

# Monthly Report

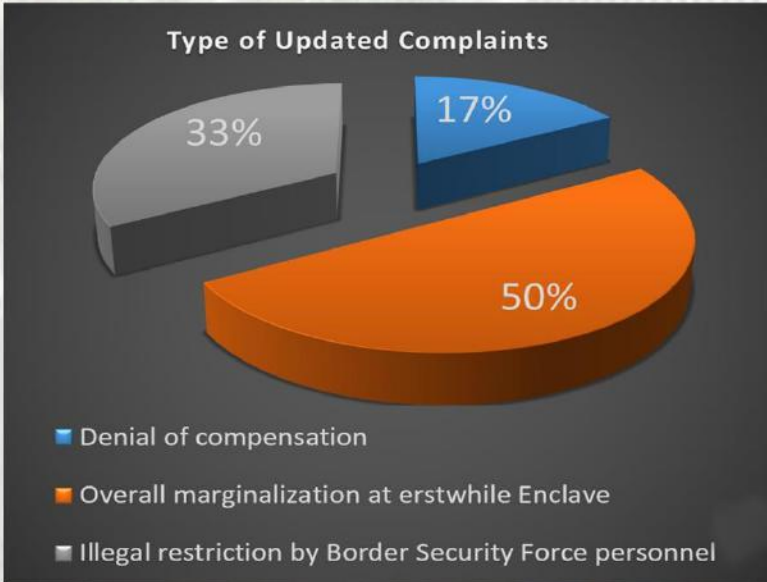
## March 2020



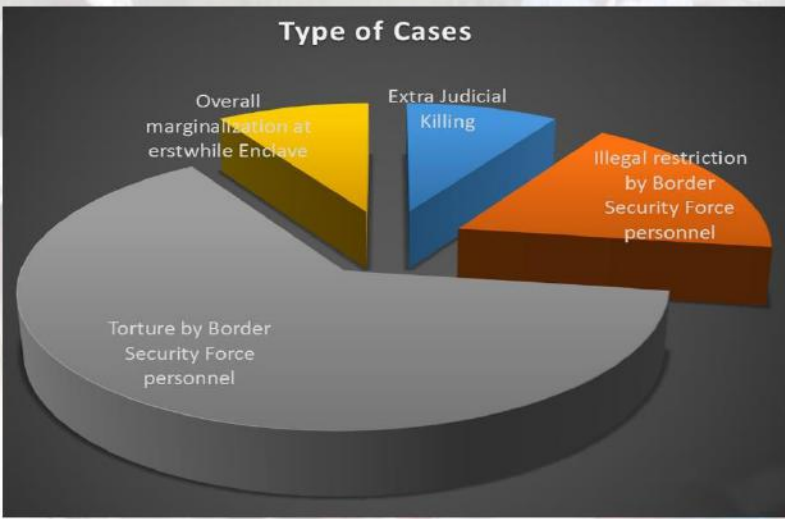
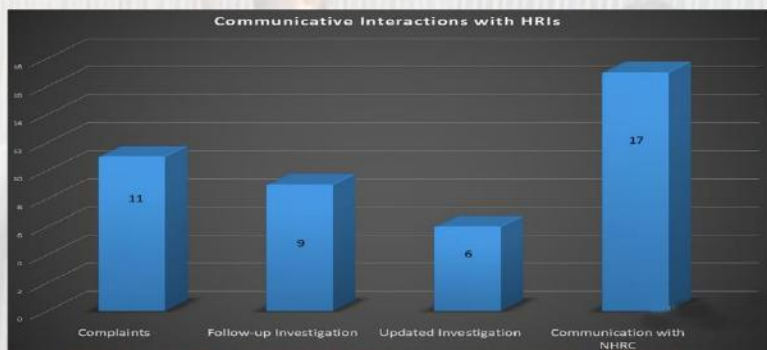
*Miles to go...*



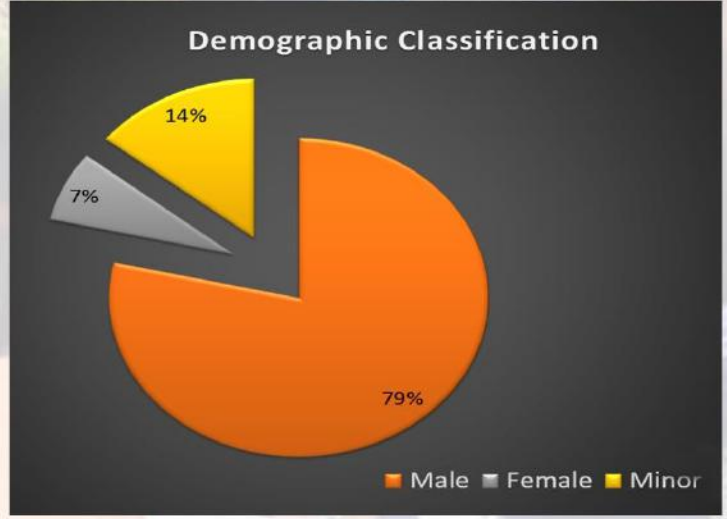
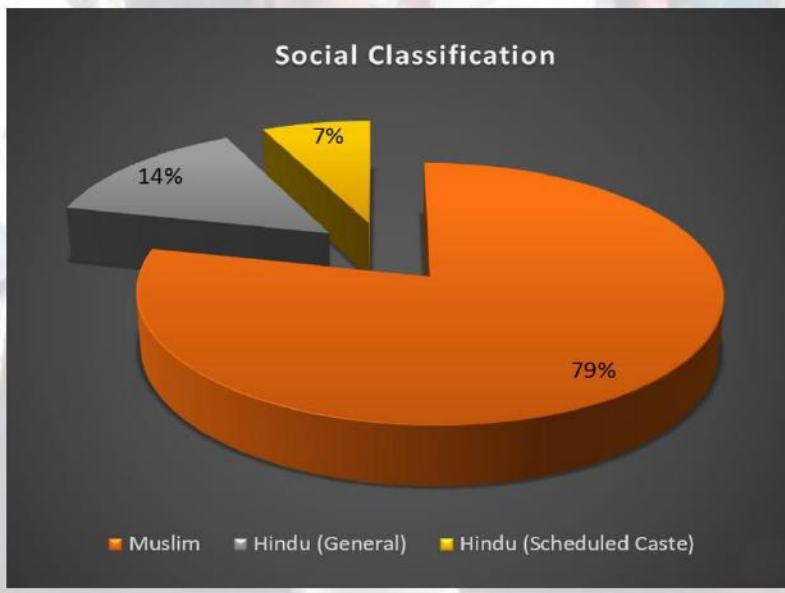
**Banglar Manabadhikar  
Suraksha Mancha**



Banglar Manabadhikar Suraksha Mancha (MASUM) made 11 complaints of gross human rights violation before the relevant state authorities and different human rights institutions; especially the National Human Rights Commission during the month of March 2020. During this period we provided our feedback on the directions issued by the NHRC in 9 cases and made follow-up complaints regarding 6 cases formerly lodged. The six follow-ups made this month were on denial of compensation, marginalisation of erstwhile enclave dwellers and BSF restriction. During this month, MASUM received directions from the NHRC in 17 cases.



Out of the eleven complaints lodged this month, seven are on Torture by Border Security Force personnel, two on Illegal restriction by BSF personnel and one each on extra judicial execution and marginalisation of erstwhile enclave dwellers.



In the complaint regarding restriction by BSF personnel and marginalisation of erstwhile enclave dwellers, the victimization was collective and does not reflect in demographic and social classification of victims. Total numbers of victims in individual complaints were 14; among them 11 belong from the minority Muslim community, 2 from Hindu (general) community and 1 from Scheduled Caste (Dalit) community. Among the victims 11 were males, 1 female and 2 were minors.



1. On 17.03.2020, MASUM had a meeting with Secretary General of National Human Rights Commission (NHRC), Additional Secretary, NHRC, Registrar (Law), NHRC and all SP and DSPs of NHRC at the office of the National Human Rights Commission, New Delhi. MASUM team consisting of Secretary, Mr. Kirity Roy had a thorough discussion regarding several problems that were being faced on account of the NHRC. Secretary General of NHRC said that they will consider all the issues discussed in the meeting and take necessary actions.

2. A compensation of rupees One Lakh was recommended to Mr. Ajimuddin Sarkar, victim and human rights defender attached with MASUM from Murshidabad district (NHRC Case no. 1649/25/13/2014).

3. A compensation of rupees Two Lakh was recommended to the family of victim Serajul Haque from Cooch Behar district, who was brutally tortured and subsequently killed in custody by the Border Security Force Personnel of Singimari BSF BOP Camp, Battalion no.21 (NHRC Case no. 24/25/6/2018).



## Achievements and Challenges: A brief overview

1. NHRC seems to be wearing blinders as the reports issued by the BSF and Police officials are relied on and cases are being closed on the mere basis of their reports. About 9 such has been closed this month. In many instances it has been seen that the stories are fabricated and are not full proof yet the Commission doesn't put sufficient pressure on these bodies to reveal the truth.

2. The NHRC disposes many cases off to other concerned authorities for action but in most cases these authorities doesn't even acknowledges the receipt of the same. 9 such cases were disposed off to such concerned authorities during March, 2020.

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



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## How many roads must a man walk down?

Amidst the coronavirus crisis, when the entire world is grappling with the horrors of a pandemic, it is time to ask our civilization very difficult questions regarding distribution of wealth, access to healthcare and the concept of social distancing. In the times of globalization and the expansion of the “free market”, these questions have largely been relegated to the sphere of academia. But as the pandemic spreads across countries, cutting through our carefully constructed models of nations, borders, class, caste, race, sex and religion, these questions have begun to stare us down.

One day after a nationwide lockdown was imposed in India, the highways connecting the borders of different



Image source: Outlook.com

states saw many migrant labourers undertake a long, arduous journey back to their homes. Unable to find work, evicted by their landlords and languishing from hunger, these people were turned away from metropolises that had promised them a better livelihood. As the Prime Minister announced the lockdown, many Indian households sprung to stock food items and groceries oblivious to the plight of those who lack the resources to do so. However, one cannot accuse the government of being ignorant of this concern. Several schemes and benefits have been announced to safeguard the interests of the daily wage earners and migrant labourers by the Centre as well as many state governments. Media and journalists have also lauded Chief Minister Mamata Banerjee and Chief Minister Pinarayi Vijayan as they sprung to action to combat the coronavirus. So, how do we reconcile with the simple fact that news agencies have reported 62 deaths in India till now, of which only 40 are due to the coronavirus? At least 22 migrant labourers succumbed to death while walking hundreds of kilometers to their home, along with their families without any food or water. These deaths can be attributed to our antipathy towards the poor and the systemic degradation that they face in a capitalist society.

The police have chastised, humiliated and lathi charged the people going back home during the lockdown. A recent video showed the police spraying chemical disinfectants on migrant labourers who have returned to Bareilly in Uttar Pradesh. While the lockdown should be strictly followed by all during this calamity, we must not divert our critical attention from police brutality. Why is state violence time and again directed towards the poor, marginalized and disadvantaged? Why is such severity not practiced against congregations of those who are rich and favored politically? Parliamentarians have taken to social media to shame migrant labourers for putting the nation at risk, clearly implying that lives of the rich matter more than those of the poor. While the entire world stresses upon the importance of social isolation, what is to become of the slums, the bastis and the chawls? While schemes are announced for all registered migrant labourers, what is to become of the magnitude of labour that goes undocumented? What is to become of the rickshaw pullers, the street vendors, the Dalits and the Adivasis?

We are facing a time where impromptu security benefits can do little to salvage the deprivation that has been faced by the country's poor since the inception of our democracy. Capitalism, liberalization of the economy and private ownership have further dented the possibility of an egalitarian society. It can only be hoped that we do not avert our eyes from the realities this pandemic is uncovering for us and strive to construct a society that had been envisioned by the makers of our Constitution.



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## Long Roads, Significant Milestones

On 17.03.2020, MASUM had a meeting with Secretary General of National Human Rights Commission (NHRC), Additional Secretary, NHRC, Registrar (Law), NHRC and all SP and DSPs of NHRC at the office of the National Human Rights Commission, New Delhi. Mr. Kirity Roy put forward several problems that we are facing on account of the NHRC, for instance, several cases are being closed after considering the respondent's report without giving us a chance to peruse the report. Regarding this, the Registrar (Law), NHRC informed that Section 19 of Protection of Human Rights Act, 1993 has tied the hands of the Commission as the Commission has no power to inquire independently in relation to any human rights violations by



armed forces. Mr. Roy suggested that the Commission should appeal to the Government or the Law Commission of India and to withdraw section 19 of Protection of Human Rights Act on the grounds that section 19 violates Article 14 of the Constitution of India and is therefore void. All present in the meeting were in agreement with the suggestion.

Mr. Kirity Roy also said that in the state of West Bengal, the criminal justice system has been compromised since the police and judiciary do not follow the provisions of 176 (1) (a) of Code of Criminal Procedure in respect of the custodial death cases. He suggested that the Commission should write a letter to the Calcutta High Court, Judges of District Courts, District Magistrates and Superintendents of Police of all districts in West Bengal regarding strict implementation of the provision of 176(1)(a) of Code of Criminal Procedure.

Mr. Roy narrated the present atrocities of Border Security Force against the residents of the border villages. He also mentioned the recent trend of BSF to murder people and hide their bodies. He demanded that to observe the present situation of West Bengal, NHRC should make efforts to meet the BSF, District Magistrates and Superintendents of Police of border districts of West Bengal. Secretary General of NHRC said that they will consider all the issues discussed in the meeting and take necessary actions.

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## Torture by BSF terrorizes the border



Despite our desperate attempts and steps taken against the incidents of torture, illegal detention and illegitimate restrictions perpetrated by the Border Security Force over a prolonged period, it has been observed that such incidents though minimized, haven't ceased completely. Through our constant vigil on the West Bengal – Bangladesh border areas, we even find abrupt rising in such incidents at times where the poor marginalized residents of border are victimized by the whims of the men in uniform. We also observe that mainly the relegated sections of the society such as the religious minorities, the scheduled caste community (Dalits) and the scheduled tribes (aborigines) are the common victims to the incidents of torture by the armed forces.

During the month of March, 2020, we have reported seven incidents of torture by the Border Security Force personnel in different areas along the West Bengal – Bangladesh border. In the case of Mr. Tuhin Gazi and Rahamatulla Mondal of North 24 Parganas and Sibendra Nath Burman, Shyamal Chandra Burman, Harish

Chandra Burman of Cooch Behar the Border Security Force personnel on mere suspicion of cross border cattle smuggling, have inflicted horrific torture on the poor marginalized victims. Rampada Palash, a 50-year old resident of Sashadanga Village, North 24 Parganas was also illegally detained on the same grounds, without any valid evidence of smuggling yet was brutally tortured over hours. He was also forced to consume alcohol so that he may be implicated in false charges. In another case, Johar Ali Sheikh a daily wage laborer in Krishnapur village of Cooch Behar living alongside the Indo-Bangladesh Border was targeted, along with two other villagers by the BSF. The BSF fired pellets, grievously injuring the villagers. The Tufanganj Police Station readily dropped the investigation claiming it to be an internal matter of the BSF. The BSF has also criminally trespassed, vandalized the property of Sahina Bibi (name changed), a resident of Cooch Behar district. Furthermore, the perpetrators verbally abused and sexually assaulted the victim and her minor Muslim daughter of 12 years, all in the absence of any female official. The BSF, supposedly the protector of the citizens has time and again overused their power to keep the innocent villagers under perpetual threat and scare, making it the order of the day.

Under the circumstances, we are highly concerned of the marginalized villagers residing in the border. In a recent meeting between the officials from National Human Rights Commission and MASUM team, the Registrar (Law), NHRC informed that Section 19 of Protection of Human Rights Act, 1993 has tied the hands of the Commission as the Commission has no power to inquire independently in relation to any human rights violations by armed forces. However, we suggested that the Commission should appeal to the Government or the Law Commission of India to withdraw section 19 of Protection of Human Rights Act on the grounds that section 19 violates Article 14 of the Constitution of India and is therefore void. All present in the meeting were in agreement with the suggestion.



## Our Activities

06.03..2020 – Amra Simantabasi committee organized one village level meeting with the villagers of Darikamari, Jamaladaha with the intention of making village level committee of that particular village.

07.03.2020 – Amra Chitmoholbasi district committee organized one sitting with the dwellers of Falnapur for observing their problems.

11.03.2020- Amra Simantabasi committee organized one village level meeting with the villagers of Mekhliganj with the intention of making village level committee.

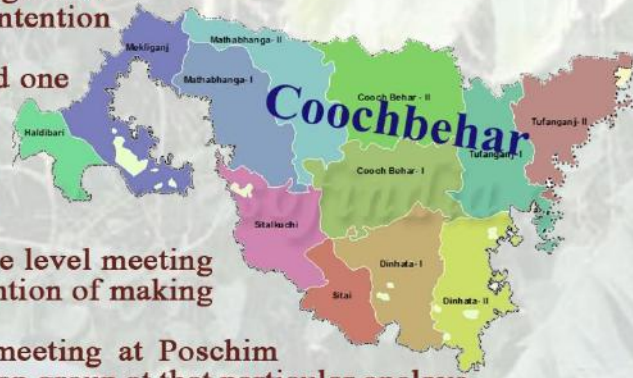
15.03.2020- Amra Simantabasi committee organized one village level meeting with the villagers of 113 Upanchowki Kuchlibari with the intention of making village level committee.

16.03.2020- Amra Chitmoholbasi committee organized one meeting at Poschim Bakalir Chara erstwhile enclave with the intention of one women group at that particular enclave.

17.03.2020 – Amra Simantabasi committee organized one village level meeting at Purba Kalmati village with the intention of making one village level committee at that village.

19.03.2020- Two meetings was held with the Panchayat members and Pradhan of Balabhut GP and Nakatigach GP. An elaborate discussion was held about the conditions at the borders. In Balabhut GP, a written complaint was submitted by the panchayat before the BDO, several times from the period of 2015--2019. Nakatigach GP has also agreed to write a complaint addressed to the BDO about the posting of BSF at the zero point.

20.03.2020- Three meetings were held on this day. One with ASHA workers which went considerably well. A good amount of people came and a brief introduction of MASUM's work was given to them. The other meeting was with quack doctors but due to the corona outbreak many doctors weren't present. A brief idea has been given to them and another meeting has been scheduled after the corona virus outbreak. Third meeting was held at Kalshamari GP which went unexpectedly well. They said that if it's geographically



04.03.2020 – Two village level meetings were organized by Amra simantabasi Committee at the villages Khamarpara and Rajapur respectively on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there. Also one village level committee was formed after the meeting.

05.03.2020- One village level meeting was organized by Amra simantabasi Committee at the village Taltola on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there

06.03.2020 - One village level meeting was organized by Amra simantabasi Committee at the village Char Harudanga on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there. Also one village level committee was formed after the meeting.

07.03.2020 - One village level meeting was organized by Amra simantabasi Committee at the village Char Begampur on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there. Also one village level committee was formed after the meeting.

08.03.2020 - One village level meeting was organized by Amra simantabasi Committee at the village Char Shalbona on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there. Also one village level committee was formed after the meeting.

10.03.2020 - One village level meeting was organized by Amra simantabasi Committee at the village Border para 51 on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there

13.02.2020 - One village level meeting was organized by Amra simantabasi Committee at the village Saheb nagar on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there.

08.03.2020- One medical camp was organized for tortured victims residing at Noor Medical hall situated under Swarupnagar Block and North 24 Parganas district. Total 27 torture survivors got treatment from Dr. Anasuyak Roy. After the camp one meeting with torture victims was also arranged.

14.03.2020 - One village level meeting was organized by Amra simantabasi Committee at the village Gobindapur situated under Swarupnagar Block on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there.

15.03.2020 - One village level meeting was held at Amudia village with the women groups of local areas. The intension of this meeting is to form one women group for fighting for their rights.

16.03.2020- - One village level meeting was organized by Amra simantabasi Committee at the village Swarupdaha situated under Swarupnagar Block on the issue of torture, extra judicial killing and livelihood restrictions by Border Security Force personnel posted there.

18.03.2020 – One village level meeting was held at Panji village situated under Baduria block with the women groups of local areas. The intension of this meeting is to form one women group for fighting for their rights.



## Case briefs: March, 2020

**Torture by BSF personnel:** The victims of torture meted out by the Border Security Force personnel mostly belong to marginalized communities and are migrant labourers. In this case, Mr. Tuhin Gazi and Rahamatulla Mondal of North 24 Parganas and Sibendra Nath Burman, Shyamal Chandra Burman, Harish Chandra Burman of Cooch Behar have been a prey to a gruesome torture inflicted by the barbaric Border Security Force personnel merely on suspicion of cattle smuggling across the borders. Rampada Palash, a 50-year old resident of Sashadanga Village, North 24 Parganas was also illegally detained on the same grounds, without any valid evidence of smuggling yet was brutally tortured over hours. They also forced him to consume alcohol in order to implicate false charges against him. In another case, Johar Ali Sheikh a daily wage laborer in Krishnapur village, Cooch Behar



living alongside the IndoBangladesh Border was targeted, along with two other villagers by the BSF. The BSF fired pellets, grievously injuring the villagers. More so, the Tufanganj Police Station readily dropped the investigation claiming it to be an internal matter of the BSF. The BSF has also criminally trespassed, vandalized the property of Sahina Bibi (name changed), a resident of Cooch Behar district.

Furthermore, the perpetrators verbally abused and sexually assaulted the victim and her minor Muslim daughter of 12 years, all in the absence of any female

official. The BSF, supposedly the protector of the citizens has time and again overused their power to keep the harmless innocent villagers under perpetual threat and scare, making it the order of the day.



**BSF restriction :** Villagers of South Dhadiyal and Gadopota of Cooch Behar district have long been suffering due to arbitrary restrictions imposed on their livelihood by the Border Security Force. The BSF has restricted their freedom to move freely within the Indian territories by imposing unreasonable timing for opening the gates and abruptly constructed fences. No rules have been followed as laid down by the Government of India, incurring massive losses to the farmers.

**Marginalization of erstwhile enclave dwellers:** 74 families reside in the Shibprasad Mustafi enclave, 18 families of Tilai enclave of Cooch Behar are the marginalized sections that have been living without the basic amenities since forever. Even after the Land Boundary Agreement, 2015, no improvements have been made till date. They are still deprived of proper drinking water facilities, roads, employment etc. More so, they have no means to prove their identity or citizenship as no valid legal proof is available to them even after 5 years now.

**Extra-Judicial Killing:** Anarul Biswas, 65 and a minor boy, Salauddin Sheikh, 17 of Jalangi in Murshidabad participated in a peaceful protest rally against the implementation of the Citizenship Amendment Act, where a few goons of the TMC party and also a police official of Jalangi Police station, fired arbitrarily at the protestors. These two people lost their lives and many others were injured in the firing incident. However, perpetrators of the crime are still not punished.





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## Legal Activities: February, 2020


### Supreme Court of India

Writ petition (Criminal) number 141 of 2015 was filed before the Supreme Court of India about the alleged killing of a Bangladeshi minor girl Felani Khatun by Border Security Force. The case was filed against the respondents namely Union of India, State of West Bengal, Border Security Force and the Central Bureau of Investigation and appealed for the constitution of a SIT/CBI team consisting of officers from outside the State of West Bengal to take over the investigation, to prosecute the offenders in accordance with the law and for awarding compensation. On 14.02.2020 the petition was called for hearing before the Bench of Justice D.Y. Chandrachud and Justice K.M. Joseph and upon hearing both the parties, the double Bench ordered to list up the matter on a non miscellaneous day for the final disposal on 18.03.2020. On 18.03.2020 the matter was withdrawn from the cause list of the Supreme Court of India as on reviewing the advisory issued by the Government of India and in view of the opinion of the public health experts including medical professionals and also considering the public safety for Covid 19 virus, the authority of the Supreme Court of India had decided that the functioning of the courts restricted to urgent matters. Till time next date of hearing was not fixed by the concerned authority.

Another Writ petition (civil) 218 of 2012 was filed before the Supreme Court of India where we prayed an order declaring section 46 and 47 of BSF Act, 1968 is ultra virus to Article 14 and 21 of the Constitution of India. This case is still pending at the stage of final hearing.



### High Court at Calcutta



On 04.03.2020, the Bench of Calcutta High Court, in the case of Reba Bewa vs. State of West Bengal & others (Criminal Revision number 783 of 2020) ordered to file a Section 5 Limitation application as the Criminal Revision Petition was filed after a delay of 112 days against the order of the Judicial Magistrate, Lalbag, Murshidabad. The petitioner's husband, Rajib Molla was a victim of custodial death due to torture by the police officials of Raninagar Police Station. On 06.03.2020 following the order of the Bench, Ms. Reba Bewa filed one section 5 Limitation petition before the Calcutta High Court.

### District Courts



#### Murshidabad

In March, we provided legal support in 8 prosecution cases among which 3 cases are pending for report from the concerned authority, one case for recording the statement of witnesses and one case for the final order. 3 cases have been put out of the cause list as the Bar Council of West Bengal decided not to participate in any judicial proceedings due to COVID-19 panic since 20.03.2020. We also supported 15 victims in the court of law where false cases against them were lodged.

#### North 24 Parganas

In March, we provided legal support in 2 prosecution cases and 1 defense case in Basirhat Court, North 24 Pargana. Other cases were withdrawn from the cause list after consideration of the notification dated 19.03.2020 issued by Registrar General, Calcutta High Court and the notification of the Bar Council of India dated 17.03.2020, Bar Council of West Bengal decided not to participate in any judicial proceedings as a preventive and precautionary measure to stop the spread of COVID-19.

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## Activities at a glance



Meeting with Panchayet members of Natkatigach gram panchayet in Cooch Behar



Meeting with Panchayet members of Khalisamari gram panchayet in Cooch Behar



Meeting with Promila Bahini of Amudia village in North 24 Parganas district



Formation of Promila Bahini committee at Paschim Bakalirchara enclave in Cooch Behar



Medical camp in North 24 Parganas district



Formation of Promila Bahini committee at Char Salbona village in Murshidabad