

INDIA

@Deaths in custody in 1993

Introduction

Amnesty International is gravely concerned at continuing reports that people die in police custody as a result of torture or medical neglect. It has received reports of 36 deaths in custody in 1993 from sources within India. A large number of them, ten, occurred in Delhi. This brings the total number of such deaths reported to Amnesty International since 1 January 1985 to 517. This report does not include those reports of deaths in custody which Amnesty International has received from the state of Jammu and Kashmir, which will be described and listed separately. Although senior government officials have repeatedly condemned custodial violence, reports suggest that torture remains a pervasive and daily routine in every one of India's 25 states irrespective of whether arrests are made by the police, the paramilitary or the army.

The cases described in this report demonstrate the continuation of the pattern of custodial deaths described in Amnesty International's March 1992 report *India: torture, rape and deaths in custody*. Most of those who die in police custody are criminal suspects who are tortured in order to extract confessions or information. Some appear to be innocent of any crime. Cover-ups involve senior police and state officials and even some members of the medical profession and magistrates. Amnesty International provided the government with details of over 450 people who reportedly died in custody as a result of torture or medical neglect. To date the government has provided information on 230 of the cases, these responses reinforce Amnesty International's concern about the lack of determination to bring perpetrators of custodial crime to justice and grant compensation to the victims or their relatives (for further details of the government's response see "[Rising reports of custodial deaths in Delhi](#)" ASA 20/26/93).

In March 1992, Amnesty International called on the government to implement a ten point program for the prevention of torture in India. In the autumn of 1992 the government announced plans to strengthen legal safeguards to protect persons held in police custody from torture. However, the government lacks determination to translate into practice the commitment to protect human rights it says it has made. Little progress has been made to implement legal reforms which the government has been discussing since September 1992, some of which would strengthen the protection of detainees in custody, although the government announced in May 1994 that they would consider a legal amendment that would provide for judicial inquiries into all cases of deaths in custody, a decision which Amnesty International publicly welcomed, urging the government and opposition parties to give such a legal reform their full support (for further details see News Service Item in appendix)

Amnesty International also welcomes the fact that the government has started to publicly acknowledge that custodial violence is a major human rights problem which needs to be

addressed. Various government officials, including the Prime Minister condemned torture repeatedly throughout 1993. In February 1993, the Prime Minister urged the Delhi police to "ensure that excesses are not committed, especially in custody. Human Rights are of paramount importance in a democracy like ours." This demonstrates the government's stated commitment not to tolerate torture. More recently at state level, it has been reported that several states including Bihar and Sikkim are to establish cells in the Home Ministries for checking cases related with violations of human rights, especially custodial deaths. The government has also announced various programs to train police and security forces in protecting human rights.

In September 1993, a National Human Rights Commission (NHRC) was established by Presidential Ordinance. The powers of this Commission are limited by the Commission lacking their own independent investigative machinery, they have to rely on investigative staff provided by the central or state government who operate under the supervision of the Director General of Police. The Commission's powers to investigate alleged human rights violations by the army and paramilitary are also limited. The Commission's mandate is limited to asking for a report from the Central government on the allegations and there is no obligation on the part of the government to proceed with or publish any recommendations which the Commission may make. Such restricted powers apply, for example, to many of the most serious human rights violations being perpetrated by the paramilitary forces and the army in Jammu and Kashmir. The effectiveness of the Commission will depend on a number of factors including resources and the determination with which the newly appointed members and the Commission's staff will be performing their tasks. Amnesty International welcomes the initial interest which the Commission has shown in custodial violence in India: it has requested reports on recent deaths in custody from the authorities in Delhi, Meghalaya and Pondicherry, and has issued a directive to District Magistrates and Superintendents of Police in the various states to report all cases of custodial deaths and rape involving the police to the Commission within 24 hours of their occurrence or of the case having come to their knowledge. The Commission has also chose to visit three states where especially serious human rights violations have been reported: Jammu and Kashmir, Punjab and Assam, and has ordered the government to pay interim compensation to the relatives of a man who died in custody of Delhi police.

Amnesty International also welcomes several judgments by Indian courts granting redress to the relatives of victims of custodial deaths. In an important ruling of March 1993, the Supreme Court established the principle that the State's failure to protect the fundamental rights provided under the Constitution entitles victims of such violations to compensation (See Amnesty International; Rising Reports of Custodial deaths in Delhi, ASA 20/26/93, June 1993). Very few policemen are ever convicted for torturing detainees in custody, and legal proceedings take many years to complete. In January 1994, a court in New Delhi sentenced five policemen to five years' hard labour for torturing a suspect, Kamal Kumar, who later died in custody. These convictions came 15 years after his death. Furthermore, the

rare cases where convictions have eventually been obtained, the state often appeals against the sentence and the policemen are acquitted. For example, two policemen were sentenced to life imprisonment on charges of murdering Murli Rambhan Kamhayye and Balu Rambhan Kamhayye in 1986. But the High Court acquitted them on appeal, this underlines the difficulties of proving cases of torture leading to death to the satisfaction of the courts, with the result that many of the perpetrators of such crimes remain unpunished.

In a statement of 17 February 1994 to the United Nations Commission of Human Rights the leader of the Indian delegation stated that:

"a magisterial inquiry is mandatory for deaths in custody and there are known instances of police officers being punished by the court for such instances."

However, Amnesty International finds that in India there is a lack for prompt redress in cases where the right to life and the right not to be tortured are violated. In most of the cases of custodial death resulting from torture or medical neglect by police or other officials listed in this report, there has been no decisive action to investigate the allegations promptly and properly to bring the perpetrators to justice. Of the 36 cases listed in the appendix to this report, magisterial inquiries were reported to have been ordered in no more than 12 cases, despite being mandatory in law. Moreover, such inquiries are usually carried out by an executive magistrate and not by independent judicial officials, as Amnesty International believes should be the case. An inquiry by the Criminal Investigation Department was ordered in one further case, a Central Bureau of Investigation inquiry in another and one Criminal Investigation Agency inquiry in another.

The most that seems to have happened is that the police officers concerned were suspended, usually temporarily, and this reportedly happened in 18 out of the 36 cases, just over half of the cases. In four cases, policemen were transferred. Only in two of the 36 instances of custodial deaths were cases of murder reportedly filed, but despite the seriousness of the charge an accused policeman was released on bail in one case. In one other case, unknown charges were filed. In one further case the magistrate reportedly recommended the prosecution of two police officers but his recommendation apparently remained unimplemented. Only the Meghalaya State Government ordered a payment to the victim: Rs 10,000 was ordered to be paid to Raju Bhujel's family. There may be, as the Indian Government argues "known instances of police officers being punished by the court for such instances [of custodial deaths]," but, as this record shows, any such instances are extremely rare and do not appear to hold true for any of the cases of custodial death reported to Amnesty International during 1993.

Ten illustrative cases of deaths allegedly resulting from torture.

Khader Babu - Andhra Pradesh

Khader Babu, aged 28, was arrested on 16 September on suspicion of theft. He died in custody of One Town police, Khammam district, on 17 September 1993. Police deny allegations that he was tortured and claim that he died of asthma. The press, however, reported that his body had severe injury marks and two fractured ribs.

The Government announced a judicial inquiry into the death on 21 September 1993. Two constables and a sub-inspector were suspended for their suspected involvement in the death. The results of the inquiry are unknown.

Madan Lal - Delhi

Madan Lal, aged 22, resident of Pandav Nagar (JJ Colony), Delhi, died in Patal Nagar police station on 29 November 1993. He was brought to the police station at around 9am on 29 November by three constables on suspicion of a theft. At around 11am he was reportedly taken to Deen Dayal Upadhaya Hospital where he was declared dead on arrival.

A post-mortem examination was conducted and reportedly found that he had no external injuries. However, Madan Lal's sister claims that she saw the police beating him when they detained him. His brother claims that he saw marks on his brother's back after his death and believes that he died as a result of police torture.

The three constables and the Assistant Superintendent of Patel Nagar police station were suspended and a case of culpable homicide not amounting to murder was registered. The Area Sub-divisional Magistrate, the Delhi police and the Crime Branch conducted inquiries into his death. The results are unknown. In February 1994, the NHRC ordered a Delhi court to investigate the death.

In June 1994, the NHRC recommended that Rs 50,000 interim compensation be paid to Madan Lal's dependents. After looking at the sub-divisional magistrate's report the NHRC also asked an additional and sessions magistrate to further investigate the case. He concluded that Madan Lal had died of injuries sustained while in police custody - four police officials were suspended. The NHRC also recommended the Central Bureau of Investigation take over the investigation of the death from the Crime Branch as they are part of the Delhi Police. Security has been provided to Madan Lal's dependents and one of the witnesses.

Gyani Ram - Haryana

Gyani Ram, aged 27 and father of three children, resident of Karamgarh village, Narwana, Jind district, was arrested by police from City police station, Narwana, on suspicion of peddling drugs. He was reportedly searched and no drugs were found on him. He was, however, taken to the police station. He died in the Government Hospital, Narwana, on 9

November 1993. He reportedly made a statement before his death saying that he had been beaten by a constable and a cook from the police station. The police claim that Gyani Ram took some tablets in custody which poisoned him. An investigation was carried out by the Station House Officer of City Police station. A case under section 302 of the Indian Penal Code (punishment for murder) was brought against the constable and the cook. The constable has since received bail.

Amnesty International is concerned that those responsible for the death should promptly be brought to justice.

Babu alias Iqbal - Karnataka

Babu alias Iqbal, a watchman from Bangalore, Karnataka, died in police custody on 11 July 1993. He had been taken away by police at the beginning of July. His wife, Mahboob Bi, visited Babu on 10 July in a lock-up in Bangalore city, to bring him food. The next day he was pronounced dead at the City Hospital in Bangalore.

Mahboob Bi claims that her husband's death was caused by torture by police and that the police offered her Rs.25,000 to keep quiet about the death. Police however, claim the cause of death was epilepsy.

The City Police Commissioner suspended and later arrested a superintendent of police, on unknown charges. However, a day after his arrest he was released on bail.

Amnesty International is concerned that those responsible for the death should promptly be brought to justice.

Dilbagh Singh - Maharashtra/Punjab

Dilbagh Singh, aged 42, a businessman in Bombay, died in police custody on 6 July 1993. A Punjab police party led by Deputy Superintendent Satwinder Singh picked up Dilbagh Singh and his brother Kashmir Singh on 3 July from their office. On 4 July 1993 a delegation from a Sikh Organization, the Sri Guru Singh Sabha, visited the Police club where the men were being held. They met Dilbagh Singh and said that he "looked dazed" and bore the marks of severe assault. On 5 July the delegation were refused permission to meet Dilbagh Singh and on visiting on 6 July they were told that Dilbagh Singh and his brother had been taken to Punjab.

Dilbagh Singh was reportedly thrown from a moving train at Ratlam. Police told Kashmir Singh that his brother had fallen out of the train. After Kashmir Singh was released at Kota train station, he said he had also been tortured while in custody of the Punjab police in Bombay. He waited at Kota for Dilbagh's body to be brought over for a post-mortem

examination. Kashmir Singh claims that his brother had been so badly tortured that he was unable to move and could not have jumped off the train on his own.

Senior Bombay police officials expressed dismay at the action of the Punjab police. The Bombay Police Commissioner is reported to have said that "if anyone has committed any wrong, he is answerable," and added that the complaint would be handled by the Crime branch. He is reported to have demanded an explanation from Mr K.P.S Gill, the Director General of Punjab police.

Kashmir Singh filed a complaint with the Bombay police who then registered a First Information Report against some Punjab policemen. An Amnesty International delegation visiting Bombay in January asked the Bombay Police Commissioner for the outcome of the investigation and was promised further information. However, Amnesty International has received none to date.

Raju Bhujel - Meghalaya

On 30 July, Raju Bhujel reportedly died in police custody in Tura, Meghalaya. His bruised body was found under a tree.

One police official claimed that he had been drunk and had fallen from a tree, another claimed that he had jumped from the first floor of the police station in a drunken state.

Local people protested at the death, claiming that he had died as a result of torture. Some local people claimed to have seen a police driver trampling the corpse. They demanded the suspension of the sub-inspector alleged to have been involved in the death.

The Home Minister of the Meghalaya government admitted in the State Assembly that there had been allegations of a death in police custody and granted Rs.10,000 to the family of Raju Bhujel. The Meghalaya government ordered a magisterial inquiry into the death. A police driver allegedly involved was suspended. The results of the inquiry are unknown although the magistrate was required to submit his report to the state government by 18 September 1993. The recently established NHRC has asked the Meghalaya Government for recent reports of custodial deaths in order to investigate them. Raju Bhujel's death may be among them.

While welcoming the State Government's decision to pay interim compensation to the victim's family, Amnesty International is concerned at the allegations of death as a result of torture and the delay in concluding the investigations.

Sarabjit Singh - Punjab

On 30 October 1993 police from Valhota brought two men to the mortuary of the Civic Hospital, Amritsar, for post-mortem examinations. However, the examining doctor found that one of the men was still alive. When he regained consciousness he gave his name as Sarabjit Singh, son of Harbhajan Singh, Valhota. The doctor immediately sent a message to his family informing them that Sarabjit Singh was alive and in the hospital.

However, when the family came to visit Sarabjit Singh, they saw him being bundled into the back of a police van. Two to three hours later his dead body was brought back to the hospital and cremated without the family being allowed to see the body.

Sarabjit Singh had been taken by police from the house of a friend on 15 October 1993. A relative met him in Bhikiwind police station on 23 October. Police first falsely claimed that Sarabjit Singh had been killed on 30 October 1993 in an armed "encounter" with police. They took him to Civic Hospital, Patti. But when doctors found that he was in fact still alive, police took him away. They then claimed that Sarabjit Singh had died later as they took him from Civic Hospital, Patti to Civic Hospital, Amritsar due to the serious condition of his health. However, no record of this was made in the police daily diary.

The Supreme Court passed an order on 1 November 1993, on the basis of a newspaper article which was brought to their attention by a former political leader. The Supreme Court ordered that Mr Sita Ram, the Station House Officer (SHO), be suspended from duty and that the Central Bureau of Investigation investigate the case and submit a progress report to the court within six weeks.

The Judges presiding over the case said that:

"If the allegations in the news item are correct then it is the most heinous offence against the penal laws of the country as well as humanity."

On 16 March 1994 the CBI arrested the SHO. They also named the Senior Superintendents of Police of Amritsar and Tarn Taran police districts in the First Information Report (the first report of an incident which is filed with the police).

Wilson - Tamil Nadu

Wilson, a 23-year-old man of Royapettah, was arrested by police on 22 June 1993 on suspicion of a causing a disturbance in the area. He died in hospital the next day. His father claims that he was tortured and that his body bore many deep injuries. Police claim that he was drunk when they arrested him and would not hand over a knife he was carrying.

His father, S. Meena, sent telegrams to the Chief Minister of Tamil Nadu, the Commissioner of Police and the Chief Secretary of Tamil Nadu, asking for an inquiry into the death and the suspension of the police officials involved.

To date it is unknown whether any inquiry has been carried out.

Ram Singh - Uttar Pradesh

Ram Singh, a farmer from Avamau village, Malihabad, Uttar Pradesh, reportedly died in custody in July 1993. He was reportedly beaten unconscious by a sub-inspector and two constables in front of several villagers before he was taken into custody in Krishna Nagar police station on suspicion of theft. He was reportedly also beaten in the police station.

His dead body was found in the Sai river on 27 July 1993. Ram Singh's mother was told by officials that he had escaped on the way to the police station. It is unknown if any investigation has been carried out into his death.

Ganesh Bauri - West Bengal

Ganesh Bauri was arrested by police on 5 July 1993 on suspicion of abduction. On the morning of 6 July he was sent to hospital in a critical condition with multiple injuries all over his body. On the same day he was taken into jail custody, but his physical condition was reportedly so bad that he was sent directly to the hospital at Asansol jail. He died there a short while after admission.

The police reportedly visited Ganesh Bauri's mother shortly before his death. They asked her to sign a piece of paper, but she alleges that she did not know what was written on it. The police told her that her son was fine and would soon get bail. However, he died shortly afterwards.

A post-mortem examination was reportedly ordered by a magistrate. The results indicated that he died due to a strain on a hernia he was suffering from. Ganesh Bauri's brother, however, claims that he saw his brother's dead body and that it was covered in torture marks and that he had not been suffering from a hernia. The paper which the mother had signed allegedly contained details of the police version of his death.

RECOMMENDATIONS

◆ Amnesty International urges the government immediately to order independent and impartial inquiries into all the reports of torture, ill-treatment and deaths in custody described in this report. The government should take steps to ensure that police and security forces allegedly involved in torture are suspended pending the inquiry, that if evidence is found

against the perpetrators, they are promptly arrested and brought to justice. The government should take prompt steps to ensure that the relatives of the victims are granted adequate compensation, including interim compensation wherever possible.

◆ Amnesty International urges the government to review and implement Amnesty International's ten point program for the prevention of torture, published in March 1992 (see [Appendix](#)).

◆ Amnesty International recommends that the government take steps to introduce legal reforms which it proposed to successive meetings of Chief Ministers in 1992, many of which would substantially enhance safeguards for detainees in custody. Amnesty International recommends in particular that legislation be enacted:

- to provide for mandatory judicial inquiries into all allegations of deaths in custody as a result of torture or medical neglect;

- to make it obligatory for postmortem examinations to be conducted within 24 hours of the time of death;

- to make it obligatory to provide copies of inquiry reports and of medical examinations immediately to the relatives of victims or their legal representatives;

- to oblige the police and security forces to provide prompt information about an arrest and the place of detention to relatives or anyone nominated by the arrested person;

- to introduce an obligation for payment of adequate financial and other relief by the State for custodial crimes committed by State agencies or public officials.