

PAKISTAN

@ "Disappearance" of customs inspector Allah Rakhio

Introduction

Customs inspector Allah Rakhio was arrested by the paramilitary Rangers on 18 November 1991 in Hyderabad, Sindh province. The reasons for his arrest are not known. On the evening of 18 November, having been informed of his arrest by witnesses, Allah Rakhio's family contacted the army, under whose command the Rangers operate; the army denied that Allah Rakhio was in their custody. During the next two days, when Allah Rakhio had not returned home, the family approached the authorities on several occasions, but received contradictory answers. On 19 November the army said that they had detained Allah Rakhio for questioning and that he would be released in two to three hours. On 20 November the army reportedly claimed that Allah Rakhio had been released at midnight on 19 November. Later on 20 November the army again changed its story, telling Allah Rakhio's brother that the release had taken place at noon on 19 November. Allah Rakhio has not returned to his family and there is no known witness to his release.

Allah Rakhio's family filed a petition in the High Court of Sindh challenging the illegal detention of Allah Rakhio and seeking to establish his whereabouts. The High Court accepted the Rangers' testimony that the detainee had been released on 19 November within one hour of arrest. However, the High Court expressed concern about the case and urged the Home Secretary of the provincial government to hold an investigation in order to establish the whereabouts of Allah Rakhio. No such investigation is known to have taken place; and the police have reportedly refused the family's requests to lodge a complaint and thereby initiate a police inquiry.

Allah Rakhio's family believes that he is alive and still in the custody of the army. However, Amnesty International is concerned about the safety of Allah Rakhio who "disappeared" one and a half years ago. It fears that he may have been subjected to torture while in detention or that he may have been extrajudicially executed.

Amnesty International has received several reports of illegal detention by military and paramilitary forces in Sindh; in some of these cases the authorities have allegedly been responsible for torture and deaths in custody as a result of torture. "Disappearances" have been rarely reported, however.

Amnesty International opposes the "disappearance" of prisoners in all cases, irrespective of the reasons for their arrest and seeks an immediate end to all

"disappearances". All people held in detention have a right to have their physical and mental integrity respected and protected, to be promptly informed of the charges against them, and to be granted prompt access to relatives, legal counsel and medical treatment. Whenever people are held in unacknowledged detention, the risk of their being ill-treated, tortured and extrajudicially killed is increased.

Details of the incident

Allah Rakhio, a customs inspector aged about 35, was arrested on 18 November 1991 by the Qasim Rangers, a paramilitary force under the command of the army. The place of arrest was his office at Nooriabad Industrial Estate. Neither officials of the customs department nor his family were informed of his arrest, but fellow employees informed the family of the incident.

Members of the Rakhio family contacted the local police station at Kotri in the evening of the same day; they were told that the police had no information about the incident. When they approached army headquarters in Hyderabad on the same evening, the army denied detaining Allah Rakhio. On the evening of 19 November Allah Rakhio's brother, together with some police officers of Kotri police station, contacted the army headquarters again to inquire about the whereabouts of Allah Rakhio. While Allah Rakhio's brother was not permitted to enter the army headquarters, the police officers met Brigadier Safraz, the commanding officer of the Qasim Rangers. The Brigadier told them that the Rangers were indeed holding Allah Rakhio but that he would be released in about two to three hours, after the conclusion of interrogation. He did not tell them why Allah Rakhio was detained. Some two to three hours later, a second customs inspector who had also been arrested late on 18 November, was handed over by the Qasim Rangers to Kotri police station. The Brigadier was then contacted again; he said that at about 3.00pm Allah Rakhio had been taken to a place near Jilani Poultry Farm in Tando Yusuf, about 10 miles north of Hyderabad, and released there. He did not give any reason why the detainee had been taken there. The family waited in vain for Allah Rakhio's return. On 20 November at 1.00am, Allah Rakhio's brother again approached the Kotri police station; at his request the Assistant Superintendent Police contacted the Rangers again. This time the Rangers stated that Allah Rakhio had been released an hour earlier, at midnight, near Jilani Poultry Farm. Several members of Allah Rakhio's family together with police officers immediately went to the place and searched all night but could not find Allah Rakhio.

On 20 November Allah Rakhio's brother contacted Salim Vahdy, the Deputy Inspector General Police (DIG) of Hyderabad and together with the DIG went to see Brigadier Safraz. The Brigadier this time told them that Allah Rakhio had been released at 12 noon of 19 November near the poultry farm. The DIG questioned the logic of taking the

detainee 10 miles away from Hyderabad and abandoning him there, but the Brigadier did not offer any explanation.

Allah Rakhio's uncle filed a constitutional petition in the High Court of Sindh, challenging the illegal detention of Allah Rakhio and seeking to establish his whereabouts. During the first hearing on 19 December, Brigadier Safraz was directed to appear before the High Court for the next hearing on 23 December, but he informed the High Court that he would be busy in an operation against bandits that day and unable to attend the hearing. The hearing was adjourned to the 24 December, but Brigadier Safraz did not appear, nor offer any explanation for his absence in court. A further hearing took place on 6 January; again Brigadier Safraz stayed away without explanation. Two other officers of the Rangers, however, appeared in court. The accounts of the incident given by Colonel Wasif Khan and Captain Afzal contradicted all earlier statements: they said that Allah Rakhio had been taken into the custody of the Rangers on 19 November, interrogated and when found innocent released within one hour.

The High Court accepted the Rangers' statements and concluded that: "Since it has not been established that ... Allah Rakhio is still in the custody of Qasim Rangers and it has been stated that he was released on 19.11.1991, no useful purpose would be served by keeping this petition pending." The judgment continued: "but we cannot help expressing our disapproval about the way the matter has been handled by the concerned authorities." Although the Collector of Customs had written to the Home Secretary of the Government of Sindh about the "disappearance" of Allah Rakhio, the authorities had not taken any steps to trace him. The High Court judgment, referring to this communication, noted: "... it is strange that neither any FIR [First Information Report] has been registered nor any effort has been made to locate or recover ... Allah Rakhio. However, in view of the circumstances, we dismiss the petition; nevertheless we expect that proper action will be taken by the Home Secretary, Government of Sindh, in the matter by directing the police to investigate the matter and locate the missing person, namely Allah Rakhio. The Home Secretary may also apprise the family of ... Allah Rakhio of the result of the investigation carried out by the police. We expect that the matter shall be dealt with as expeditiously as possible by the Home Secretary."

Following the High Court's dismissal of the petition and its direction to the Home Department, Sindh, to initiate an investigation, the family of Allah Rakhio sought to register a complaint with Nooriabad police station. It was refused and the family was told by the officer on duty that registering a complaint would adversely affect the working relationship of the police with the Rangers.

Allah Rakhio's family believes that Allah Rakhio is still alive and that he remains in the custody of the Qasim Rangers or the army. They believe that, had he died in custody, the body would have been handed over to the family; and that, had he been released, there

would have been witnesses to the release and he would have returned home. They also believe that the conflicting statements made by the army about the date and time of release indicate an attempt to conceal the continued detention of Allah Rakhio.

However, in the absence of evidence regarding the whereabouts of Allah Rakhio, there is serious concern about his fate following his arrest by Qasim Rangers on 18 November 1991. It is possible that Allah Rakhio died in custody as a result of torture or that he was extrajudicially executed.

Family members of Allah Rakhio are not aware of any reason for the arrest of Allah Rakhio, but they believe that a member of the Rangers may have had a personal motive for arresting him.

Amnesty International's concerns and recommendations

Amnesty International is greatly concerned about the safety of Allah Rakhio who "disappeared" one and a half years ago in the custody of the Qasim Rangers. It believes that he may have been subjected to torture. His "disappearance" causes distress to his relatives who are unable to find out whether he is alive or dead.

Amnesty International urges the Government of Pakistan to ensure that the "disappearance" of Allah Rakhio is investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and has the necessary powers to carry out the investigation. The methods and findings of this investigation should be made public. The relatives of Allah Rakhio should be given access to information relevant to the investigation and be entitled to present evidence. Complainants, witnesses, lawyers and others involved in the investigation should be protected from intimidation and reprisals. Those responsible for the "disappearance" of Allah Rakhio should be promptly brought to justice and the prohibition of "disappearances" must be clearly reflected in the training of all officers involved in the arrest and custody of prisoners and in the instructions issued to them.

Article 9 of the Constitution of Pakistan provides that: "No person shall be deprived of life or liberty save in accordance with law." The "disappearance" of Allah Rakhio clearly violates this provision, as he was apparently detained without lawful authority and in contravention of Article 10 of the constitution which specifies safeguards regarding arrest and detention: "(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice. (2) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest ... and no such person shall be detained in custody beyond

the said period without the authority of a magistrate." Amnesty International urges the federal government of Pakistan and the provincial government of Sindh to ensure that these safeguards are strictly adhered to.

Further, Amnesty International recommends that the Government of Pakistan ratify international safeguards and remedies against "disappearances", including the International Covenant on Civil and Political Rights and its first Optional Protocol which provides for individual complaints. It should also adopt the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the UN General Assembly in December 1992, which declares in Article 1:

"1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international standards in this field.

2. Such act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, *inter alia*, the right to recognition of a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life."