

INDIA

@Harjit Singh: A case study of "disappearance" and impunity

Amnesty International has been urging the Indian Government to establish the whereabouts of Harjit Singh since it first raised concerns about his disappearance in November 1992. His case has been highlighted as one of the scores who have reportedly "disappeared" in Punjab and represents a significant example of a pattern of longterm human rights violations in Punjab which the government has persistently ignored. The case has received a great deal of international attention, particularly during the 1993 international Amnesty International campaign on the theme of "disappearances", in which Harjit Singh's case appeared as one of the "Lives behind the Lies". Despite the fact that a judicial investigation into his "disappearance" is not yet complete, the government maintains that Harjit Singh was killed in an encounter on 12 May 1992.

Harjit Singh was aged 22, married with two young children when he "disappeared" following his arrest by the Punjab police. Amnesty International has evidence that he was arrested on that date by an assistant sub-inspector of the Punjab police. The police maintain that he was arrested on 11 May 1992 for alleged terrorist activities and killed in an encounter on the following day whilst showing the police the whereabouts of an arms hide. They claim that his ashes, following his cremation, were handed over to his family.

Harjit Singh

Police and other officials continue to deny that Harjit Singh is in their custody and have consistently failed to comply with orders of the Punjab and Haryana High Court to produce him in court. There is however strong evidence to suggest that he was alive and in custody of the police and Central Reserve Police Force (CRPF) at least as of 17 October 1992.

In October 1992, Kashmir Singh, Harjit Singh's father, filed a *habeas corpus* petition in the High Court in Amritsar. Subsequently the court ordered a warrant officer to search for Harjit Singh. On 17 October 1992, the warrant officer, accompanied by Kashmir Singh saw Harjit Singh in Mal Mandi interrogation centre. They were prevented from entering the centre and Harjit had "disappeared" when they were finally given access, half an hour later. The warrant officer reported this incident to the court and on 16 December 1992 a judicial inquiry was ordered to ascertain whether Harjit Singh was present in the Mal Mandi interrogation centre on 17 October 1992, or whether he was killed in cross-firing on 12 May 1992, as the government has stated. This inquiry was to be completed within three months.

Progress of the inquiry

At the beginning of February 1993 the inquiry was transferred to the High Court in Chandigarh. Harjit Singh's father was due to appear in court on 15 February. This was postponed due to a lawyers' strike.

Since then, the case has been called in court on many occasions including 13 May 1993 on which date the judge had ordered that the Director General of Police, Mr K.P.S. Gill, be present in court. On that day no government representatives turned up in court and consequently the judge adjourned the hearing until 28 May 1993. Again on 28 May, no one from the government came to court and so the judge adjourned the case until 11 June. On this date Mr K.P.S Gill's legal representative and the Deputy Superintendent of Police and his legal representative were present in court but due to lack of time the judge decided that he would not start taking evidence in court until 6 August 1993.

On 6 August 1993, the Deputy Superintendent of Police, Darshan Singh Mann, appeared in court in person along with legal representatives for Mr K.P.S. Gill, Director General of Police, Chief Secretary of Punjab and Superintendent of Police, Paramjit Singh. Kashmir Singh, Harjit Singh's father started to give his evidence. Kashmir Singh completed giving his evidence in court on 23 September 1993. All parties were present.

On 13 October 1993, the case was called again and the judge asked for a statement from the warrant officer. However, the warrant officer did not appear in court and despite Kashmir Singh having brought other witnesses the case was again postponed until 19 November, when it was once again postponed as the judge was on leave. The next hearing was set for 21 December 1993.

The court hearings were postponed on several occasions during the next 12 months, some due to the judge being on leave, others due to holidays. Amnesty International issued an urgent action on 11 February 1994 (UA 44/94, ASA 20/04/94) expressing concern at the delay in court proceedings.

On 2 August 1994 the judge was promoted and a new one took over the case. Since that date there have been 14 hearings scheduled but only six took place. Others were deferred due to various reasons, including the judge being on leave, public holidays and non-attendance of witnesses. Since then, Harjit Singh's mother and the warrant officer have given evidence, as did the deputy superintendent of police (who witnesses claim arrested Harjit Singh on 29 April 1992) on 28 January 1995. He reportedly denied ever having seen Harjit Singh, claiming that the incident had occurred outside his jurisdiction. On 10 February 1995 the Senior Superintendent of Police gave evidence, denying any knowledge of Harjit Singh. He completed giving this evidence on 3 March 1995.

On 11 March 1995, the police lawyers completed presentation of their evidence, maintaining that Harjit Singh was killed in an encounter. The judge ordered the Additional Sub-Inspector (ASI), who the police allege arrested Harjit Singh on 12 May 1992, to be present at the next hearing on 1 April 1995. On 1 April 1995, the ASI did not appear in court, sending a communication to the court stating that he was unable to attend due to ill-health. He was apparently at his workplace two days later however. Harjit Singh's lawyer was also unable to attend this court hearing due to a family bereavement.

The next hearing was on 20 April 1995. Once again, the ASI failed to appear in court. This time the police lawyers said that he was attending to important business. The next date of the hearing is 12 May 1995.

This inquiry is still proceeding over two years after it was due to be completed and the whereabouts of Harjit Singh remain unknown.

Reported intimidation of the family of Harjit Singh

Amnesty International has received reports that the family of Harjit Singh have been harassed on various occasions by people they believe to be police officers. On 12/13 May 1994 two plain-clothed men visited the school of Ram Preet, the 4 year-old son of Harjit Singh. They reportedly demanded to take Ram Preet away. The teacher refused and ultimately they left. Amnesty International expressed its concern to the Indian Government for the safety of Harjit Singh's family. More recently, Kashmir Singh has claimed that an lawyer acting for the police had threatened him to drop the case saying that if he did not do so he would never see his son again.

Kashmir Singh, father of Harjit Singh

Statements by the government

In response to Amnesty International's many appeals to the Indian Government on this case, the organization has repeatedly been informed that Harjit Singh was arrested by police on 11 May for his involvement in terrorist activities and killed in an encounter with police and militants on 12 May 1992. The government appears to be totally ignoring the fact that there is a judicial investigation taking place to establish Harjit Singh's whereabouts, following a sighting of him by a member of the court staff – a warrant officer – in October 1992. Amnesty International is concerned at the lack of respect which the government appear to show for this investigation and for Harjit Singh's right to life.

The Director General of Police, Punjab, Mr K.P.S.Gill, during a visit to London in June 1994 reportedly stated that many of the "disappearances" reported from Punjab were not "disappearances" but were cases of young men who had simply gone to live abroad. Such a statement is of great concern to Amnesty International which has documented scores of "disappearances" following arrest by the police in Punjab over the years.

Mr K.P.S. Gill reportedly gave Harjit Singh's uncle, who was attending a press conference in London, a clear commitment to investigate the case and inform him of the results. Harjit Singh's uncle has not heard since from the Director General of Police.

In December 1993, Amnesty International published a report *An Unnatural Fate: impunity and "disappearances" in two Indian states of Jammu and Kashmir and Punjab*, which included a list of 80 individuals who had reportedly "disappeared" in Punjab since 1990. Although the government replied to the allegations of such violations occurring in Jammu and Kashmir, to date Amnesty International has not received a response to the cases described as occurring in Punjab. "Disappearances" continue to be reported from the state and attempts to investigate the whereabouts of individuals through petitions in the courts are characterised by lengthy hearings and a lack of compliance with orders of the courts by government servants.

Action by the National Human Rights Commission

The National Human Rights Commission (NHRC) in India has reportedly taken up the case of Harjit Singh. However due to its lack of investigative powers, it has been limited to asking the Punjab government for a report concerning his "disappearance". Amnesty International has no further information on any action the NHRC may have taken in this case. As far as Amnesty International is aware, the government has so far not provided any additional information to the NHRC.

RECOMMENDATIONS

Amnesty International is concerned about the current fate or whereabouts of Harjit Singh and is calling upon the Indian Government to immediately order an independent and impartial investigation into his whereabouts. In cases such as this, where the right to life is threatened, Amnesty International believes that every effort should be made to have the complaint of "disappearance" promptly, thoroughly and impartially investigated, as Article 13 of the UN Declaration on the Protection of All Persons from Enforced Disappearance requires. Amnesty International believes that the judicial authorities concerned should make every effort to ensure that legal proceedings to clarify the "disappearance" be conducted with determination and full regard of the life threatening nature of the case.

Amnesty International therefore makes the following recommendations to the Government of India:

- ◆ to ensure that the authorities make every effort to establish the whereabouts of Harjit Singh;
- ◆ to ensure that all police personnel involved fully cooperate with the investigation, that the investigation is promptly completed and that the results are made public in full;
- ◆ to ensure that any witnesses and legal counsel connected with the case are offered all necessary protection from any harassment and intimidation by police and that any reports or complaints of such intimidation or reprisal are immediately investigated and that those found responsible are immediately punished, in accordance with Article 13 of the Declaration on the Protection of All Persons from Enforced Disappearance.

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