

India: Impunity for Extrajudicial Killings in West Bengal

CASE IND 19082019

The International Secretariat of the World Organisation Against Torture (OMCT) requests your URGENT intervention in the following situation in **India**.

Description of the Situation:

The OMCT International Secretariat has been informed by reliable sources of the extrajudicial killings of five men, one of them a minor, by the police. These cases are part of a pattern of systematic and gross human rights violations against poor and marginalized communities in the West Bengal region and reveal a culture of impunity.

On 7 May 2019 **Gautam Mondal**, a physically challenged Dalit man of about 30 years of age was tortured to death in police custody. Three days before his death, Mondal was returning from work when he was caught in a clash at the railway station between passengers and railway personnel for cancelled trains. Although not having participated in the violent fight, police arrested Mondal and brought him to the police station. When his mother was able to visit him on 4 May 2019, Mondal reported that he has been severely tortured, and his mother saw marks of injuries all over his body. Shortly after, Mondal was sent to the Dumdum Correctional Home. The police reported that this transfer had been ordered by the Magistrate. However, investigations by a local non-governmental organization revealed that the police did not produce Mondal before a court but instead, it was a police officer who also works as a court clerk, who made the order on behalf of the Chief Judicial Magistrate. Four days after his arrest, the police informed the family that Mondal had died in custody. A post-mortem examination was only conducted after protests by the family and villagers. The family submitted a criminal complaint to the police. However, the police refused to register the complaint.

Baser Ali, 38 years old and a daily laborer from Assam was shot by personnel of the Border Security Forces on 15 May 2019. On that day, Ali had gone to take a bath in the Kaljani River at 7 in the morning when four members of the Border Security Forces surrounded him with speed boats as they reportedly suspected Ali to be involved in cow smuggling. The police drove over his body leaving him gravely injured. They subsequently dragged him to the board of the river and shot him in the neck at close range. Later on the same day, the police from Tufanganj Police Station arrived at the crime scene and drove the body to the police station. The next day on 15 May 2019, the Magistrate of Tufanganj went to the police station to inquest the body and to direct the police to note areas of injuries on the body. Shortly after, a post mortem examination was performed. On the same day, the brother of the victim lodged a complaint at the Tufanganj Police Station against the Border Security Force personnel. The complaint has been registered but the perpetrators have not been identified yet.

On 19 February 2019, 43-year-old **Gautam Mondal** of Mahishyapara was tortured to death in police custody. The day before on 18 February 2019, police officers of the Domkal police station forcibly entered the house of Mondal, dragged him to the courtyard and pushed him to the ground and started beating him with their boots and sticks. He was subsequently brought to the Domkal police station. The police did not provide any reasons for his arrest. When family members of Mondal arrived at the police station, they witnessed the slapping and kicking of Mondal by police officers. Mondal was writhing in pain and asking for water. The next day, the wife, brother and brother in law of the victim went again to the police station. When they requested Mondal's release, the officer on duty asked for money in return. Unable to produce the money, they returned home. A witness reported that later the same day he had seen Mondal arrive at the court premises with a police vehicle. The police tried to move him out of the car but he was not able to walk as he seemingly trembled in pain. Before he was able to enter the court, he fell on the ground and died immediately. His corpse was brought to the Murshidabad Medical College and Hospital where the attending doctor declared him dead. A post-mortem examination declared that Mondal had died of an unnatural cause. Mondal's wife submitted a complaint to the police on 20 February 2019 but till date, no action has been taken.

Rabiul Sheikh, a 26-year-old resident of Cooch Behar was shot dead by the Border Security Force (BSF) on 9 July 2019. Rabiul was involved in illegal cattle trade over the border to the territory of Bangladesh. When returning from Bangladesh, members of the BSF fired gunshots at Rabiul and his two friends who were with him. One shot entered his head and he sunk into the pond they were crossing. His two friends were able to escape. Later, his body was brought back to the camp of the BSF by the Sahebganj Police and personnel of the BSF where an inquest was conducted on his body by police personnel and where he was identified by family members. Having said this, the inquest conducted was not constitutionally valid as Sheikh was not declared dead by any authorized medical practitioner. The wife of the deceased lodged a complaint with the Sahebganj Police station against the BSF but no action has been taken so far.

Tarun Mondal, a 17-year old who belonged to a low caste community from Natun Rajapur village, was tortured to death on the night of 21 June 2019. Mondal was spotted by BSF officers when he was smuggling cattle across the border to the territory of Bangladesh. They fired shots at Mondal that hit him below his right knee. When he fell on the ground, BSF officers hit him with their boots and rifles. Mondal fell unconscious and the BSF officers left. In the morning, Mondal's dead body was picked up by the Ranitola Police and sent for a post-mortem examination to a nearby hospital. Although the police registered a case of unnatural death on 22 June 2019, no actions have been taken.

The OMCT condemns the extrajudicial killings, torture, and arbitrary detention of the above-mentioned individuals and urges the Indian authorities to conduct prompt, effective, thorough and impartial investigations into the incidents and bring the perpetrators to justice.

Actions requested:

Please write to the Indian authorities, urging them to:

- Carry out immediate, thorough, impartial, and transparent investigations into the events described above in order to identify all those responsible and hold them accountable before a competent, independent and impartial tribunal and apply penal, civil and/or administrative sanctions as provided by law;
- Ensure that adequate, effective and prompt reparation, including adequate compensation and rehabilitation, is granted to the families of the victims for the violation of their human rights;
- Guarantee the safety of Human Rights Defenders who document and highlight cases of torture, extra-judicial killings, disappearances and arbitrary detention in West Bengal;
- Take immediate steps to end the killing and torture of hundreds of people each year at the West Bengal-Bangladesh border by India's Border Security Force (BSF);
- Ratify the UN Convention against Torture that India signed in 1997;
- Ensure the respect of human rights and fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Addresses:

- Mr. Shri Narendra Damodardas Modi, Prime Minister of India, Fax: + 91 11 2301 6857. E-mail: pmosb@pmo.nic.in or manmo@sansad.in
- Mr. Amit Shah, Union Minister of Home Affairs of India, Fax: +91 11 2309 2979. Email: dirfcra-mha@gov.in
- Mr. Rajiv Gauba, Secretary, Ministry of Home Affairs of India, Email: hshso@nic.in
- Justice Ranjan Gogoi, Chief Justice of India, Supreme Court of India, Fax: +91 11 233 83792, Email: supremecourt@nic.in

- Justice (Retd.) H.L. Dattu, Chairperson of the National Human Rights Commission of India, Fax +91 11 2465 1329. Email: chairnhrc@nic.in
- Mr. Khaleel Ahmad, Focal Point on Human Rights Defenders, National Human Rights Commission of India, Email: hrd-nhr@nic.in
- H.E. Mr. Rajiv Kumar Chander, Ambassador, Permanent Mission of India to the United Nations in Geneva, Switzerland. Fax: +41 22 906 86 96, Email: mission.india@ties.itu.int
- H.E. Mr. Manjeev Singh Puri, Embassy of India to the European Union, Belgium and Luxembourg in Brussels, Belgium, Fax: +32 2 6489638 / +32 2 6451869
- Ms. Mamata Banerjee, Chief Minister of West Bengal, Fax: +33 2214 5480. E-mail: cm@wb.gov.in/ cm@wb.nic.in
- Mr. Alapan Bandyopadhyay, Chief Secretary, Government of West Bengal, Fax: +33 2214 4328. E-mail: cs-westbengal@nic.in
- Justice Girish Chandra Gupta, Chairperson of the West Bengal Human Rights Commission, Fax: +33 2337 9633. E-mail: hrcwb2013@gmail.com

Please also write to the diplomatic representations of India in your respective countries.

Geneva, 20 August 2019

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

Created in 1985, the World Organisation Against Torture (OMCT) is the main coalition of nongovernmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment, as well as for the protection of human rights defenders. With more than 200 affiliated organisations in its SOS-Torture Network, OMCT aims at accompanying, reinforcing and protecting anti-torture organisations in particular in erosive environments and provides a comprehensive system of support and protection for human rights defenders around the world.