

**Memorandum in Support of
Banglar Manabadhikar Suraksha Mancha (MASUM)**

**13 May, 2019
New Delhi**

To,
Justice (Retd.) H.L. Dattu
The Chairperson
National Human Rights Commission
Manav Adhikar Bhawan
Block-C, GPO Complex, INA
New Delhi- 110023

Subject – Human Rights Defenders – MASUM – Urgent need to provide protection for human rights group Banglar Manabadhikar Suraksha Mancha

Dear Sir,

We urgently request you to intervene on the systemic and persistent attacks and harassment of human rights defenders and volunteers associated with Banglar Manabadhikar Suraksha Mancha (MASUM)¹, a prominent human rights organization based in West Bengal.

MASUM is a platform of HRDs, engaging on the issues of torture and extra-judicial killing, through its district human rights monitors in different districts in West Bengal. It engages with various human rights groups, social movements and survivors' collective to minimize the systematic discrimination of marginalized people and communities. Since its inception in 1997, MASUM has been actively engaged in reporting and intervening in human rights cases, particularly concerning the violence committed by law enforcement agencies in West Bengal.

Most of these cases exposed torture, illegal restrictions and atrocities committed by the West Bengal Police and the Border Security Force (BSF) deployed along the Indo-Bangladesh border. MASUM has so far conducted more than 3000 fact-finding missions, lodged more than 3200 complaints before the Human Rights Institutions, Government offices, and United Nations bodies and provided medical and psychological support to more than 8500 victims of torture and their families in West Bengal since 1997. Each case reported by MASUM has been well documented and exposed blatant breaches of the law by law enforcement agencies. As a result of its work, MASUM has come under systematic attack from the perpetrators and their agencies.

¹ <http://masum.org.in/>

FORUM-ASIA has been continuously informed of incidents of attacks, systematic harassment, physical intimidation, illegal arrest, detention and persecution against associates of MASUM for the last few years due to their human rights work. MASUM had applied for a registration under Section 11(1) Foreign Contribution (Regulation) Act 2010 with the Ministry of Home Affairs, Government of India on April 7, 2012. MASUM submitted the all necessary documents but the application was rejected after several months. Registration is mandatory to access foreign aids, funding or government help to conduct any formal program or activities. FORUM-ASIA believes that the systematic attacks on human rights defenders (HRDs) goes against the spirit of the UN Declaration on Rights of Human Rights Defenders 1998 and fundamental rights of association and assembly as enshrined in Article 19 of the Indian Constitution. The lack of adequate support from the state administration specially police department in protecting the HRDs sends out strong warning messages indicating criminalization of human rights activities in the country and creates fear and adverse environment enhancing vulnerability of HRDs.

Below is a summary of the incidents:

Mr. Kirity Roy, Secretary of MASUM, has been charged with several fabricated cases in course of defending rights of people from state abuse. Anti-Terrorist Cell of Kolkata Police had arrested Kirity on April 7, 2019 for coordinating a People's Tribunal, a national project supported by the European Instrument for Democracy and Human Rights (EIDHR) on preventing torture in India, in June 9-10, 2018. The police registered a case against MASUM claiming the tribunal to be illegal under sections 170 (Personating a public officer)/ 179 (refusing to answer public servant authorized to question)/ 229 (personation of a juror or assessor)/120 B (Criminal Conspiracy) of India Penal code against Kirity and others. The complaint is still lying to your Commission without registration.

On 19 July, 2018, Kirity had led a procession to office of Sub Divisional Officer (SDO) of Dinhata sub division of Coochbehar. The intention of the demonstration was to go to the office and demand the officer to sign a memorandum, which outlined the violations committed by BSF and police personnel from his office, and request him to take action on the issue. The office of the SDO had been informed about this rally and its agenda days prior. Later, Kirity and the demonstrators were accused of violating sections 186, 341, 353, 427, 34 and 506 of Indian Penal Code. The charges relate to wrongfully restraining a person, the obstruction of and use of force against public servants to prevent them from carrying out their duties, committing mischief resulting in loss or damages, and participating in a criminal act in furtherance of the common intention of all. The complaint is still pending for disposal to your Commission (NHRC Case No. 135/25/6/2019).

On 2 February, 2019, Kirity Roy along with other members of MASUM had attended a public meeting on legal awareness in Hatkhola Chapra village. After the meeting, people attending the meeting wanted to go to their homes but BSF had closed the fences to go to the other side of the village. Observing the situation, Kirity and his associates asked the BSF personnel to open the gates and let the villagers go home because they have not had their lunch. However, the officers aggressively responded to the request and manhandled Kirity and his colleagues. Later on 4 February, he and six other people who had attended the

meeting were sent a notice to appear in the police station for an inquiry into the FIR lodged against them. They have been accused of multiple criminal offences under section 504, 505(1), 341, 120(A), 186 and 129 of Indian Penal Code (IPC) including non-bailable offences against public peace and criminal conspiracy. The complaint is still pending for disposal to your Commission (NHRC Case No. 25/25/14/2019).

Other members and volunteers associated with MASUM have also been facing various forms of judicial harassment for conducting their legitimate human rights work:

- Mr. Ajimuddin Sarkar, District Human Rights monitor has been implicated in several false and connoted criminal charges by Murshidabad district police. He was behind bars for 70 days. In September 2015, Mr. Sarkar was implicated in two criminal cases by Islampur Police Station.
- Mr. Kurity Roy is co-accused in two criminal cases initiated by the police in Murshidabad district (NHRC Case No. 1649/25/13/2014).
- Mr. Mohar Mondal, District Human Rights Monitor of 24 Paragans (North) was detained at Swarupunagar police station under 24 Parganas (North) district on 27 July, 2014. He faced verbal abuses and heckled at the police station by the officer in charge and on duty police personnel. Mr. Mondal was threatened and warned to withdraw himself from human rights activism.
- Mr. Durbadal Majumdar, District Human Rights Monitor for Jalpaiguri district was illegally detained in police custody at New Jalpaiguri police post in August 2015. He was implicated in a false case for helping a woman (NHRC Case No. 1264/25/10/2015).
- Mr. Ajijul Haque, District Human Rights Monitor for MASUM for Coochbehar district and other enclave dwellers were brutally beaten by hooligans in the presence of the police at the New Coochbehar station in February 2015 (NHRC Case No. 395/25/6/2015).
- Ms. Tilak Barman, District Human Rights Monitor of District Coochbehar was illegally detained and mentally harassed by the police personnel of Mekhliganj Police Station in May 2016. She is working for the deprived erstwhile enclave dwellers of Coochbehar district and three rehabilitation camps (NHRC Case no. 668/25/6/2016).
- Ms. Shila Bewa , an active member of MASUM was harassed and intimidated by BSF officers on 25 January 2019, while putting up posters around the river bank areas of Toltoli village in Ghospara Gram Panchayet (NHRC Case No. 200/25/13/2019).
- Mr. Samiul Biswas, volunteer of MASUM was illegally detained by BSF of the Mahakhola Border Outpost on charges of theft of Bangladeshi currency and SIM card, the evidence for which have been planted on him in 18 March 2019. The complaint is still waiting for registration at the Commission.

MASUM is facing severe threats and intimidations from the state security agencies. The state is using all repressive measures including intimidation, illegal arrest, detention, fabricated cases, and torture to criminalise the legitimate work of MASUM.

MASUM, Human Rights Defenders Alert (HRDA) and several international NGO have filed several joint complaints to the NHRC since 2008 onwards, however, justice for the affected human rights defenders and activists remains elusive till today.

In 2018 alone MASUM lodged 184 complaints with NHRC on 18 different types of cases of human rights violations. Complaints filed by MASUM are on marginalization at erstwhile enclaves, (24%), torture by the BSF personnel (16%), and torture of under trial prisoners by Police personnel (10%).

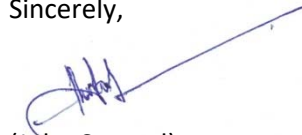
Taking into consideration the above – mentioned facts and circumstances, FORUM-ASIA appeals to the NHRC to urgently intervene in the cases against the human rights defenders and members of MASUM. NHRC should use all its power as enshrined in the Protection of Human Rights Act 1993 and undertake an independent review of the harassment of MASUM activists and volunteers and suggest strong measures to the West Bengal Government to hold the perpetrators accountable and its law enforcement authority to stop the ongoing harassment and systematic attacks.

Further, FORUM-ASIA strongly recommend National Human Rights Commission to,

- Assign a few competent senior lawyers through the West Bengal State Legal Service Authority in the state and relevant districts to defend the HRDs in all the criminal cases registered against them for carrying out legitimate human rights work, and provide effective remedies to MASUM as well as other HRDs.
- Issue direction to the State of West Bengal and the BSF to provide remedies and reparation to MASUM and its HRDs, such as an apology, re-assurance of non-repetition and sufficient compensation to make up for all the loss of reputation and other losses suffered over all these past years.
- In view of the consistent work that human rights defenders in West Bengal has been engaged in all these years, proactively engage in introducing policies to ensure physical and psychological integrity of human rights defenders in West Bengal.

Thanking you,

Sincerely,



(John Samuel)

Executive Director

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 81 member organisations in 21 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratization.

For further information, please contact:

- South Asia Programme, sasia@forum-asia.org