

## **Follow-up of case IND 120808\_Threats and unlawful detention of victim's father following complaint**

**Case IND 120808.1**

**Follow-up of case IND 120808**

**Threats/ Unlawful detention/ Lack of proper investigation/ Risk of impunity**

Geneva, 20 October 2008

The International Secretariat of the World Organisation Against Torture (OMCT) has received new information about the following situation in India.

### **New Information**

The International Secretariat of OMCT has been informed by *Banglar Manabadhikar Suraksha Mancha* (MASUM), a member of OMCT SOS-Torture network, about the unlawful detention and the threats faced by Mr. Sentu Mondal's father, Mr. **Ershad Mondal**, in order to withdraw the complaint he had lodged following his son's death.

According to the information received, on 14 August 2008, Mr. Ershad Mondal lodged a petition under section 156 (3) of the Indian Code of Criminal Procedure (*order to investigate*) with the Chief Judicial Magistrate (CJM), Berhampore, Murshidabad, as no investigation had been launched against the alleged Border Security Force (BSF) perpetrators, including Mr. Ganeshan, D.I.B. of Singhpara BSF Camp, Battalion no.90, Company-C. The Court reportedly accepted the petition and ordered the Jalangi Police Station to investigate into the events. The police eventually opened a case, and later summoned the witnesses to the event, namely **Mr. Kuran Mandal, Mr. Kazim Mandal, Mr. Tamirul Mandal and Mr. Uttam Mandal**, all resident of Chakmathura village, to the police station on 11 October 2008 at 8:00am. Once all were at the police station, they were reportedly violently detained and verbally insulted by Mr. Tuhin Biswas, Sub-Inspector of Jalangi Police Station. He reportedly threatened them to withdraw the petition against the BSF. All five remained detained for 12 hours, allegedly without water or food.

It is further reported that Sub-Inspector Mr. Tuhin Biswas already had visited Mr. Ershad Mondal at his house and threatened him to withdraw the case before he later summoned the witnesses.

The International Secretariat of OMCT is gravely concerned about these events and calls on the authorities to ensure that adequate protection is granted to Mr. Ershad Mondal and the witnesses against ill-treatment or intimidation as a consequence of the complaint or any evidence given.

OMCT wishes to reiterate its concern with regard to the death in BSF custody of Mr. Sentu Mondal, the alleged torture and ill-treatment, and the reported lack of proper investigation into the events. OMCT recalls that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life” as stipulated in article 6 1) of the International Covenant on Civil and Political Rights. OMCT calls on the authorities to order a thorough, independent and impartial investigation into the circumstances of this death, 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.

### **Brief reminder of the situation**

OMCT had been informed about the death in Border Security Force (BSF) custody of Mr. Sentu Mondal, 19 year old residing at village-Chakmathura, District-Murshidabad, in West Bengal.

According to the information received, on 17 June 2008 around 11pm, Mr. Sentu Mondal was arrested by BSF officials near Out-Post no. 1 of Udaynagar Colony after having been caught smuggling cattle. While the other individuals involved along with him in the smuggling managed to flee, Mr. Sentu Mondal was reportedly brought to the BSF Out-Post no. 1. There, he was reportedly so severely beaten (including causing severe injuries to his genitals) by BSF, including Mr. Ganeshan, D.I.B. of Singhpara BSF Camp, Battalion no.90, Company-C, that he lost consciousness in front of Out-Post no. 1. Mr. Sentu Mondal's body was allegedly later drowned in Padma River, near Out-Post no. 1.

According to the same information, on 19 June 2008 at around 4pm, Mr. Sentu Mondal's body was recovered from the river. Jalangi Police reportedly arrived on the scene and ordered a post mortem examination at Berhampore General Hospital. An unnatural death case was reportedly registered at Jalangi Police Station with reference no. 15/2008 dated 19.06.2008. The victim's father, Mr. Ershad Mondal, lodged a written complaint on 24 June 2008 with the Murshidabad Superintendent of Police against BSF officials and Jalangi Police whom he accuses to have failed to have taken appropriate actions in the case.

### **Action requested**

Please write to the authorities in India urging them to:

0. Guarantee in all circumstances the physical and psychological integrity of the victim's father, Mr. Ershad Mondal, as well as those of the witnesses, Mr. Kuran Mandal, Mr. Kazim Mandal, Mr.

Tamirul Mandal and Mr. Uttam Mandal;

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's family;
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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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, 20 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](mailto:omct@omct.org)