



Allegations of torture and ill-treatment of four individuals, including a minor, by police in West Bengal_Fear of impunity

Case IND 180309/ Case IND 180309.CC

Alleged torture and ill-treatment/ Fear for safety

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 arbitrary arrest and allegations of torture and ill-treatment of 14-year-old **Biswajit Mondal** (son of Mr. Badol Mondal) from Murutia Bazar, 22-year-old **Mintu Sk**, from Musalman Para, **Bapi**, a driver, and of 32-year-old **Ms. Khusi Mondal**, by police of Murutia police station, district of Nadia, in West Bengal.

According to the information received, Biswajit Mondal, Mintu and Bapi were arrested by Murutia police on 9 March 2009 without warrant of arrest and taken to Murutia police station. On 10 March 2009, Ms. Khusi Mondal was also arrested by the same police. All are reportedly suspected of alleged theft but none of them were presented before a competent judicial authority within 24 hours.

According to the same information, all were severely beaten, including with sticks, kicks, fists and blow, by police officers at the front gate of the said police station, in view of passers-by. They have reportedly visible signs of bruises and hematoma on their legs, hands and back but the physical condition of Biswajit Mondal is reportedly very poor. All of them were brought to the hospital for medical examination.

It is reported that, while Ms. Khusi Mondal was detained separately from the male detainees, Biswajit Mondal was held with the adults.

Mr. Badol Mondal, Biswajit Mondal's father, reportedly appealed before the Additional Chief Judicial Magistrate on 11 March 2009, which later ordered the Sub Divisional Police Officer, Tehatto, to submit a report on the incident. On 13 March 2009, Biswajit Mondal was eventually presented before the District Juvenile Justice Board, Nadia District, and released on bail.

According to the same information received, Bapi is under medical treatment at Shaktinagar District

Hospital, but remains under judicial custody till his next hearing on 26 March 2009. Ms. Khusi Mondal also remains under judicial custody at Krishnanagar District Correctional Home, Nadia District, and her next hearing has been reportedly also scheduled on 26 March 2009. Mintu Sk. was reportedly presented before the court of Additional Chief Judicial Magistrate, Tehatta, on 11 March 2009, charged under section 290 (punishment for public nuisance) of Indian Penal Code, and then released on bail.

According to the information received, on 12 March 2009, the court of Additional Chief Judicial Magistrate, Tehatta, requested the investigating officer of Murutia police station to report on the events, after the conclusions of the medical examinations of Biswajit Mondal and Bapi conducted at Tehatta hospital had been submitted to the court. A first report was expected to be submitted on 14 March 2009, but a new deadline was requested. Furthermore, it is reported that the officer-in-charge of Murutia police station, was requested to appear before the District Juvenile Justice Board on 18 March 2009 but no information is available on its conclusions at the time of issuing the appeal.

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of Biswajit Mondal, Mintu, Bapi and Ms. Khusi Mondal following the allegations of torture and ill-treatment. OMCT wishes to recall that according to article 7 of the International Covenant on Civil and Political Rights, to which India is Party, “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. OMCT calls on the competent authorities to carry out a prompt, effective, thorough, independent and impartial investigation into these allegations, the result of which must be made public, in order to bring those responsible before a competent, independent and impartial tribunal and apply penal, civil and/or administrative sanctions as provided by law.

Furthermore, OMCT recalls to India that according to article 9 (1) of the ICCPR, “no one shall be subjected to arbitrary arrest or detention”. OMCT is particularly concerned about the fact that Mr. Biswajit Mondal is 14 years old and is legally a child both under international and national law and should be treated accordingly, which was reportedly not the case. OMCT calls on India to fully respect and implement both the UN Convention on the Rights of the Child to which India is party, stating that “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society” as well the Indian Juvenile Justice Act 2000.

Action requested

Please write to the authorities in India urging them to:

0. Guarantee in all circumstance the physical and psychological integrity of Biswajit Mondal, Mintu, Bapi and Ms. Khusi Mondal;
0. Guarantee immediate and unconditional access to a lawyer of their choice, their families and any appropriate medical treatment they may require;
0. Order their immediate release in the absence of valid legal charges that are consistent with international law and standards, and if such charges exist, bring them before an impartial,

independent, competent and fair tribunal and guarantee their procedural rights at all times;

0. Carry out a prompt, effective, thorough, independent and impartial investigation into the allegations of torture and ill-treatment, the result of which must be made public, in order to bring those responsible before a competent, independent and impartial tribunal and apply penal, civil and/or administrative sanctions as provided by law;
0. Ensure that adequate, effective and prompt reparation, including adequate compensation, proper medical care and rehabilitation, is granted to the victims;
0. Guarantee the respect of human rights and the 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

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

Geneva, 18 March 2009

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