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Three reports of deaths in custody and "disappearances" in Punjab

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There have been persistent allegations that alleged members or sympathizers of armed opposition groups, or their relatives, in Punjab have been killed in police custody, often after torture, their deaths or "disappearances" later being wrongly attributed by officials to an "encounter" between militants and the police, to an "escape" during such an "encounter" or to other improbable causes. In this paper, we describe three such incidents. We have selected them because there is strong evidence to suggest that they are part of a persistent pattern of such "encounter" killings or "escapes" from custody staged by the police to cover up the killing of the victim in police custody, and also in order to show that relatives of suspected militants may also fall victim to such practices.

Avtar Singh

Avtar Singh, son of Kejar Singh from Shatrana village, Patiala district, Punjab, was an independent candidate in the postponed 1991 Punjab state assembly elections for the Lehra Goga Assembly constituency. His brother, Jarnail Singh Shatrana, had reportedly joined the Khalistan Commando Force, one of the armed opposition groups operating in Punjab, since when family members alleged they had been arrested and otherwise harassed by the police trying to establish Jarnail Singh Shatrana's whereabouts.

Avtar Singh was reportedly taken away by the Station House Officer of Patran police station on the road to Patran at 10 am on 25 July 1991. His arrest was witnessed by a resident of Patran village. He was reportedly taken to Patran police station and later moved to Patiala interrogation centre. On 25 July 1991 Gurman Singh, who lives in Patran village, reported he saw Avtar Singh being arrested by the Station House Officer (SHO) of Patran police station, and informed his family accordingly. Kehar Singh, Avtar Singh's father, immediately approached senior citizens of the village, and was told that his son had already been sent to "maika saran", an interrogation centre in Patiala where detainees were allegedly tortured. Three persons reportedly told the Punjab Human Rights Group, a local civil liberties group, on condition of anonymity, that they had witnessed "extremely brutal and inhuman torture of Avtar Singh" on 5 August while he was

in police custody (the day before he was reportedly killed) and that the Deputy Superintendent of Police, whom they named, had continued torturing Avtar Singh, even after the latter had started vomiting blood.

The government denies he was tortured and kept in illegal detention since 25 July. The government confirms he was arrested, but maintain his arrest took place on 6 August 1991, the day of his death, and that, during interrogation on 6 August, he confessed to having concealed weapons in Gurdial Puja Bir. The family say, however, that an inspector from the Patiala interrogation centre came to Avtar Singh's house on 26 July and demanded to be shown Avtar Singh's gun and its license, given to Avtar Singh for protection as a candidate during the Assembly elections. The family say the policeman knew the exact place where the weapon was kept which confirmed the family's belief that Avtar Singh was indeed then being held by the police, had been interrogated and revealed the location of the hidden gun. The next day the inspector allegedly confirmed that suspicion during a telephone conversation with the President of the Akali Dal (Panthic) reportedly saying that Avtar Singh was in police custody.

Between 25 July and 31 July Avtar Singh's father Kehar Singh along with elected heads of village councils and other members of the local community lodged protests with various police officials in Patiala and Chandigarh. On 31 July Kehar Singh was himself detained, to be released on 6 August, the day that police told Avtar Singh's family that he had been killed in an "encounter" that morning. According to press reports, a police inspector, Gurnam Singh, claimed that Avtar Singh had told him in the morning that he was scheduled to meet some "top terrorists" that day. The police inspector was reported as saying that he accompanied Avtar Singh to the proposed meeting, when an "encounter" took place in which Avtar Singh was killed. This police version of events contradicts later information provided to Amnesty International by the Punjab Government and also contradicts Amnesty International's information.

The body of AVTAR SINGH showing marks of gunshot and injuries consistent with allegations of torture

The Punjab state government sent initial information regarding these allegations in response to Amnesty International's March 1992 report *India: Torture, rape and deaths in custody* in a factsheet. In it, the government claim that Avtar Singh was arrested on 6 August 1991, although his arrest on 25 July 1991 was reportedly witnessed by a local farmer and his illegal detention was subsequently confirmed by a local police official. The government also claim that the body was handed over to the family for cremation and yet Avtar Singh's wife claims that his body was not handed over to them but was discovered in the back of a police vehicle by an angry crowd of people who had learned of Avtar Singh's death and took his body away and handed it over to the family. The government says a post-mortem was reportedly conducted by doctors of the Civil Hospital, Samana which found that "the cause of death is by gunshot injuries and there is no mention of other injury or torture.

He was neither tortured by the police nor was he kept under illegal detention." Amnesty International has, however, photographs taken of Avtar Singh's dead body showing apparent signs of torture. These have been analyzed by an independent forensic pathologist at Amnesty International's request, who found that "There are markings to the bottoms of both feet consistent with the application of a heated instrument". Contrary to the assertion in the government's fact sheet that Avtar Singh was killed by being fired upon by what were described as terrorists, during an "encounter" and thus from a distance, the medical report found that an oval wound on the back of the right wrist appeared in fact to be from a contact gunshot wound: the muzzle of the firearm with which Avtar Singh was shot had been in contact with the skin at the time of firing.

The independent forensic pathologist concluded:

"There is unequivocal high velocity gunshot wound to the back of the right wrist with exit through the front of the right forearm. The entry wound strongly suggests that this was a contact injury, i.e. the muzzle of the weapon was in contact with the skin at the time of firing. There is a second possible gunshot wound of entry to the right upper chest.

A large section of skin over the left lower ribs and upper abdomen had been excised at the time of the official autopsy and is possibly the site of a gunshot wound of entry to the abdomen. If this is so, it may represent a re-entry of the bullet which exited the right forearm."

An Amnesty International delegation, visiting New Delhi in November 1992, discussed the allegations with officials in the Home Ministry, pressing the government for a full inquiry by an independent and impartial body into the allegations. As of 1 March 1993 no such inquiry is known to have been ordered or held.

Gurdev Singh Kaonke

Gurdev Singh Kaonke, a 44 year-old former high priest of the Akal Takht (a Sikh religious body), allegedly died in police custody on the night of 3 January 1993. He had been held in Sangrur jail for the last two years on a murder charge but was acquitted from these charges by a sessions judge in November 1992 and released. However, he was detained for a few hours on 20 December 1992 when he was taken by the Station House Officer from the village temple to his home where the police found two guns, for which he reportedly had a licence. He was taken away by the police, his family members reporting they were not allowed to speak to him. His family was told he was seen in police custody on 28 December 1992, apparently in poor health and was last seen being taken from the police station on 1 January 1993 at 4 pm. His wife filed a High Court petition in the Punjab and Haryana High Court which immediately sent a search party to locate him on 2 January 1993. The search was in vain; he was neither found in Jagraon police station nor in the Criminal Investigation Agency centre in town.

On 3 January the police reported that Gurdev Singh Kaonke had "escaped" from police custody the previous night when he was taken by police in a party to seize weapons near Kanian village, Sidhwan Bet police station, Jagraon police district. The police claim their party was ambushed by militants and that during an exchange of fire Gurdev Singh Kaonke escaped with handcuffs on, "under cover of darkness." But he is not known to have returned to his family and his body was never found.

Local residents were reported in the press not to believe the police version that he had "escaped" from custody. They and Gurdev Singh Kaonke's relatives believe he was tortured to death.

Harjinder Kaur

Harjinder Kaur, wife of Hardeep Singh of Latala village, was reportedly beaten to death by police on 11 August 1992. According to reports, police entered her house during a search and tied up herself, Hardeep Singh, her husband, Nasib Kaur, her sister and Amarjeet Singh, her brother-in-law and then beat them. Her brother-in-law, sister and husband were taken away by the police to Sudhar police station. Harjinder Kaur was left to die, which she did, that evening in Kundan Lal hospital.

Harjinder Kaur's sister was released from police custody three days later, her brother-in-law 10 days later. Amarjeet Singh claims that he saw Hardeep Singh in police custody in a "desperate state" and that he had been beaten. The family initially refused to perform the last rites on Harjinder Kaur's body until her husband Hardeep Singh was released since the police reportedly assured the family that he would be released within 13 days, which would enable him to attend the last religious rites for his wife. However, as far as Amnesty International is aware Hardeep Singh is still in police custody.

A post-mortem was carried out on Harjinder Kaur's body and attributed her death to "haemorrhage and shock as a result of extensive injuries". Villagers who took Harjinder Kaur's body to hospital were told to write the cause of death as "death due to buffalo blows", but they refused to do so. The post-mortem report, however, records this as the probable cause.

The Station House Officer (SHO), in charge of the local police station was demoted to police lines by the Director General of Police, Mr K.P.S Gill, but no independent inquiry is known to have been held to investigate the allegations that she was tortured until she died.

Harjinder Kaur's death appeared on a list prepared by Amnesty International of custodial deaths allegedly resulting from torture which reportedly occurred between March 1992 and November 1992. It was presented to the government in November 1992 and Amnesty International is still waiting the government's response to the allegations.

Amnesty International's concern

Deaths in custody allegedly resulting from torture have been a major concern of Amnesty International in India for many years. In areas of armed insurgency such as Punjab, police are often known to have covered up such deaths by staging "encounter" killings or claiming that the victim "escaped" during such an "encounter". The occurrence of custodial deaths however is not at all confined to areas of armed insurgency, but extends all over India. Although Indian government officials, including the Prime Minister himself, have repeatedly condemned such practices, no concrete steps have yet been taken to halt custodial violence in India.

Background

Torture is pervasive and a daily routine in every one of India's 25 states irrespective of whether arrests are made by the police, the paramilitary or the army. It happens regardless of the political persuasion of the party in power. Although the government is contemplating introducing legal reform which would considerably strengthen legal safeguards for detainees, the proposals have

not yet been introduced in parliament and, with rare exception, those responsible for torturing and killing detainees in custody go unpunished. Amnesty International has received reports of 484 deaths in custody since 1985 in which allegations have been made that torture or medical neglect were the cause of death.

Amnesty International received from the government information about official investigations into 230 of the 455 cases it had raised before November 1992. The government's response confirmed that there was *prima facie* evidence in at least 77 out of 230 cases that people had died in custody of the police and security forces after torture. It also provided additional information on compensation to victims in eight cases, although Amnesty international remained concerned that so few victims of these crimes had yet received monetary compensation: Amnesty International knows of no more than 18 cases in which compensation is reported to have been granted, with ex-gratia payments paid in a further 6 cases.

The government's response does not clarify the nature of investigations held to probe allegations of custodial violence which led the government to conclude that in 153 out of 230 cases the reports by Amnesty International could not be substantiated. It is significant that the government agrees that inquiries by magistrates, although mandatory, have not been held in many cases. A survey of 153 factsheets prepared by the government on individual cases of deaths in custody listed in the Amnesty International report *India: Torture, rape and deaths in custody* identified magisterial inquiries as having been conducted in no more than 42 out of those 153 cases, with judicial inquiries having been held in a further nine cases. An inquiry, the nature of which was not further specified, was said to have been conducted in another 57 cases. In none of the cases in which inquiries were said to have been conducted has documentary evidence so far been provided in support of the government's assertion that Amnesty International's allegations could not be substantiated. To that end, Amnesty International asked that copies of reports of post-mortem inquiries be made available, and was glad to receive the government's assurances that reports of magisterial inquiries would be made available to relatives and to Amnesty International in future. However, no such documentary evidence had been received as of 1 April 1993.

The government's response also reinforced Amnesty International 's concern about the lack of determination to bring perpetrators of custodial crimes to justice: out of 77 cases in which the government found the reports to have been substantiated, no more than six were found to have resulted so far in convictions of the police officers responsible.

As regards Punjab, Amnesty International regularly receives reports of torture, "disappearances" and unacknowledged detention of people arrested on suspicion of being members or sympathizers of one of the Sikh opposition groups advocating a separate Sikh state, "Khalistan" and who have themselves frequently resorted to human rights abuses such as torture and indiscriminate killings of civilians, sometimes after taking them hostage. In some cases those detained by the police are eventually found to have died in custody although official reports say they died in "encounters" with the police. Even though legal safeguards against torture and unacknowledged detention exist in India's ordinary criminal law and procedural code, they are often not adhered to. In addition, special legislation grants the security forces arbitrary powers to arrest and detain people without ordinary legal safeguards and without charge or trial and prisoners are held in illegal, unacknowledged detention for weeks and sometimes months, without being brought before a judge.

The deaths of Avtar Singh and Gurdev Singh Kaonke are believed to be part of a pattern of "encounter" killings staged by the Punjab police to cover up deliberate killings of a suspect in police custody, usually after torture. The Punjab press regularly reports in virtually identical language "that a militant was being taken for the recovery of arms", that the police party concerned was "ambushed by militants" and that "in exchange of fire the militant who was being taken for the recovery of arms was killed" or that "in the cover of darkness the militant escaped with handcuffs on". However, policemen are rarely reported to have been injured in such incidents and a survey of Punjab press reports from 1 January 1991 to 28 February 1993 showed that in 169 "encounters" which had taken place in such circumstances no members of the security forces been killed, although over 266 persons described as militants were reportedly killed in those "encounters". Although the bodies of victims of such killings are often not returned to the families, this in fact happened in the case of Avtar Singh and his body showed clear evidence that he was tortured and most probably killed in custody by the police.

Faced with mounting complaints of human rights violations by the Punjab police, K.P.S. Gill, the Director General of the Punjab police, announced in February 1993 a review of the police force to "ensure professionalism and to remove aberrant behaviour". The conduct of at least 400 policemen suspected of police "excesses" would be investigated. However, on 5 February 1993 the Chief Minister of Punjab reversed the decision, announcing that the Punjab police would not be "screened and cleared up" as it could hamper anti-terrorist operations. **(See Appendix)** This is regrettable. Unless the government takes decisive action to impartially and effectively investigate alleged human rights violations and bring the perpetrators to justice, the persistent pattern of grave human rights violations in Punjab is not going to be brought to a halt.

ACTION REQUESTED: Please send appeals to:

Mr Beant Singh	Mr S.B. Chavan
Chief Minister of Punjab	Minister of Home Affairs
Office of the Chief Minister	Ministry of Home Affairs
Chandigarh	North Block
Punjab, INDIA	New Delhi 110 001, INDIA

- expressing concern at reports of custodial deaths and "disappearances" in Punjab;
- ◆ urging the authorities to institute a judicial inquiry into the deaths/"disappearances" and that, if police personnel are found responsible for causing the deaths, they are brought to justice, and that the families be granted adequate compensation.