerned court to ascertain whether they were the victims of human trafficking or not. Such approach of the criminal justice system is against the advisory issued by the Government of India vide office memorandum No. 14051/14/2011-F.VI of Ministry of Home Affairs (Foreigners Division) Government of India Dated 1st May, 2012.



wife and the new born daughter. The victim lady stayed with her daughter in her mother's house and whenever she requested her husband for their shelter and maintenance she was subjected to physical and mental torture by her husband. On 12.02.2018 the victim lady with her lap baby went to her husband's residence at Dattapara Village under Swarupnagar Police Station. There the in-laws of the victim assaulted her and forcibly drove her out from the house. Ms. Jharna Khatun (Dhabak) gave birth to her daughter in Basirhat District Hospital and in her hospital discharge certificate her husband's name was written along with other details regarding the birth of the girl child. On 24.01.2018 she went to Basirhat Municipality to get birth certificate of her girl child with all her papers. But the authority concerned of Basirhat Municipality refused to issue the birth certificate. On being refused she lodged a written complaint before the Chairman of Basirhat Municipality but till date no action has been taken by the authority. Ms. Jharna Khatun (Dhabak) also lodged complaint at Swarupnagar Police Station on 12.02.2018 stating the incident of torture and cruelty perpetrated upon her by her husband by stating the entire incidents of torture and cruelty. Her complaint disclosed information of commission of cognizable offences but the police instead of registering an FIR on her complaint simply issued a General Diary Entry number vide GDE No-493 dated 12.02.18 and took no action on her complaint. On 16.02.2018 the victim lady also lodged written complaint before to the Commissioner of Police; Kolkata describing the facts but the authority did not take any action till date for her relief. The victim lady with her daughter has been living in her mother's house in penury without any help from any corner..

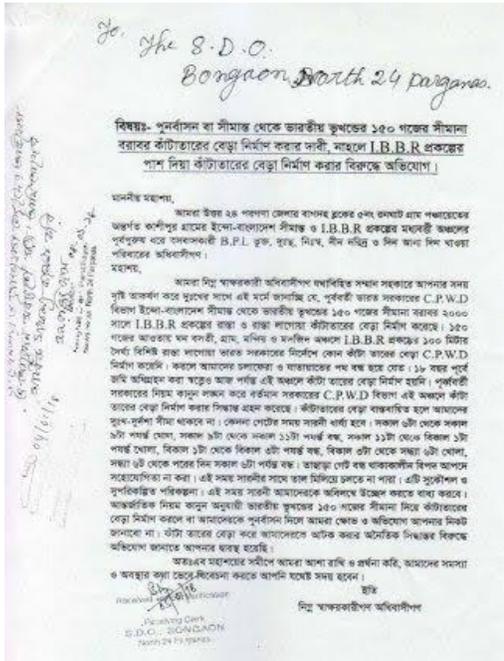
**Details of Illegal Restrictions by BSF**



The atrocities of Border Security Force personnel of Karola border outpost at Cooch Behar district, the villagers are unable to continue their agrarian activities. Most of the lands are owned by the villagers and they are dependent upon the lands for cultivation which is the main source of their livelihood. There is one gate; Gate no-5, pillar no- 931(2) S through which the villagers normally pass for entry and exit into the lands situated beyond the fencing. The villagers of Karola alleged that they face illegitimate hindrance from posted BSF personnel for entry and exit of their farm lands beyond the fencing. It has been reported that the on duty BSF guards of said BOP deliberately stop the farmers near the gate and not allowing them to go to the other side of fencing with oxen and ploughs. The BSF guards say that they will not let the farmers go with oxen and ploughs to the other side of fencing if they do not obtain permission from the border camp. Compelled to follow their instruction, farmers go back to their houses, leave their oxen and visit the said BOP for permission. Several times the farmers made requests to the officers to permit them to bring the oxen at their agricultural lands for farming through the gate; but BSF refused subsequently. BSF officers are misbehaving with the farmers in most of the times. Even, the BSF guards prevent them to go to their farmland with tractors and power tillers. Because of all this hassle,

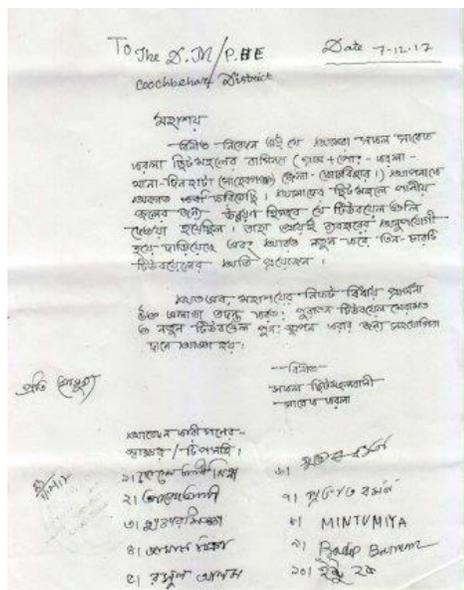
tractor or power tiller owners do not lent their machines to the villagers of Karola. Farmers also complain that BSF guards impede them near the gate if they want to take more fertilizer for cultivation over the quantity fixed by the BSF. Reportedly, for every step, they have to take permission from the BSF camp. Due to this unjustified restriction, their lands are not cultivated and they incur financial losses. The Karola BSF- BOP opens the gates thrice a day — between 7 am to 8 am, 12 noon to 1 pm and 4 pm to 5 pm — and the farmers who cross over the fencing to their paddy fields are supposed to return before 5 pm when the gate closes for the day. Reportedly, they are harassed and keep standing outside the gate if they somehow come to the gate late. It is also alleged that the BSF do not open the gate at the right time, sometimes they open the gate 20 to 25 minutes late. As a result; the farmers have to bring their crops and other important goods beside the gate in very short period of time which is next to impossible for the villagers. Which can be better understood through an example, suppose a farmer cultivate paddy in 1 acre of land. After paddy is reaped, it is kept near the gate beyond the fencing and wait for opening of the gate. After the gate is opened, the paddy has to be carried and keep beside the gate for BSF checking. It is not possible to bring the entire paddy beside the gate in short time. So, he has to wait for the

gate to open for the next time. From dusk to dawn, these villagers are cut off from their farm land as the gates in the fencing are locked at 5 pm and open only at 7 next morning. There is thorough checking at the gates by the BSF who enroll their names on the basis of their voter identity cards. During this period, their farm land and corps are in the hands of Bangladeshi miscreants and they take this as opportunity to loot the crops. Nearly three hundred acres of farm land of villagers are beyond the fence. There is no road at the village beside the gate. One road was constructed half kilometer far from the border gate. So, villagers have to reach the gate through agricultural lands. To add to the more woes, BSF guards extend barbed wire around the gate, as a result, farmers have to cover half kilometer more to reach the gate. The situation has not changed a bit and the villagers are still under illegitimate subjugation and harassment by the BSF personnel. I am pointing under few major issues related to the harassment, subjugation and infringement upon the rights of the villagers at the said area. On 27.03.2018 villagers of Karola submitted a mass deputation to Sub Divisional Officer of Dinhata demanding to build a new gate at adjacent to pillar number – 931(1). According to them is a new gate at border fence as suggested get operational; their harassment will be minimized. But till date the district administration failed to consult the villagers and take a decision for respite for the citizens.



This was a complaint regarding the ongoing atrocities perpetrated by Border Security Force upon the villagers of Kasipur village, Police Station-Bagdah, District-North 24 Parganas. The villagers of Kasipur village have no respite from the continuous infringement committed by the BSF upon their right to life and livelihood. The villagers of Kasipur village stated before our fact finding team that the barbed fencing and road under the IBBR project have been constructed within 150 meters from the actual Indo-Bangladesh border. Now the BSF has started constructing deep canal by using JCB vehicles alongside the road constructed under the IBBR project. As result the farming lands of the villagers are eroding into the canal under construction thereby causing destruction to their farming lands. Due to division of land of CPWD and farming lands, the path used by the farmers for carrying crops has been completely blocked. The farmers stated that they have requested the BSF authorities and local administration not to carry out any construction which would damage their farming lands, but they did not pay any heed to their request. Recently Central Public Works Department has decided to construct barbed fence at that area resulting the farming field being blocked to access. On 05.01.2018 the villagers of said village submitted one mass petition to Additional District Magistrate of North 24 Parganas, Zilla Parishad of North 24 Parganas, Sub Divisonal Officer of Bagdah and Block Development Officer of Bagdah.

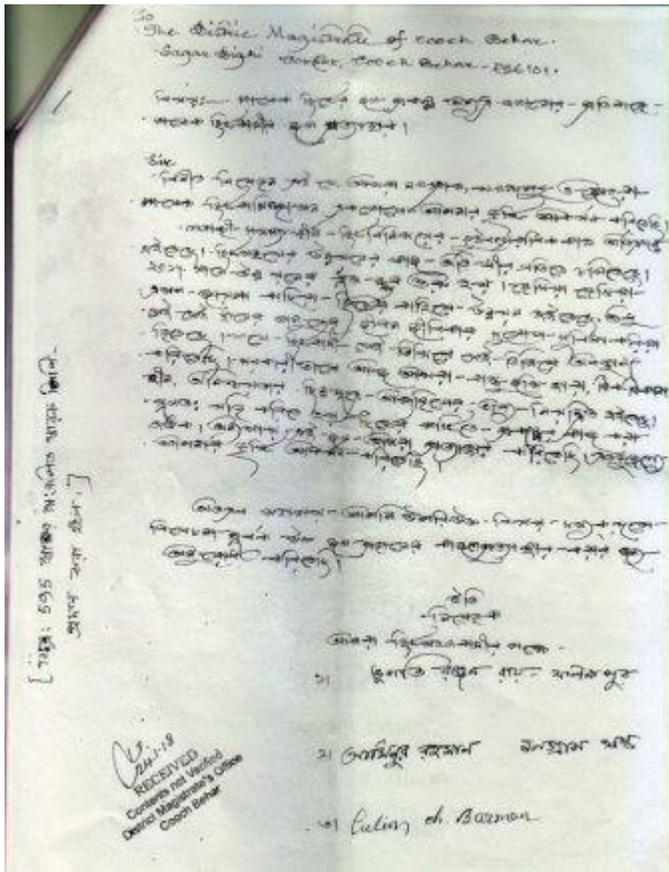
District Magistrate of North 24 Parganas, Zilla Parishad of North 24 Parganas, Sub Divisonal Officer of Bagdah and Block Development Officer of Bagdah.



**Details of Overall Marginalization of Erstwhile Enclaves**

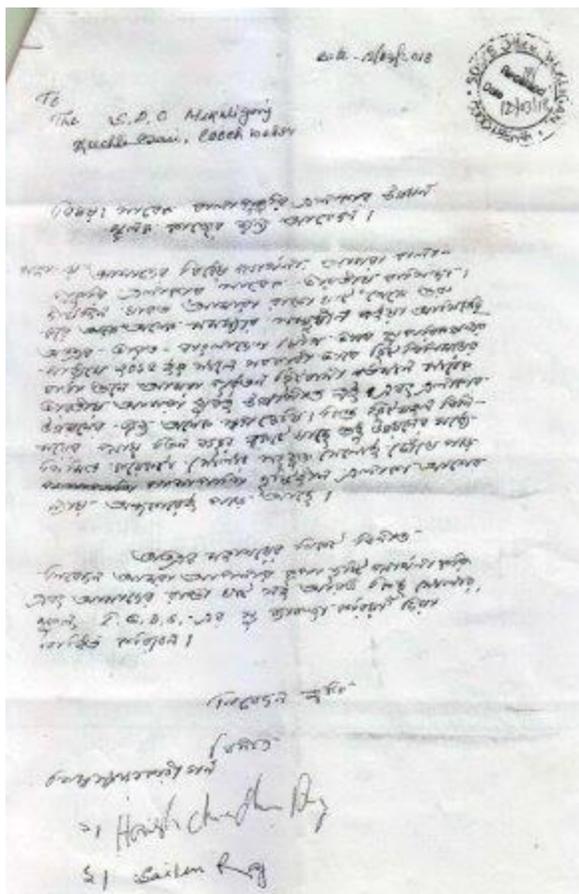
Karola - I is one of the listed erstwhile enclave out of 51 erstwhile Bangladeshi enclave situated in India. This particular erstwhile enclave is situated under Police Station – Dinhata, District- Coochbehar. After one year from execution of LBA, some officers of Public Health Engineering Department came to this enclave and made a survey for installation of deep tube well. After few months of that survey those officer came again and opined that the result of the survey confirms that 26 deep tube wells could be installed at this erstwhile enclave. So they asked for the 26 specific locations where those tubes well would be installed. After discussing among themselves, the dwellers of said erstwhile enclave gave a list where 26 locations were mentioned. After the submission of list till date only 22 tube wells were installed in listed places. 4 tube wells are not installed at 1. Madhur Bajar, 2. Outside the residence of Mr. Pir Bakkas Ali 3. Outside of the residence of Amjan Ali and 4. Sothern part of Madhur Bajar; as decided by the erstwhile enclave dwellers of the

Karola erstwhile enclave. The most important thing is after 3 months of installation, all 22 installed tube wells are not functioning. Number of times the dwellers complained to the administration but they did not pay any heed on this matter. For more than 6 months the installed tube wells are not functioning; as a result the dwellers facing an acute water scarcity at the said erstwhile enclave. On 07.12.2017 those erstwhile enclave dwellers submitted one mass deputation on this issue. But till date administration not even visited the erstwhile enclave.



After 68 years of independence of India, Land Boundary Agreement (LBA) was executed in both India and Bangladesh. Just after the execution of Land Boundary Agreement, Government of India assured them for all kind of social development and benefits of social security schemes which is being earmarked for a citizen of this country. After almost a year passed from the LBA execution, the developmental works have been started at erstwhile Bangladeshi enclaves at snail pace. Till date the erstwhile enclave dwellers devoid with any single social security scheme. This picture is almost same at every erstwhile Bangladeshi enclave. In this complaint I want to elaborate the problems of drinking water at Nalgram, Falnapur, Jongra erstwhile enclave situated at Subdivision- Mathabhanga, District – Cooch Behar. When the developmental works have been started at the mentioned erstwhile enclave; the officials of Public Health and Engineering Department (PHED) surveyed that area. After their survey they made an assurance that one water tank will be constructed at that area and every household will receive drinking water through pipeline. It was also assured that the families who provide his/her land for this purpose, he/ she or one member of his/her family will get a job of security guard at the constructed water tank. Few months after, the residents of the mentioned erstwhile enclave found that the construction work of water tank was

going on full swing but at outside of that mentioned erstwhile enclave. They questioned the officials for this change of plan and the PHED officials answered them that the water tank was not for them. Their water tank will be constructed separately. After few weeks some people came at their area and said they will connect every household with pipeline for water supply. The residents questioned them about the construction of water tank at erstwhile enclave but they construction of the said tank has been done and there is no plan for construction of water tank inside the erstwhile enclave. After knowing that, the erstwhile enclave dwellers protested and did not allow them for the work of pipeline connection. The residents of the erstwhile enclave was forsaken and told us that the officials of PHE department fooled them. They assured us that the water tank would be constructed at our area and some of us will get a job. But they broke their promise and also the distance between water tank and the households will affect the flow of water. So the residents of erstwhile enclave strongly protested this unfair attitude of PHED. On 11.01.2018 two persons from Public Health and Engineering Department came to the erstwhile enclave and told them to withdraw their protest and permit them to restart the work for pipeline connection. But the dwellers of the mentioned erstwhile enclave did not withdraw their protest. On 18.01.2018 the workers of PHE Department went to Jongra; erstwhile enclave for work of pipeline connection with some Border Security Force personnel. The resident of that erstwhile enclave too protested at the pipeline connection work. Border Security Force personnel threatened them and warned them that they will be implicated in false charges. But dwellers stand strong in favour of their just demand. On 24.01.2018 the erstwhile enclave dwellers complained before the District Magistrate by lodging one mass deputation



The complaint was on constant marginalization of erstwhile enclave dwellers who are still suffering for their human rights violation. After the execution of Land Boundary Agreement (31<sup>st</sup> July 2015) the lands of the erstwhile Bangladeshi enclaves became part and parcel of the State in natural course and the Indian Government as well its Bangladeshi counterpart have legitimate responsibility to transfer the piece of lands to its actual owner. After the land survey and checking of all land documents, Government of India has the responsibility to transfer the title of the lands to the erstwhile enclave dweller who or whose ancestors possess the lands there. After this declaration two and half years was passed but the process of land survey is still going on and transfer of lands to its actual owner became a distant dream. The erstwhile enclave dwellers are belonging in lower economical section and the land is only livelihood resource what they actually have. When they need sizeable amount of money for any emergency; they used to mortgage their land to meet the purpose. But after the execution of LBA and subsequent non-responsive attitude of government and its administration, they cannot do the same. Now they cannot use their own property during their financial difficulties. In the month of January of 2016 the officials from land revenue department started survey of lands in erstwhile Bangladeshi enclaves. For the same reason they visited to Chit-Balapukuri situated under Mekhliganj Police Station, District – Cooch Behar. During the land survey the residents of the mentioned erstwhile enclave dwellers noticed that the officials not surveyed the land situated at southern side

of the enclave; where 25-30 families are living and area of the land which was not surveyed was more than 160 *bighas*. The residents asked the reason of their purposeful delinquent land survey. The officials replied that the particular portion of land was not mentioned in their map. Then officials showed their land map of that area though piece and parcel of the said land was included in the map. But those officials refused to pay any heed on the agony of the erstwhile enclave who actually possess the land and left that area unmarked. After their departure the residents of that area went to Mekhliganj Block Development Office and complained on the issue. The Block Development Officer told the dwellers that the surveyors from Land and Land Reform Department will come back and survey the land which was not surveyed. But nobody visited till date. After 14 months from the survey done, the erstwhile enclave dwellers made a mass representation to the Assistant District Magistrate and District Land and Land Reform Officer on 16.03.2017. On that deputation they mentioned all the incidents and attached the map. Till date they did not received a single response from them. The actual land owners who possess the land which was not surveyed are living in deep uncertainty and agony. They feared that the Government of India is trying to deprive them from their land.

Constant humiliation and Human Rights violation of erstwhile enclave dwellers living in India became routine. After Land Boundary Agreement (31<sup>st</sup> July 2015) Government of India assured them all citizenry benefits and facilities as other Indian citizen. It was also promised that the erstwhile enclave dwellers will be included in all social security schemes. In every aspect of citizenry rights and institutional deliverances; the enclave dwellers are being neglected and not included in development process.

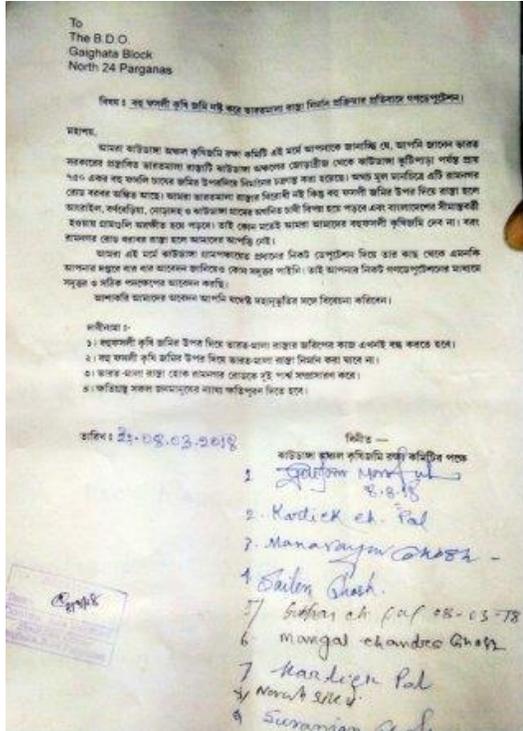
### **Purba Mashaldanga**

In the month of June of 2016 Government officials installed solar pump. This solar pump was installed for irrigation purpose and to cater water requirement in agricultural lands of this erstwhile enclave. During the installation of pumps, the officials assured the residents that 30-40 *bigha* of agricultural land will be benefitted. They also informed that the pump will be functional through solar energy. After installation when the pump became functional, the erstwhile enclave dwellers noticed that water was reaching only 4-5 *bigha* of agricultural land. The erstwhile enclave dwellers planted a particular variety of paddy after getting the assurance from the administration. But they found that the pump is not catering the area of land as expected and they were worried that their crops will be damaged due to insufficient water. For remedy they went to District Magistrate's office at



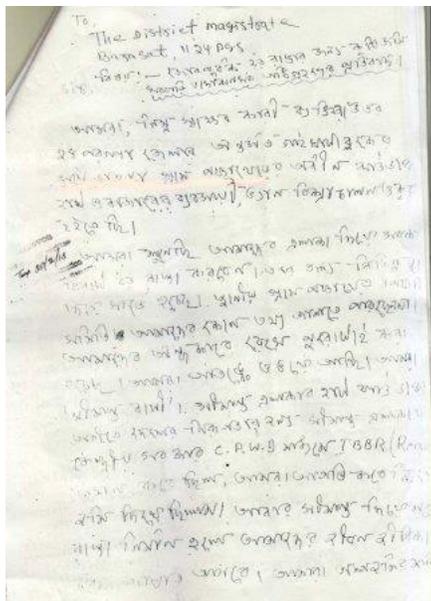
condition and resultant non operational transport at this area. Previously they went to District Magistrate of Cooch Behar many times to discuss this issue verbally but every time they came back with false promises. They also meet with President of *Zilla Parishad* of Cooch Behar district but they did not take any action on their complaints. On 18.01.2018 they submit a mass deputation to the District Magistrate of Cooch Behar.

**Details of Imminent Threat of Forcible Land Acquisition for Bharatmala Road**



Government of India supposedly took endeavour to strengthen the security of the border area and in this regard “Bharatmala” project has been taken up by the Government of India to curb down various crimes in border areas. But the people residing under Jhowdanga Gram Panchyat started showing their anguish against the possible land acquisition for the purpose of road construction under the aforesaid project. The people of the said gram panchayat fuming as the officials under the said project came to inspect the farming lands of various areas under Jhowdanga Gram Panchayat for the purpose of implementation of the project. They stated that they are not against the construction of road under the project but they are against acquisition of their farming lands which are capable of producing crops for three/four times a year. They stated that the project can well be executed by extending road both sides of Ramnagar Road. They also stated their concern that on the eastern side there is Bangladesh and they will be separated from the Indian main land if road is constructed under Bharatmala project by acquiring their farming lands. They also expressed their fear that majority of the villagers will become have-nots if their farming lands are being acquired for construction of road under the said project. The people residing under Jhowdanga Gram Panchayat created a common platform namely “Jhowdanga Anchal Krishi Jomi Raksha Committee”. The said committee conveyed their

protest by stating the aforesaid problems to the Chief Minister, Government of West Bengal; the Block Development Officer, Gaighata, North 24 Parganas; the District Magistrate, North 24 Parganas; the Sub-Divisional Officer, Bongaon; the Proadhan of Jhowdanga Gram Panchayat and other authorities on 24.07.2017. But the Committee did not see any ray of hope after submitting the said written representation. The people noticed that the officials of the project continued to conduct survey on the farming lands. The villagers had raised their protest in front of the officials. In this regard the people again submitted a mass deputation before the Block Development Officer, Gaighata Block on 08.03.2018. But till date the officials of the administration are silent and did not bother to response to their protest and several complaints.



The complaint was on the possible threats of land acquisition at an operational market area located near Indo-Bangladesh border in district North 24 Parganas, West Bengal for construction of road in connection with implementation of ‘Bharatmala’ project. The ambitious road and highway project ‘Bharatmala’ is the name given by Government of India for construction of 25,000 km of roads along India's borders, coastal areas, ports, religious and tourist places as well as over 100 district headquarters. The administrative authorities have started survey in large portion of the Indo-Bangladesh border area to demarcate and acquire land for Bharatmala project. It was revealed during the fact finding that there is a local market namely Jhaudanga Hat under Jhaudanga Gram Panchayat, Block-Gaighata, District-North 24 Parganas. The said market caters the daily needs of the local people of several villages located under Jhaudanga Gram Panchayat. The local people are also engaged in various jobs in the said local market being van-pullers, daily labours and shop holders. They have heard that the land of the aforesaid market place as well as the residential and farming lands of the villagers under Jhaudanga Gram Panchayat will be acquired for

construction of road under the Bharatmala project. The villagers stated that the officials of the government had visited the area for several times and also conducted surveys. They also stated that previously their lands were acquired for the purpose of construction of IBBR Roads along the border. Despite loss of agricultural land and attack on their livelihood they sacrificed for the national interest. They are objecting to further acquisition of their lands as they strongly apprehend that it would jeopardize their life and livelihood. The local people/villagers, and people connected with daily affairs with the said market demonstrated their protest in presence of the officials. But the complete silence of the officials made their protest futile. On 20.03.2018 the villagers submitted a mass deputation before the District Magistrate of North 24 Parganas demanding immediate withdrawal of land acquiring move to protect life and livelihood of the affected area. The worried villagers have no option but to protest and which they have done by submitting mass deputation before the authorities. But till date no action has been taken on the deputation.

### **Monthly Legal Activity Report-MASUM, April 2018**

In this month the following important legal activities took place where MASUM provided legal assistance to the victims of human rights violations.

**Ms. Momena Bibi(name changed)** from district-North 24 Parganas is a victim of human rights violation. She was physically molested and sexually abused by the two perpetrator BSF personnel at night on 15.4.2016 when she was sleeping in her room. She is a housewife and belongs to a marginalized family living in village-Daharkanda near Indo-Bangladesh border.

The victim was medically treated at Sarapul Rural Hospital on 15.04.2016. On the same day i.e. on 15.04.2016 she submitted a written complaint starting the incident before the Officer-in-Charge of Swarupnagar Police Station. The complaint was registered vide Swarupnagar Police Station Case no.315 dated 15.04.2016 under sections 447(criminal trespass)/323(voluntarily causing hurt)/354B (Assault or use of criminal force to woman with intent to disrobe)/506(criminal intimidation)/34(common intention) of Indian Penal Code. In the written complaint she also mentioned that she and her family members have been facing continuous threats of being implicated in false criminal case by BSF. She also mentioned that she and her family members were insecurity under the threats issued by BSF.

MASUM conducted fact finding into the incident and submitted complaint before the National Human Rights Commission and other authorities.

Two years gone but the I.O. of the criminal case of Swarupnagar Police Station did not bother till date to complete investigation.

With the legal assistance provided by MASUM, the victim filed a written petition before the Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas stating the inordinate delay in completion of the investigation and also mentioned that the accused BSF personnel are roaming freely.

The petition was filed and moved before the Court on 11.04.2018 and the Court upon hearing issued direction upon the I.O. of Swarupnagar Police Station to produce Case Diary for inspection regarding the progress of the investigation.

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**Mr. Ranjit Das from District-North 24 Parganas** is a victim of human rights violation in the hands of the perpetrator BSF personnel. He was physically torture and verbally abused on 02.01.2016 by the perpetrator BSF personnel. On 03.02.2016 MASUM lodged a complaint before the National Human Rights Commission and other authorities in the matter of the victim submitted written complaint against the accused BSF personnel before the Officer-in-Charge of Swarupnagar Police Station on 02.01.2016 which was registered FIR no.01/2016 dated 02.01.2016 under sections 341/323/325/308/34 of Indian Penal Code.

MASUM thoroughly persuaded the matter with the NHRC and sent comments on the reports of the state agencies to the Commission.

The National Human Rights Commission recently issued the following direction in the matter of the victim Mr. Ranjit Das:-

**Case Details of File Number: 1417/25/15/2016-PF**

<b>Diary Number</b>	168700/CR/2016
<b>Name of the Complainant</b>	KIRITY ROY, SECRETRAY (MASUM) AND NATIONAL CONVENER (PACTI)
<b>Address</b>	BANGLAR MANABADHIKAR SURAKSHA MANCHA, <a href="#">40A, BARABAGAN LANE (4TH FLOOR)</a> , BALAJI PLACE, SHIBTALA, SRIRAMPUR, HOOGHLY , WEST BENGAL
<b>Name of the Victim</b>	RANJIT DAS S/O LATE. HAZUPADA DAS
<b>Address</b>	VILLAGE. SWARUPDAHA, BLOCK. SWARUPNAGAR, PO. HAKIMPUR, PS. SWARUPNAGAR, NORTH 24-PARGANA , WEST BENGAL
<b>Place of Incident</b>	VILL. SWARUPDAHA, PS. SWARUPNAGAR NORTH 24-PARGANA , WEST BENGAL
<b>Date of Incident</b>	1/2/2016
<b>Direction issued by the Commission</b>	<p>These proceedings should be read in continuation of the earlier proceedings of the Commission dated 5.7.2017. The matter related to the physical torture of a victim Ranjit Das by the BSF personnel on 2.1.2016 at 5.30 P.M. On the written report of the victim Swarup Nagar PS FIR No. 01/2016 dt. 2.1.2016 u/s 341/323/325/308/34 IPC was registered and investigation was taken U.P. During investigation the I.O. found that the accused persons were absconding. After investigation the I.O. submitted chargesheet in the Court vide CS No. 638/18 dt. 28.8.2016 against the accused persons showing them as absconders. Report dt. 6.2.2017 received from Under Secretary, Ministry of Home Affairs forwarded a report dt. 1.2.2017 of Dy. Inspector General (Ops.) BSF, indicated that the erring officials were also subjected to a disciplinary action by their disciplinary authorities. In the meantime the complainant had furnished his comments. In his comments the complainant referring to the contents of letter dt. 1.2.2017 of DIG (Ops) B, BSF Directorate indicated that the court of Addl. CJM, Bashirhat issued warrant of arrest against both accused. He also alleged that even though the erring BSF personnel were duly identified, the BSF authority had not yet furnished their details to the Police, so the lawful action could be taken against them. He also alleged that a hollow departmental enquiry was conducted by the concerned authorities to cover up the misdeeds of the erring officers. The Commission carefully considered the materials on record and took note of the facts and circumstances of the case. The conduct of the erring BSF Jawans who were also public servants towards the victim established a strong prima facie case of human rights violation of the victim, though they were said to have been exonerated by the disciplinary authorities for the absence of the victim's statements, the trial of the erring officials still pending. Be that as it may, the identity of the erring BSF officials were established and criminal case was pending trial before the competent court of law. In the circumstances, a case was clearly made out against the BSF officials for violation of human rights of the victim Ranjeet Das. Therefore, the Commission issue a show cause u/s 18 (a) (i) of PHR Act, 1993 to the Secretary, Ministry of Home, Government of India as to why a compensation of Rs. 25,000/- should not be recommended to be paid to the victim within six weeks positively.</p>

The police of Swarupnagar Police Station submitted charge sheet against the accused BSF personnel in connection with Swarupnagar Police Station Case no.01/2016 dated 02.01.2016 under sections 341/323/325/308/34 of Indian Penal Code in the Court of Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas. The accused BSF personnel did not surrender before the Court, so the Court issued Warrant of Arrest against the accused BSF personnel. But the police failed to arrest them.

So, with the legal assistance from MASUM, the victim submitted a petition before the Court for necessary direction regarding arrest of the accused persons. The petition was moved on 16.04.2018 and the Court issued

direction of *Tagid* i.e. reminder to Swarupnagar Police Station for immediate execution of Warrant of Arrest against the accused BSF personnel.

**Mr. Rashid Mondal from District-North 24 Parganas is a victim** of murderous assault by the accused Border Security Force personnel. The incident happened on 31.07.2015. On the same day Mr. Rashid Mondal lodged a complaint at Swarupnagar Police Station which was registered as Swarupnagar Police Station Case no: 687/15 dated 31.07.2015 under sections 341/323/325/34 of Indian Penal Code.

MASUM thoroughly persuaded the matter with the NHRC and sent comments on the reports of the state agencies to the Commission.

The National Human Rights Commission recently issued the following direction in the matter of the victim Mr. Rashid Mondal:-

Case Details of File Number: 1648/25/15/2015	
<b>Diary Number</b>	191332
<b>Name of the Complainant</b>	KIRITY ROY, SECRETARY (MASUM) AND NATIONAL CONVENER (PACTIO
<b>Address</b>	40 A, BARABAGAN LANE, (4TH FLOOR), BALAJI PLACE, SHIBTALA SRIRAMPUR, HOOGHLY , WEST BENGAL
<b>Name of the Victim</b>	RASHID MONDAL S/O LATE. ATEL ALI MONDAL
<b>Address</b>	VILLAGE. GOBRA, PO. GOBINDAPUR, PS. SWARUPNAGAR, NORTH 24-PARGANA , WEST BENGAL
<b>Place of Incident</b>	SWARUPNAGAR NORTH 24-PARGANA , WEST BENGAL
<b>Date of Incident</b>	7/31/2015
<b>Direction issued by the Commission</b>	<p>These proceedings shall be read in continuation of the proceedings dated 30.10.2015. Commission directed to transmit the petition to the concerned authorities calling for the report in four weeks. Commission had perused the complaint of Sh.Kirti Roy, Secretary MASUM. It is alleged that Rashid Mondal an Agrarian daily labourer cultivate small piece of land as share cropper. On 31.7.2015 at around 7AM ,Rashid and his wife after depositing their ID Cards with the BSF went to cultivate the land of Sh.Biswajit Ghosh closed to the Gate No.18. While they were busy , 3 BSF personnels started beating Rashid mercilessly . He was subjected to un-provoked in-human torture. He was treated for the injuries received after admission at Saraphool Rural Hospital. He was discharged from Hospital on 12.8.2015. A FIR was lodged at Crime No.687/2015 at Swarupnagar Police station u/s.341323,325, 34 IPC against the BSF personnels. Pursuant to the notice Under Secretary to the Govt. of India, Ministry of Home Affairs submitted report of Director General Border Security Force with communication dated 27.1.2016. The report had also been received by SP North, 24 Parganas , West Bengal. In both the report this fact find mentioned that in Crime No.687/2015 after investigation charge sheet has been submitted against CT, Hitender Singh 091220851 (2). 133201419 CT Kuldeep Singh Chaturvede (3). 1311291296 CT Vanlal Nghaka of Coy 26 Bn BSF BOP Gobra under PS Swarupnagar Distt. North 24 Parganas West Bengal. Commission had considered the two reports. The submission of Chargesheet in court after investigation, is a prima facie proof of the fact, that BSF personnels have acted beyond their authority in causing injuries to Rashid and thereby have violated the human rights of life of the victim. Commission thus directs that a notice u/s.18(a)(1) of PHR Act 1993 be issued to the Secretary , Ministry of Home Affairs, Govt. of India to file response as to why the Commission should not recommend monetary compensation to be paid to the victim Rashid Mondal for violation of his</p>

human rights by the BSF personnels named above. The response be filed in four weeks.

In connection with Swarupnagar Police Station which was registered as Swarupnagar Police Station Case no: 687/15 dated 31.07.2015, the police submitted charge sheet against three BSF personnel after investigation before the Court of Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas.

On 04.04.2018, the victim Mr. Rashid Mondal submitted a written petition before the Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas for appropriate direction regarding speedy disposal of the criminal case against the accused BSF personnel. On that day in search of the case record it was found that the case record was transferred to BSF Court. But till date the victim did not get any information from BSF court in connection with the aforesaid criminal case.

The above three cases shows that when it comes to prosecution of the accused BSF personnel, our criminal justice system is apathetic to the cry for justice of the victims.

Besides the above stated three cases, MASUM provided legal assistances to the other pending criminal cases against the accused perpetrator in uniform filed by the victims and also in the cases where the victims have been falsely arrayed as accused persons.

### **ADVOCACY, SENSITISATION AND CAMPAIGN**

MASUM organized three regular and monthly medical camps on the aegis of United Nations Voluntary Funds for Victims of Torture (UNVFVT) for torture victims and family members of extra judicially killed persons.

On 02.04.18, medical camp for Cooch Behar district was organized at Dinhata, where 27 patients were treated and provided with medicines. Dr. Champak Bannerjee was the attending doctor. Just after the medical camp, a Victims Meeting was organized, where victims strategies their future course of action. Similarly, medical camps and subsequent Victims Meetings were held at Islampur for Murshidabad district and Swarupnagar for 24 Parganas (North) districts. The numbers of patients were 63 and 31 respectively and Dr. Priyabrata Biswas was attending doctor for both the camps.



## People's Tribunal on Attack on Educational Institutions

People's Tribunal on Attack on Educational Institutions was held at the Constitution Club of India, New Delhi, on April-11-13, 2018. The tribunal was organized by the people's Commission on Shrinking Democratic Space in India (PCSDS). The jury panel of the tribunal comprised Justice (Retd.) Hosbet Suresh, Justice (Retd.) B.G. Kolse Patil, Prof. Amit Bhaduri, Dr. Uma Chakraborty, Prof. T.K. Oommen, Prof. Vasanthi Devi, Prof. Ghanshyam Shah, Prof. Meher Engineer, Prof. Kalpana Kannabiran and Ms. Pamela Phillipose, Prof. Romila Thapar was the chair of the plenary session of the tribunal.

Testimonies of 120 students and teachers from close to 50 institutions and universities spread across 17 states were considered by the jury panel; 49 testimonies were deposed orally at the tribunal. Along with these testimonies, there were 17 expert submissions on all thematic issues. Mr. Kirity Roy from Banglar Manabadhikar Suraksha Mancha (MASUM) was invited at that tribunal.



## Meeting with volunteers and Erstwhile Enclave Dwellers at Cooch Behar

On 07.04.2018 MASUM organized one interactive meeting with the volunteers of "Amra Chitmahalbasi". This group was formed by Erstwhile Enclave Dwellers to press their rights and spearhead movements to achieve the same. During the meeting, volunteers narrated the situation of their respective erstwhile enclaves. They explained on all-round neglects and deprivation from social security schemes after almost 3 years of execution of Land Boundary Agreement. At the end of the meeting they have decided to abstain from upcoming *Panchayet* election.

On 08.04.2018 and 09.04.2018 representatives of Banglar Manabadhikar Suraksha Mancha were invited in the meeting organized by "Amra Chitmahalbasi" at Kachua and Uttar Bansjani erstwhile Bangladeshi enclaves situated at Dihata Sub Division and Nalgram, Falnapur, Jongra, Bhandardaha and Kokeyabari erstwhile Bangladeshi enclave situated at Mathabhanga Sub Division. On these meetings, dwellers of the said erstwhile enclaves described the non-full filament of their demands related to social development, though almost 3 years of LBA execution has passed. In their areas, construction work of roadways has been stopped in mid way. There is no school, primary health center and ICDS center. At the end of the meeting they confirmed to abstain from upcoming *Panchayet* election until their demands met.



Banglar Manabdhikar Suraksha Mancha (MASUM) organized a number of village level meetings during the month of April 2018 at Murshidabad and Cooch Behar districts of West Bengal. The details of meetings are given below.

### **Murshidabad**

Villagers from erosion affected areas of different parts of Murshidabad formed a group named “Amra Bhangon Durgato” to make continuous pressure upon concerned Government authorities on their rights. On 03.04.2018 Amra Bhangon Durgato organized one meeting at village- Taltali under Police Station- Jalangi, District- Murshidabad. 32 villagers were present and they planned for the future course of action.

### **Cooch Behar**

Volunteers of Cooch Behar organized few meetings at erstwhile Bangladeshi enclaves and the villages near to the Indo- Bangladesh border. On 01.04.2018 a meeting was held at village- 56 Hemkumari under Kuchlibari police station, District- Cooch Behar. Villagers of this bordering village narrated their subjugation and marginalization caused by the whimsical decision of Border Security Force personnel regarding movements of the villagers. Most of the villagers own agricultural land at the other side of the fence. They are not allowed to go at their own land at any point of time and most of the time their crops were damaged due to lack of visits at the fields. On that meeting; representatives of MASUM has discussed on rights and strategies to minimize the illegitimate interference by BSF.

On 13.04.2018 and 14.04.2018 volunteers of MASUM organized two meetings at erstwhile Bangladeshi enclaves namely Falnapur and Nalgram respectively. On those meetings, the erstwhile enclave dwellers narrated that concerned government authority still depriving them from social security schemes. On that meeting they planned for future course of action.

On 17.04.2018 volunteer of MASUM organized one meeting with erstwhile Indian enclave dwellers situated at Dinhat rehabilitation camp. The dwellers complained about non full filament of governmental assurance about social schemes. They are deprived from full compensation and complete rehabilitation. On that meeting they discussed about the future course of actions.

### **Secondary Documentation**

#### **Brief report on number of news documentation (on internet version), some important news, April, 2018**

1. Capital Punishment- 2 news ( Teacher got capital punishment for raping and killing minor girl at Tamluk-ABP)
2. Communalism: Riot- Asansol Riot 5 news (Ground report: As Asansol burnt, the West Bengal police did too little too late, residents say-Ground Report; Miracles in Asansol: As coal city burnt in hatred, a Muslim cleric and Hindu temple healed with love- Scroll.in)
3. Dalit- 4 news ( SC gives no stay order on Dalit Act-ABP)
4. Enclave- 2 news ( Call of boycotting Panchayet poll by enclave residents- Sangbad Pratidin; No toilet, no school, no proper roads: ‘Forgotten’ groups say they will not vote-NYOZZ)
5. Erosion- 1 (Char Meghna is still dreaming for development-ABP)
6. Fundamental Rights- 1 (Marital rape: Gujrat High Court suggests reformation-ABP)
7. Handcuff -1 (Handcuffed Bangladeshi boy-ABP)
8. Arsenic contamination- 1 (Villagers have to drink arsenic polluted water at Bagda, North 24 Parganas-ABP)
9. Right to Education- 2 news (School will close due to factory lock out at Asansol-ABP)
10. Right to health-4 news (No Ambulance at Barabazar Block Health Centre at Purulia, query within ruling party-ABP)
11. Violence against children- 10 news (Kathua: Kathua Rape "Minor Incident" Says New J&K Deputy Chief Minister-NDTV; Minor raped at School in Odhisa-ABP)
12. Violence against women- 16 news ( Asaram: Rapist Saint got imprisonment-Indian Express; Another physically handicapped girl raped at Alipurduar-ABP)

MASUM documented important media reports related to human rights abuses published in 11 regional as well as national media during the month of April 2018. During this period one incident of extra judicial killing and one on custodial death have been documented, 4 incidents of police torture from West Bengal have been documented. 19 media reports on violence against women have been documented for the month, 22 incidents of child rights violations recorded during this timeframe. 5 incidents of atrocities upon Dalits have been documented as well 4 news items on Rohingya refugees were recorded.

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