



Lack of proper investigation into torture and ill-treatment allegations in West Bengal

Case IND 291008

Torture and ill-treatment/ Risk of impunity

The International Secretariat of the World Organisation Against Torture (OMCT) requests your URGENT intervention in the following situation in India.

Brief description of the situation

The International Secretariat of OMCT has been informed by Banglar Manabadhikar Suraksha Mancha (MASUM), a member of OMCT SOS-Torture Network, about the torture and ill-treatment inflicted upon 48-year-old farmer **Mr. Brindaban Sumar** of Khedarpara, 24 parganas, in West Bengal.

According to the information received, on 12 July 2008 Mr. Brindaban Sumar, along with his son, was in his garden when two Border Security Force (BSF) officers of 126 Battalion 'E' company, posted at Angrail Police Station-Gaighata, District-North 24 Parganas, namely Mr. S. Tomar and Mr. Aminur arrived and started interrogating him, stating that they were looking for him. They then reportedly held him by his collar and began beating him with fists and boots. Mr. Brindaban Sumar was then forcefully brought to the Banagram Angrail 126 battalion E company BSF camp, reportedly without any reason given. Once there, Mr. Brindaban Sumar was allegedly hanged upside down and bashed brutally on his legs, back and hip with batons. He was also allegedly kicked with boots. After approximately four hours at the camp, Mr. Brindaban Sumar was taken to Bongaon G.R. Dhar sub-divisional hospital thanks to the pressure of two local leaders of Pradhan village. However, before his release, Mr. Brindaban Sumar had to sign a written paper, which content was not disclosed to him.

According to the same information received, Mr. Brindaban Sumar sustained serious injuries on his body and spent three days at the hospital. He is still reportedly suffering from the injuries, including hearing problems.

The victim's wife, Ms. Babita Sumar, reportedly lodged a complaint with the Gaighata Police Station on 12 July 2008 (GDE No. 670). However, the police reportedly did not take any action. On 16 July 2008, Mr. Brindaban Sumar lodged a petition under section 156 (3) of the Indian Code of Criminal Procedure (order to investigate) with the Additional Chief Judicial Magistrate (CJM), Bongaon. The Gaighata Police Station was then ordered to launch the investigation but, according to the information, to date, no steps have been taken.

The International Secretariat of OMCT is gravely concerned about these events, in particular the

reported lack of proper investigation into the events. OMCT recalls to India that according to article 7 of the International Covenant on Civil and Political Rights (ICCPR) to which it is a State party, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. OMCT calls on the authorities to order a thorough, independent and impartial investigation into these events, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law.

Furthermore, OMCT calls on the authorities to ensure that the Border Security Force Act (1968) and the Border Security Force Rules (1969) comply with international human rights treaties as well as take into account the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Basic Principle and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

Action requested

Please write to the authorities in India urging them to:

0. Guarantee in all circumstances the physical and psychological integrity of Mr. Brindaban Sumar;
0. Order a thorough, independent and impartial investigation into these events, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
0. Guarantee that adequate compensation is awarded to the victim;
0. Ensure respect for human rights and fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Addresses

- Shri Manmohan Singh, Prime Minister of India, Prime Minister's Office, Room number 152, South Block, New Delhi, Fax: + 91 11 2301 6857
- Shri Shivraj Patil, Union Minister of Home Affairs, Ministry of Home Affairs, 104-107 North Block, New Delhi 110 001 India, Fax: +91 11 2309 2979.
- Justice K. G. Balkrishnan, Chief Justice of India, Supreme Court, Tilak Marg, New Delhi -1, Fax: +91 11 233 83792, Email: supremecourt@nic.in
- Justice Rajendra Babu, Chairperson, National Human Rights Commission of India, Faridkot House, Copernicus Marg, New Delhi 110 001, Tel: +91 11 230 74448, Fax: +91 11 2334 0016, Email: chairnhrc@nic.in
- Justice Shyamal Kumar Sen, Chairman, West Bengal Human Rights Commission, Bhabani Bhaban, Alipur, Kolkata -27. Phone +91-33-24797727, 24791629, Fax - 24799633, Email: wbhrc@cal3.vsnl.net.in

- Mr. Gopalkrishna Gandhi, Governor, West Bengal, Raj Bhaban, Kolkata – 62, Phone: +91 33-2200 1641, Fax: +91 33 – 2200 2444 / 2200 1649, secy-gov-wb@nic.in
- Mr. M. L. Kumawat, Director General, BSF, Block No. 10, CGO Complex, Lodhi Road, New Delhi 110003, Tel.: + 91 11 24362181, +91 11 24360016
- Ambassador Extraordinary and Plenipotentiary Permanent Representative to the United Nations (Geneva), Rue du Valais 9, 1202 Geneva, Tel: +41 22 906 86 86, Fax: +41 22 906 86 96, Email: mission.india@ties.itu.int
- Ambassador, Embassy of India in Brussels, 217 Chaussée de Vleurgat, 1050 Brussels, Belgium, Fax: +32 (0)2 6489638 or +32 (0)2 6451869

Please also write to the embassies of India in your respective country.

Geneva, 29 October 2008

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

L'OMCT a son siège à Genève, en Suisse. Elle coordonne le réseau SOS-Torture composé de 282 organisations régionales et internationales dans 93 pays sur cinq continents.

Contact : omct@omct.org