

# DEMONS WITHIN

THE SYSTEMATIC PRACTICE OF TORTURE BY INDIAN POLICE



A REPORT BY  
ORGANIZATION FOR MINORITIES OF INDIA  
NOVEMBER 2011

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# DEMONS WITHIN:

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*a report by*

**Organization for Minorities of India**

*researched and written by*

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## **Introduction: India's Climate of Impunity**

### **Impunity for police**

On October 20, 2011, in a statement celebrating the Hindu festival of Diwali, the Vatican pled for Indians from Hindu and Christian communities to work together in promoting religious freedom. "Religious freedom is the answer to religiously motivated conflicts in many parts of the world," was the Vatican's message. "Amid the violence triggered by these conflicts, many desperately yearn for peaceful coexistence and integral human development."<sup>1</sup>

This call for peace comes in an era of increased communal violence. Linking the Vatican statement to a rising tide of persecution of Christians that is sweeping across states such as Orissa and Kerala, an Agence France-Press wire article reported: "The conversion of Dalit or Untouchables to the Christian faith has sparked violence, with groups of extremist Hindus attacking Christians and their churches."<sup>2</sup>

The most notable incident in recent years was the violence against Orissan Christians in December 2007 and August 2008. Members of the fanatical Hindu nationalist group Vishwa Hindu Parishad (VHP) violently rioted against Christians in December when top VHP leader Swami Laxmanananda Saraswati accused low-caste Christians of colluding with Naxalite-Maoist insurgents.<sup>3</sup> Violence came to a head after Saraswati was assassinated in August 2008. Although the Naxalites immediately claimed responsibility, the VHP used the incident as an opportunity to stir up anger against local Christians. Mobs of VHP members began roaming Orissa, targeting Christians. The attacks that summer were severe.

Tallying the total damage, All India Christian Council reported that the violence produced "640 Christian houses burnt, 54,000 Christians homeless, 70 deaths and another 50 people missing and presumed dead (of these, 6 Protestant pastors and one Catholic priest killed), 18,000 Christians injured, 2 women (including a nun) gang-raped, at least 149 churches destroyed, and 13 Christian schools and colleges damaged."<sup>4</sup>

The nun who was gang-raped was Sister Meena Lalita Barwa. On August 25, she was assaulted by "a mob of up to 50 men armed with sticks, axes, spades, crowbars, iron rods and sickles" while at a prayer hall. They dragged the nun into the streets. While chanting Hindu slogans and pouring kerosene on a priest they had also seized, the mob began to rape Sister Meena. She was then paraded half-naked past a group of 12 police officers, who "ignored her and talked in a 'very friendly' manner to her attackers."<sup>5</sup>

This atrocity was a major motivation in the United States Commission on International Religious Freedom's (USCIRF) decision to place India on its "Watch List" in 2009. A U.S. State Department entity, USCIRF reserves that list for countries that "require close monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the governments." In its 2011 report, the commission cited India's culture of impunity for atrocity-perpetrating police, stating:

Following sectarian incidents and reprisals that started in December 2007 and continued into 2008, USCIRF placed India on its Watch List .... An inadequate police response failed to quell the violence, and central government intervention had little initial impact. Mass arrests following the Orissa violence did not translate into the actual filing of many cases, and the courts prosecuting the claims absolved a high percentage of cases for lack of evidence.<sup>6</sup>

As in the case of the passive officers in Orissa, most Indian police answer even atrocities performed in their

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presence with total impunity. Of course, this depends on who the offending parties are — the rape of a Christian nun may be permitted by attackers from the country's Hindu super-majority, but would probably not be tolerated if committed by most minorities. Rather than making the slightest effort to restrain violent Hindu mobs, the police typically encourage and sometimes even join in deadly communalist riots against Indian minority communities.

In 1992, Hindu nationalist groups led by L.K. Advani (a former Deputy Prime Minister) incited a mob to attack the Babri Mosque, built in 1527 by the first Mughal emperor of India. Police were sent to ring the mosque and prevent its destruction, but as former *Washington Post* editor Steve Coll wrote: "The police were mainly Hindus and reluctant in this emotional, polarized climate to fire on their own, so they tended to restore order by standing in front of the Hindu mobs and shooting at the Muslim mobs."<sup>7</sup> Facing such treatment, the Muslims protecting the Babri Mosque were overwhelmed. It was swarmed by fanatical Hindus, who tore it down stone by stone.

In the aftermath of such large-scale anti-minority violence, the police fail to bring any of the perpetrators to justice. (Of course, as we have just seen, the police oftentimes *are* the perpetrators.) Regarding this desecration and other bloody communal conflicts, the United States Commission on International Religious Freedom reported:

Justice for the victims of large-scale communal violence in Orissa in 2007-2008, in Gujarat in 2002, and against Sikhs in 1984 remains slow and often ineffective. In some regions of India, law enforcement and judicial officials have proven unwilling or unable to seek redress consistently for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has fostered a climate of impunity.<sup>8</sup>

Instigators of communal violence enjoy impunity especially because the police themselves are habitually guilty of committing far worse crimes. In 1993, Coll wrote: "Organized, state sponsored political murder is practiced regularly and on a significant scale in South Asia today not only in Sri Lanka but in the disputed Indian states of Punjab and Kashmir." This has not changed. Indian law enforcement culture overall encourages and often demands that police officers systematically employ barbaric torture methods and extra-judicial killings.

### India's criminal police officers

U.S. founding father Thomas Jefferson argued, "The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government." Yet Indian police routinely violate the most basic reason for their existence — to protect people from undue harm. As India developed technologically and economically, all eyes turned auspiciously upon her. She has yet to learn from the rest of the world, though, that the brutal torture and killing of civilians is an improper function of law enforcement.

For instance, the commission of torture is not even a criminal act under Indian law. Nationally, there is no legal definition of torture or prohibition of its practice. Indian law actually protects police who practice torture, according to a 2010 publication of the South Asian Human Rights Documentation Centre, which stated:

Several provisions within the Indian Criminal Procedure Code (CrPC) and various national security related laws provide immunity to these officials. Section 197 of the CrPC allows for all-encompassing immunity by providing that the Central or state government in question must grant sanction for the prosecution of any government official ... alleged to have committed a criminal offence "while acting or purporting to act within the discharge of his official duty." The Supreme Court has upheld this provision and has stated that even those who abuse their power are considered to be "acting or purporting to act" in their official position and thus enjoy immunity.<sup>9</sup>

India's representatives to the United Nations signed the UN's "Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment" on October 4, 1997. To be binding to India, however, the Indian legislature must convert the convention into Indian law by passing an identical bill. Fourteen years later, India still has not ratified the convention.

The tenets of the convention are not odious. Those who desire a civil and polite society, those who believe modern individuals are capable of voluntarily organizing together in peace and harmony and those who know inflicting severe mental or physical pain upon a person to coerce or abuse them is evil can all find perfect accord regarding the three primary requirements of the convention, as enumerated in Articles 2 through 4:

Article 2, Section 1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Article 3, Section 1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

Article 4, Section 1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

Nor was the definition of "torture" contained within the convention unacceptable to any who understand that one of the greatest tragedies of torture is how it denies its sufferers the right to be treated as innocent until proven guilty. None can argue that the acts described below are especially atrocious when applied to suspects against whom the police do not even have enough evidence to file charges:

Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.<sup>10</sup>

In 2010, India's lower house of parliament — Lok Sabha — passed "The Bill for the Prevention of Torture" to harmonize Indian law with the UN treaty. The bill went to the upper house — Rajya Sabha — where it remains. That the government has shown signs of approving the bill but not been in a hurry to do so reflects that maintaining a carefully crafted image is, as it always has been, the central Indian government's primary concern. However, should the bill eventually pass, it will prove to lack any real force, as reported by the Network for Improved Policing in South Asia:

The definition of torture as provided in the Bill does not conform to the UNCAT. It will include only extremely serious injuries such as permanent loss of eye or ear, emasculation, bone fractures, or hurt which causes severe and debilitating pain for twenty days or more. In other words, it lays down a very high threshold for an act to qualify as "torture."

The Bill even lays down a limitation period within which requires that a court can entertain a complaint only if it is made within six months of the date of the offence. As a general rule, criminal laws tend to prescribe no time limits whatsoever, let alone one as short as six months.<sup>11</sup>

Why is India so ambivalent about stamping out as repugnant a practice as torture? The short answer is that the Indian government is one of the most prolific source of state torture on Earth. While some nations debate whether it is acceptable to drip water on an enemy combatant's face, Indian police casually break limbs, tear flesh and pulverize the bodies of the Indian people. World renowned author Arundhati Roy, a democratic voiced for truth in South Asia, warned in 2004: "In our police stations it's everything: from people being forced to drink urine, to being stripped, humiliated, given electric shocks, burned with cigarette butts, having iron rods put up their anuses to being beaten and kicked to death."<sup>12</sup> Thus, India's police officers have become criminal police believe themselves to be completely outside the law.

From Delhi, the central government approves, directs and facilitates the destruction not just of the fundamental rights of its citizens, but of the citizens themselves. The Indian State is so committed to eliminating even the right to life of the Indian people that it indisputably qualifies as a "bandit gang writ large," indistinguishable in function from the Mafia or any other organized crime syndicate.<sup>13</sup>

In a November 2011 interview conducted with the authors of this report, Gurinder Singh agreed with that



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evaluation, stating, “In the end, I can say that Punjab Police is a well armed, uniformed government gang of *gundas* (thugs).” He was disappeared from 1987 to 1988 by Indian police, who tortured him on multiple occasions, using tactics such as beatings, electrocution, rolling a heavy log over his thighs and forcing his legs into a 180 degree angle, among others.

When the police had their fill, having failed to charge him with anything, Gurinder was finally released. The only recourse he found was to flee India and take refuge in the U.S., where he became a citizen. Thanks to having escaped a nation of lawless police, Gurinder now lives peacefully in Northern California. His torturers remain at large.

India has not succeed in hiding its tolerance of atrocities from the U.S. State Department. Noting that nothing has changed in the past few years, the USCIRF wrote in its 2011 report:

Despite the 2009 election and the Congress Party’s electoral win, India’s democratic institutions, most notably state and central judiciaries and police, fall short in their capacity to uphold the rule of law. In some regions of India, these entities have proven unwilling or unable to seek redress consistently for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has helped foster a climate of impunity.<sup>14</sup>

The very existence of India’s culture of impunity certainly guarantees its continued existence, since a flourishing culture of impunity means any investigation of systemic corruption or reform movement that originates from within the Indian government will fail before it begins. After all, what gang can ever be depended upon to investigate and punish its own wrongdoings? There can be little argument that India has become the kingdom about which Augustine of Hippo spoke, asking:

Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity.<sup>15</sup>

Torture, however, is such a deeply poisonous practice that its existence anywhere in the world brings to mind the words of Ralph Waldo Emerson, who remarked, “The civility of no race can be perfect whilst another race is degraded. It is a doctrine alike of the oldest and of the newest philosophy, that man is one, and that you cannot injure any member, without a sympathetic injury to all the members.” Continued tolerance by the international community of torture by India’s police will inevitably injure the entire human race and splinter the moral conscience of the world.

Although India should ratify the UN “Convention Against Torture,” seeking government answers to problems created exclusively by that government is not a reasonable solution. Effective change will only begin with individual action. A far more reliable deterrent against the use of torture will be the spread of information through individual initiative, for as Thomas Jefferson opined: “I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.”<sup>16</sup> To that end, we seek to inform the people of the loss of their discretion so that they, rather than tyrants, might control society.

Therefore, we present the evidence of Indian State sanctioned torture contained within this report. It is our hope that we can persuade all freedom loving individuals to refuse all association with India’s criminal police. We encourage every civilized nation — indeed, the entire free world — to deny any legitimacy to all members of a law enforcement culture which exists primarily to fleece, torture and kill the people.

## 1. Why Indian Citizens Fear the Police

### The prevalence of police torture

Torture is all pervasive in India. The practice is police protocol in all of India's 28 states and all seven of its union territories. The nation's police forces are drenched to the elbows and beyond in the blood of Indian citizens — the innocent, the young, women, poor and middle-class and even rich alike — whom they have subjected to torture. The entirety of Indian law enforcement is poisoned by the proclivity of police to inflict physical agony upon Indian citizens, many of whom are totally innocent. India's police have set the country apart from the rest of the world as the foremost model of how a state can most mistreat its people.

In 2010, an Asian Human Rights Commission (AHRC) article concluded: "Torture, in its cognate and express forms, is practiced in every police station in the country."<sup>17</sup> Trying to place a figure on the number of torture victims is difficult, but in 2008 the Asian Centre for Human Rights compiled data that illustrates how India's culture of impunity has caused state sanctioned torture by police to flourish nationwide. As covered by Reuters, the ACHR's report "Torture in India 2008: A State of Denial" stated:

About four people have died or been killed in police custody every day in India between 2002 and last year, a large number tortured to death, the Asian Centre for Human Rights (ACHR) said on Wednesday.

An equal number of people are killed in the custody of the army in insurgency-hit areas, many cases go unreported and the guilty go unpunished, the ACHR said in its report, "Torture in India 2008: A State of Denial."

"Hundreds are killed, dozens are paid compensation but only three to four persons are convicted each year," Suhas Chakma of the ACHR said on Wednesday. "India is in a worrying state of denial about torture."<sup>18</sup>

According to "Torture in India 2010" by the ACHR, most detainees suffer an extreme risk of custodial torture within twenty-four hours of their arrest. This results, in large part, because:

There are no safeguards to ensure that a person taken into custody will have their detention recorded, have prompt access to a lawyer or impartial medical examination upon their arrival at the place of detention, or at the time of his release. The lack of any effective system of independent monitoring of all places of detention facilitates torture.

"Behind the times" aptly describes the condition of the Indian police force. Human Rights Watch (HRW) supported this conclusion, describing the police as "a dangerous anachronism" in its 2009 report, "Broken System: Dysfunction, Abuse and Impunity in the Indian Police." Explaining how many officers are actually required to engage in atrocities, HRW reported:

The police have largely failed to evolve from the ruler-supportive, repressive forces they were designed to be under Britain's colonial rule. While sixty years later much of India is in the process of rapid modernization,

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the police continue to use their old methods. Instead of policing through public consent and participation, the police use abuse and threats as a primary crime investigation and law enforcement tactic. The institutional culture of police practically discourages officers from acting otherwise, failing to give them the resources, training, ethical environment, and encouragement to develop professional police tactics. Many officers even told Human Rights Watch that they were ordered or expected to commit abuses.<sup>19</sup>

People in many instances are tortured “for various purposes unrelated to law enforcement or crime investigation, including but not limited to extraction of bribes and the silencing of opposition.” Not surprisingly, as related in 2010 by ACHR, the Indian public has now lost all faith in the police:

Over the past seven years, the AHRC, along with its local partner organisations, has documented cases of torture from India. On each occasion we have brought the case to the attention of the relevant authorities in the country and have requested the government to undertake an impartial and prompt investigation. From our experience of intervening in these cases, we have understood that the practice of torture has introduced a high degree of fear of state agencies into the psyche of the ordinary population.... This fear of law-enforcement agencies among ordinary citizens has in fact isolated these agencies from the people they are paid to serve and protect.<sup>20</sup>

Perhaps no one has been in a better position to summarize how the practice of torture shaped public sentiment towards Indian police than Kirpal Dhillon, who became Director General of Police (DGP) in Punjab in July 1984. Dhillon assumed that position immediately after the June 1984 Operation Bluestar, in which the Indian military invaded the Sikh Golden Temple during the most important Sikh festival, killing thousands of innocent pilgrims. In his memoirs, Dhillon reported: “It was not only the masses who felt threatened by the activities of a lawless police — even judges, magistrates and senior IAS officers were apprehensive of their safety and well-being.”

Pinning the blame for this lawlessness squarely on India’s central government, Dhillon quotes Dr. Joyce Pettigrew, an anthropologist: “Law and order issues are controlled by Delhi. Elimination lists were drawn up not by the DGP but the director general (Punjab) intelligence, who took his orders from Intelligence Bureau.”<sup>21</sup> Dhillon was soon replaced by more ruthless officers. Subsequent DGPs included Julio Ribeiro of the “bullet for bullet” doctrine (from 1986-88) and the so-called “Butcher of Punjab,” K.P.S. Gill (from 1988-90 and 1991-95).

Inderjit Singh Jaijee, a Sikh polymath who has been a Punjabi politician, CEO of a multinational company and a national sports champion in India, has spent over 20 years working for human rights in South Asia. He attended the landmark World Conference on Human Rights in Vienna in 1993, the first human rights conference held since the end of the Cold War. “Criminalisation of the police,” he said, “was begun by Julio Ribeiro when he was Director General of the force.”<sup>22</sup> As for Gill, he said the Chief Minister of Punjab promised to provide the best lawyers to defend any of Gill’s police officers who might stand trial “before the High Courts and Supreme Court for crimes ranging from extortion to kidnapping to murder.”<sup>23</sup>

Former editor of *The Washington Post*, Steve Coll, penned his own dismal view of K.P.S. Gill’s moral fibre in *On the Grand Trunk Road: A Journey Into South Asia*. Portraying Gill as a thug anointed and sanctioned by the central government in Delhi, Coll said he was “widely held responsible for the extrajudicial killings of hundreds, if not thousands, of Sikh youth.”<sup>24</sup> Upon being invited to interview Gill at his home, Coll had a revealing conversation with the inebriated police official:

He poured himself a tall glass of whisky, downed it, and continued drinking one after another. Within an hour he had imbibed at least seven. Our conversation turned to the problem of revolution and terrorism. Democracy, Gill made clear, was no solution.<sup>25</sup>

Gill openly espoused a nihilistic outlook, viewing people as pawns of the state and the police as the essential tool for suppressing the rabble. The encounter left Coll fully convinced of Gill’s capacity for atrocities, leading him to state: “Gill’s vision was darker. It existed outside of conventional political morality because it rejected politics — rejected, even, human nature.”<sup>26</sup> Regarding Gill’s orchestration of a wave of extra-judicial killings, Coll wrote:

After an extensive investigation in Punjab during 1989 and 1990, the human rights group Asia Watch con-

cluded that these killings “are not aberrations but rather the product of a deliberate policy known to high-ranking security personnel and members of the civil administrations in Punjab and New Delhi. Moreover, there is credible evidence to indicate that, in some cases, the police have actually recruited and trained extra-judicial forces to carry out many of these killings.” In other words, death squads.<sup>27</sup>

Under the reign of terror ushered in by police chiefs such as these, Punjab became a killing field. The legacy of men like Ribeiro and Gill, who operated on orders from Delhi, is best described in the words of Sri Lankan politician Mangala Samaraweera: “If you have a government that promotes people because they are mass murderers, you have a problem.” The social environment resulting from promoting mass murders inspired Narinder Singh, a *sarpanch* (democratically elected equivalent to a mayor), to describe the situation in 1984:

If anybody objects about the illegal actions of the Police, he is at once arrested and falsely implicated in an Arms Act case. Innocent persons are tortured. We cannot describe the extent of the lawlessness of the police.<sup>28</sup>

The police system in modern India is totally backward. It has not changed with the times. Twenty-five years after Narinder Singh noted the criminality of the police, they remain as lawless as ever. In “Broken System: Dysfunction, Abuse and Impunity in the Indian Police,” a 2009 report by Human Rights Watch (HRW), the group detailed the consequences of long-term application of arbitrary arrest and torture by the police. Quite foreseeably, they discovered that such tactics and the climate of impunity in which they occur engender within the public a widespread, deep-seated fear and distrust of the police. The report states:

Officers told Human Rights Watch they often cut their caseloads by refusing to register crime complaints. At other times, they use illegal detention, torture and ill-treatment to punish criminals against whom they lack the time or inclination to build cases, or to elicit confessions, even ones they know are false.

Such abuses contribute to a climate of fear. Many Indians avoid any contact with the police, believing not only that they will not receive assistance but that they risk demands for bribes, illegal detention, torture, or even death. Facing a reclusive public, the police are unable to get tips from informants or the cooperation of witnesses, which are both critical to solving cases and preventing crime. This, of course, creates a vicious cycle, as crimes go unreported and unpunished and the pressures on the police to deal with rising criminality increase.<sup>29</sup>

Certainly India has faced a number of complex postcolonial issues since gaining independence in 1947. Most have been hyped as security threats to justify totalitarian measures allowing greater seizures of power. Of course, violent crime is not extinct in India. Yet rather than pursuing the just (if more arduous) method of crime-fighting by compiling lists of criminal suspects, building a case against them, procuring witnesses and gathering evidence capable of withstanding judicial scrutiny, the police instead choose to operate as an organized criminal enterprise. Behaving as though might makes right, the criminal police operate with the sole goal of controlling the public. Their most comprehensively implemented strategy is, when in doubt, to kidnap, torture and kill people whom they have no reason whatsoever to suspect of anything.

### **Who are the victims?**

The victims selected by Indian police for torture are diverse. They are drawn from every ethnic and religious minority, as well as from the Hindu majority. They hail from all 28 states and seven union territories. No class of people or category of society within India has ever been safe from the threat of police abuse. No matter how law-abiding, peaceful or uninvolved a person might be, they cannot escape the constant risk of attracting negative police attention, the ultimate result of which can quite easily be torture and death.

Some victims are criminals incarcerated for minor crimes. Lacking time or desire to gather evidence and build a case, police substitute illegal detention, torture and abuse for due process. Many others are entirely innocent. Some are political prisoners or peaceful protesters, some are minorities targeted for their religion or ethnicity and many are simply average citizens fallen prey to the stone-age methods of India’s law enforcement system. Others are hu-

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man rights activists trying to expose the Indian State's sanction of the practice of torture.

The murder of human rights activist Jaswant Singh Khalra illustrates the risk faced even by India's urban and progressive middle-class citizens. As General Secretary of the human rights wing of the Shiromani Akali Dal political party, a political party in the state of Punjab, Khalra led the investigation that discovered official documents proving Punjab Police had secretly cremated thousands of bodies after labeling them as "unidentified/unclaimed." These were the bodies of individuals who were "disappeared": that is, secretly abducted, imprisoned without record of their arrest or filing of charges, tortured, interrogated and eventually killed in custody. The eyewitness and material evidence he collated was irrefutable. Eight months later, Khalra himself became one of the disappeared.

Khalra received immediate international acclaim upon releasing his evidence on January 16, 1995, and simultaneously filed a writ in the Punjab and Haryana High Court to demand an investigation of the disappearances. In June 1995, he even made a speech to the Canadian Parliament about the secret pogrom. Then he returned to India and to his death.

Around 9 A.M. on September 6, 1995, an unmarked van and a police jeep pulled up to Khalra's house while he was washing his car. Several uniformed officers carrying automatic weapons jumped out, seized him and sped off:

Rajiv Singh Randhawa, a journalist from *Ajit* who was present in [Khalra's] house, witnessed the abduction and recognized DSP Ashok Kumar, SHO Surinderpal Singh of Sarhali police station and Prithipal Singh, head constable of Manochahal police station, among the abductors. Jaswant Singh's neighbor Harinder Pal Singh Siddhu, who left his house just before the abduction, had also seen the armed commandos in plain clothes riding in a blue van and other officers in police uniforms in an official jeep. His wife Sukh Raj Kaur actually witnessed the abduction.

Khalra's wife, Paramjit Kaur, instantly visited local police officials to inquire after her husband. Initially, they refused to even record her complaint of her husband's abduction.<sup>30</sup> Paramjit later learned that Khalra was seen alive but unwell at Kang police station nearly seven weeks after his kidnapping. Kikkar Singh, a Sikh who was also being illegally detained but was later released alive, saw Khalra on October 24, 1995. He helped Khalra eat and noted the presence of torture marks on the human rights activist's body. Shortly after that, he was killed in custody.

An opportunity to pursue a successful case against the killers arose when Special Police Officer (SPO) Kuldip Singh, who was appointed to guard the room where Khalra was held, risked his life in 1997 by offering direct information about Khalra's murder. Coming forward took an act of great courage in an environment where officers have every incentive to keep quiet. Dated July 31, 1998, a letter sent by 32 Congressional representatives to then U.S. President Bill Clinton summarized the pressure Kuldip Singh faced for his testimony of Khalra's murder:

A police witness, Kuldip Singh has had to turn to the Central Reserve Police Force for protection because he is afraid that the Punjab police will try to eliminate him. Kuldip Singh said that he was getting water for Jaswant Singh Khalra in the Chhabra police station when he heard a shot. He ran back and Khalra was bleeding. He had stopped breathing and he was dead. As you know, Jaswant Singh Khalra was kidnapped in 1995 after he exposed India's policy of mass cremations of Sikhs.<sup>31</sup>

Testimony from Kuldip Singh, Kikkar Singh and former detainee Kulwant Singh was integral to convicting the officers involved in Khalra's murder. Because the case was so high-profile, the family had an indefinite ability to pursue justice and the evidence was so readily apparent, the judiciary had little choice but to rule against the police. On October 8, 2007, the Punjab and Haryana High Court upheld the conviction of the five officers who were most directly involved, stating in its verdict:

Taking the statements of these witnesses in totality, we have no hesitation in coming to a conclusion that deceased Jaswant Singh Khalra was picked up from his house at the instance of Ajit Singh Sandhu S.S.P. (since dead) by appellants Jaspal Singh, Satnam Singh, Surinderpal Singh, Jasbir Singh and Prithipal Singh. He was tortured at Police Station Jhabal and shot dead there and finally his body was disposed of by them, near the Harike Bridge, in River Sutlej.

Finally, a sentence of life imprisonment for all five was upheld by India's Supreme Court on November 4, 2011,

a full 16 years after Khalra was cold-bloodedly murdered in police custody. That the situation was so black and white, leaving no doubt that Khalra was the victim and the police had flouted the law, made no difference in achieving speedy justice. Before he was killed, not even pleas for mercy from Amnesty International and a number of Western governments could do a thing to influence the will of the world's biggest democracy.

That the victim came from a refined background, had a spotless criminal record and was not charged with or even accused of breaking a single law demonstrates the current hopeless condition of justice in India. Protection from the police is exceptionally lacking for those on the edge of society. The vast majority of Indian torture victims lack credentials like Khalra's and cannot even attempt to press charges against abusive police.

### **Will India's courts pass down justice?**

According to a 2003 report by Amnesty International: "Torture and custodial violence continue to be regularly reported in Punjab, despite the end of the militancy period in the state in the mid-1990s." Despite Khalra's evidence proving Punjab Police culpability in the custodial torture and murder of up to 25,000 Sikhs between 1984 and 1994, none of the officers have ever been held accountable. Many either still work in the force or else have taken up influential political positions. Many were promoted or otherwise rewarded for their brutality. As noted by Amnesty International, this creates a culture of impunity:

Virtually none of the police officers responsible for a range of human rights violations — including torture, deaths in custody, extra-judicial executions and 'disappearances' during the militancy period — were brought to justice, creating an atmosphere in which state officials appear to believe that they can violate people's fundamental rights with impunity even today.<sup>32</sup>

The immunity from all legal consequences which India's police enjoy even when engaged in the most outrageous atrocities has produced a national environment in which violent elements within the civilian population also feel they are free to engage in bloodshed as they choose and without consequence. Such feelings are born out by reality. The Indian State has not answered a single one of the many high casualty incidents of civilian-instigated communal violence that have occurred in the past 25 years with anything but complete impunity.

This led the United States Commission on International Religious Freedom (USCIRF) to place India on its "Watch List" of countries whose governments tolerate extreme violations of religious freedom. Condemning India's culture of impunity, USCIRF explained in its 2009 report:

In practice, however, India's democratic institutions charged with upholding the rule of law, most notably state and central judiciaries and police, lack capacity and have emerged as unwilling or unable to consistently seek redress for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions.

The failure to provide justice to religious minorities targeted in violent riots in India is not a new development, and has helped foster a climate of impunity. In 1984, anti-Sikh riots erupted in Delhi following the assassination of Prime Minister Indira Gandhi by her Sikh bodyguard. Over 4 days, nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. Few perpetrators were ever held accountable, and only years after the fact. In April 2009, the Congress Party dropped Jagdish Tytler and Sajjan Kumar from its roster of general election candidates over their suspected role in the 1984 riots. In the late 1990s, there was a marked increase in violent attacks among members of religious communities, particularly Muslims and Christians, throughout India, including incidents of killings, torture, rape, and destruction of property. Perpetrators were rarely held responsible. For example, there has been little justice for the victims of riots between Hindus and Muslims after the 1992 destruction of the Babri mosque at a contested religious site in Ayodhya. At least 900 people, mostly Muslims, were killed in Bombay in the 1992-1993 riots, but few have been successfully prosecuted. For instance, several high-profile trials that commenced over 10 years after the riots resulted in acquittals. A probe by India's Central Bureau of Investigation into one high-profile act of riot violence was announced in February 2009, 16 years after the riots.<sup>33</sup>

Anyone who attempts to expose this truth within India suffers the full wrath of the state. At a November 2011

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conference of human rights activists in New Delhi, attorney Prasant Bhusan argued that “thousands of false cases are being registered against rights activist, advocate, journalists, peoples from minority and tribal communities throughout the country to keep their voices down.” An eminent attorney who practices before India’s Supreme Court, Bhusan stated:

In most cases the activists do not get justice from the courts. And surprisingly we cannot question the judicial system in our country, because Indian judiciary is accountable to none. A section of judges even start thinking themselves as Kings of modern time who indulges in corruption taking advantages of impunities provided by the present system. So we are insisting that the judiciary should be brought under the Lokpal.<sup>34</sup>

The Jan Lokpal Bill, while only a legislative quick-fix, would still be a significant step towards ending systemic Indian government corruption. It would create an independent ombudsman body called the Lokpal (a Sanskrit term meaning “protector of the people”) which could register and investigate corruption accusations against government officials without the current legal need to wait for government approval. As previously mentioned, when given the option, no gang will ever choose to investigate its own wrongdoings. This was illustrated in the keynote speech presented at the human rights conference by Khalra’s widow, Paramjit Kaur:

The movement in early [nineties] in Punjab has snatched away the live of at least 25,000 youths. The government initially tried to hide the information but advocate Khalra disclosed the facts to the media. Ms Kaur also mentioned the name of KPS Gill, former Punjab police chief, who masterminded the extra judicial killings. She termed the super cop as a killer of thousands of Punjabi youths in the name of counter terrorism operations in the State. Shocked in emotion, Ms. Kaur expressed her displeasure that Mr Gill was not punished but awarded later by the government.

The Indian State prides itself on being known as the “world’s largest democracy.” Since 1947, publicizing the supposed existence of a long-standing democratic and secular atmosphere within India has been the central government’s essential method for crafting a picturesque national image. India, though, cannot be considered a democratic nation simply because elections are held periodically. Dr. B.R. Ambedkar, a Dalit civil rights icon credited as author of India’s 1949 constitution, believed the greatest need was to protect against a totalitarian system. “After all,” he asked, “what are we having this liberty for? We are having this liberty in order to reform our social system, which is so full of inequities, discriminations and other things, which conflict with our fundamental rights.”<sup>35</sup>

The only legitimate purpose of a democratic state is to preserve the greatest degree of liberty possible for its citizens, and so the very existence of torture and its arbitrary application is antithetical to democracy. The Indian State has reserved for itself absolute power and therefore epitomizes totalitarianism. Winston Churchill warned about this, saying: “The power of the Executive to cast a man into prison without formulating any charge known to the law, and particularly to deny him the judgment of his peers, is in the highest degree odious and is the foundation of all totalitarian government.”<sup>36</sup>

If democracy is a system of government for the people and by the people, then it is not a democracy when a country’s leaders are no longer representatives but dictatorial rulers, whether they host elections or not. If the rulers control the people then the government cannot be of the people. In fact, torture is specifically preserved as a “tool” by Indian police officers because the state thinks it necessary to control the people, as reported by AHRC:

The police consider torture as an effective and thus essential tool for crime investigation and to maintain control over the people. The appreciation for torture among the rank and file of law enforcement officers emanates from an ill-conceived notion concerning the concept of law enforcement. A recent statement made by a high-ranking police officer of the Kerala state police department proves the point. The officer while participating in a discussion concerning police uniforms opined that if the colour of the uniform were changed from traditional khaki to blue, as was the suggestion, people would lose their fear of the force.

This perception of the officer, that the average citizen must fear the police, provides insight into the intellectual framework that draws denominators of engagement for law enforcement agencies in the country. This, however, is not the fault of individual police officers, but rather the result of the utter failure of the

government, and its lack of initiatives to improve the state of policing to fit a democracy.

The right not to be tortured is viewed as so fundamental that every major international body prohibits it. The democratic world has never been in greater harmony on an issue than that of its universal ban of torture. It is utterly forbidden, without exception, by the Universal Declaration of Human Rights, the International Covenant on Political and Civil Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the African Charter on Human and Peoples' Rights, Article 5 of the American Convention on Human Rights and Article 99 of the 1949 Geneva Convention dealing with the protection of the prisoners of war.

If India ever wishes to enter the modern age, she must abandon the practice of torture. That may be harder than it sounds, though, as noted by anthropologist Winston Nagan: "Notwithstanding rhetorical agreements on the prohibition of torture and related practices, there remains a strong desire within state governance to have recourse to the use of violence."<sup>37</sup> In recent history, that desire manifested itself in the elimination of 25,000 Sikhs by the Punjab Police and in the disappearance of Jaswant Singh Khalra for daring to report such a crime. Police officers who so blithely commit such genocidal attacks will not readily give up their power, nor will the politicians who enable them welcome open, transparent democracy.





## 2. 1975-2010: Origins of Police Torture

### Modern acceptance of torture began with Indira Gandhi's 1975 Emergency

Torture is so universally accepted and encouraged among the ranks of India's police forces that it is a virtual certainty that anyone who is a police officer in India knows that torture occurs, has definitely been exposed to it, probably has participated in it and almost certainly has helped cover it up. Although the Indian government has not recently been implicated in the sorts of large-scale, ethnically targeted massacres of detainees by custodial torture as it was in the 1990s, the country's political environment remains highly tolerant of and receptive to the use of torture. Its use has long been an accepted element of India's law enforcement culture and the practice is systemic.

No one is spared the brutality of the Indian police. That goes especially for the least privileged in Indian society, such as Dalits. Formerly known as the "Untouchables," Dalits are the outcastes in the Hindu caste system. Despite a Constitutional ban on the practice of caste in 1950, the social structure is still widely embraced throughout India, particularly in more economically underdeveloped regions. As such, Dalits remain the most underprivileged and discriminated against people group in South Asia.

On June 20, 1992, police arbitrarily arrested 18 Dalit women to imprison them for a night of gang-rape and torture while they burned down their village. Over 100 Dalits in total were tortured. Nineteen years later, a September 2011 ruling convicted 269 government employees in the attack, including almost 100 police. Fifty-four of the accused had already died. This being India, only 17 were sentenced to longer than five years in prison: twelve for 10 years and five for 5 years. The other 215 received two to five year sentences. Had the incident been smaller scale it probably would not have attracted as much attention, yet since so many were involved it was impossible for the government to turn a blind eye.

The attack occurred on the Tamil Nadu village Vachathi, which police visited supposedly on the search for smuggled sandalwood. One victim who spoke publicly, Gandhimathi, talked about being taken in a police truck with 17 other women to a lake embankment. There they were repeatedly raped. Then, she said:

"They took us to a forest department and tortured us for the whole night. They took us in groups and photographed us in front of sandalwood and later produced [the pictures] before the magistrate, who remanded us for 45 days in jail.

"The officials warned us that if we made any complaints about the rapes to the magistrate our male relatives will be arrested under a draconian law. So we kept quiet."

"... When we came back from jail, the whole village was deserted... All our homes were destroyed. They killed our animals for food and dumped the leftovers in our wells. As a result all the water was contaminated."

For India, this was nothing out of the ordinary. Every police station in the country routinely employs worse tactics on people held on flimsier charges. Whether innocent or guilty makes no difference, as the police provide all they encounter with equal opportunity for abuse. Law-abiding political prisoners are as likely to be tortured as those held on murder charges, while refusing to pay a demanded bribe to an officer on the street is as likely to result in torture as committing petty theft.

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The practice of torture by Indian police, which is inseparably linked to the custodial killings in which it often results, has occurred since the country's independence in 1947. Before that, the British Raj widely employed similarly brutal tactics. The modern era of state sanctioned systemic torture, however, really began with Prime Minister Indira Gandhi's dictatorial rule in the mid-1970s.

Facing loss of her parliamentary seat over accusations of electoral fraud, which would have forced her from the prime ministership, Indira declared a national emergency from 1975 to 1977. She suspended elections, arbitrarily arrested, tortured and indefinitely detained her political opponents and outlawed freedom of the press. S. K. Ghosh, who retired from his post as Inspector General of Police in Orissa in 1969, documented the atrocities committed by Indian security forces during that period in his book, *Torture and Rape in Police Custody: An Analysis*.

Ghosh describes how teachers, businessmen, industrialists, government officials and political opponents of all stripes were arrested without cause and imprisoned without trial for months at a time. Political detainees were intentionally housed with "lepers" and "lunatics." They were often refused basic necessities such as food and water and some were forced to drink their own urine simply to survive. Ghosh writes:

Legal institutions were paralysed and the press was gagged. Politically motivated raids were conducted and houses of political opponents were searched indiscriminately. Law enforcement officials made arrests, held prisoners incommunicado, made searches without warrants and prosecuted anyone whose political thinking did not conform to the ruling party's ideology.<sup>38</sup>

Using the nation's police as her enforcement arm, Indira implemented a policy of forced sterilization for any deemed "unworthy" to reproduce. From 1976 to 1977, the government performed more than 8 million sterilizations: 6.2 million vasectomies and 2.05 tubectomies. Many of those sterilized seemed targeted more as a cruelty than for possible virility, as in the case of a 66-year-old man who was "forcibly vasectomised although he had told the authorities that his wife was 60 years old and he had two children and moreover, he had a hydrocele."<sup>39</sup> With total disregard for civil liberties, the police harassed people everywhere:

School teachers were asked to go from house to house to get cases of sterilization. Certificates of sterilisation were demanded from students before they could be admitted into colleges. State roadway buses were diverted to sterilisation centres. Persons travelling in trains, without tickets were rounded up and taken to sterilisation centres. Undertrials, convicts rickshaw pullers, taxi and auto-rickshaw drivers, commuters at railway stations and bus stands were not spared.<sup>40</sup>

The citizens of India did not stand for this treatment and a sustained protest led by the Sikh community demanded a return to democracy. Initially, these protesters were also dealt with through arbitrary arrest. Of 140,000 protesters detained without trial, approximately 60,000 were Sikhs.<sup>41</sup> As their efforts to end the so-called "Emergency" grew successful, the Sikhs, having shown a willingness to dissent politically, became a focused target for torture by police. Leading into the 1980s, although the appearance of democracy was reestablished in most of India, former Punjab Police DGP Kirpal Dhillon reports that the police still functioned "in a ruler supportive role rather than in defence of human rights and civil liberties, with the police owing no accountability to the community."<sup>42</sup>

### **Abuse focused against the Sikhs**

With encouragement and guidance from Delhi, Punjab Police implemented a more systematic abuse of the Sikh community and employed more brutal, often fatal, methods of torture. These regularly included shaming tactics and religious torture like the removal of turbans, cutting of religiously prescribed hair and beards, smearing with tobacco (a deeply taboo drug for those of Sikh faith), rape and sexual violence. Police also would commonly break bones, pierce the bodies of detainees with red-hot steel rods, rub them down with blisteringly hot chillies and slice or stab the flesh. Victims frequently reported the rubbing of salt in their wounds. Describing a typical treatment of detained Sikhs, Jarnail Singh Bhindranwale (a wildly popular, peaceful Sikh preacher who had opposed the Emergency) reported:

The police tied up the penises of Sukhdev Singh and Jasbir Singh, both from Isapur village. Their bodies

got bloated. The police tore off their flesh with pliers, pulled their upper arms, tore out their eyes and then shot them.... All the ten nails from the hands as well as from the feet of Gurmeet Singh of Dhulkot were extracted with pliers and salt sprinkled over the wounds. Candles were lit under his hands and he was burnt. Then he was shot.<sup>43</sup>

The police also regularly employed psychological and sexual torture. Cynthia Mahmood, an anthropologist, noted: “All human rights reports emanating from Punjab point out the prevalence of rape and other sexual atrocities as methods of torture and punishment.”<sup>44</sup> The specific acts were often grossly sadistic. One example offered by Mahmood is that of a woman who was “viciously raped no less than six times while in custody, and had had chili peppers forced into her vagina and anus.”<sup>45</sup> In another instance, a young Sikh girl and her father were arrested and taken to Ghall Khurd police station. There she was stripped naked while her father was forced to lay upon her. In the Tarn Taran police district, a Deputy Superintendent of Police (DSP) named Swaran Singh stripped another girl naked and dragged her through her village by her breasts.<sup>46</sup>

Police on several occasions engaged in outright massacres of innocent Sikh civilians. One notable incident occurred on September 13, 1981, when indiscriminate police firing killed 20 Sikhs in Chando Kalan, a village in Haryana, during an arrest attempt on Bhindranwale. On September 20, Punjab Police DGP Birbal Nath ordered another arrest attempt, this time massacring 18 innocent Sikhs at Chowk Mehta in Punjab. In 1982, police massacred 23 Sikh participants in a nonviolent statewide protest during which “they tried to peacefully stop traffic on a road.” Later that year, six protesters were shot and killed for shouting what the police termed “insurrectionary slogans.”<sup>47</sup>

Disappearances of people by the police began to occur en masse. This practice, later exposed by Jaswant Singh Khalra, often involved eliminating secretly arrested detainees in “fake encounters” — the staging an armed confrontation to cover up a detainee’s death by police torture. In April 1984, describing this practice, Bhindranwale stated:

The police started to shoot and kill [our people]. Whenever they caught hold of any of them they would put a bullet through his chest and claim that there had been an encounter with the police. What sort of encounter was this? They would claim that the absconder fired at the police and the police returned the fire. None of the absconder’s bullets hit anyone but the extremist was killed by police firing.<sup>48</sup>

After interviewing then Punjab Chief Minister Darbara Singh, journalists Mark Tully and Satish Jacob concluded that the frequent “encounters” were, in actuality, “a euphemism for cold-blooded murder by the police.” They made this evaluation after Darbara Singh openly confessed in an interview to granting the state police force a carte blanche license to murder to subdue civil unrest in Punjab, saying: “I told my senior police officers, ‘You kill the killers and I will take the responsibility.’”<sup>49</sup>

The police pattern of “indiscriminate and arbitrary arrests,” in which many were secretly detained without trial for years at a time, continued well into the mid-1990s. An Amnesty International report released in 2003 summarized the tactics commonly employed by police officers in Punjab:

Civilians were often arrested solely for being related to or living in the same village as members of armed opposition groups. Such civilians were often placed on an unofficial blacklist circulated to all police stations and were liable to be arrested again after their release on any occasion when there was a militant action in the area. Arrests often occurred when a quick solution for a case was needed or simply to fulfill an arrest quota. Arrest procedures were frequently not followed and the arrest was often not recorded in the daily log of the police station, thus remaining completely unofficial and leaving detainees vulnerable to further abuses. Detainees were frequently moved from one police station to another, or to unofficial interrogation centers, making it difficult for their families and lawyers to trace them. Torture was widespread and used both as a substitute for investigation and as punishment. The police routinely disregarded court orders to bring detainees before a court, and judges were threatened to deter them from taking action against the police. When detainees died in police custody, the police organized the post-mortems and the cremations before any independent investigation could be carried out into the cause of death.<sup>50</sup>

### **Oppression of human rights activists who expose atrocities**

Historically, one of the most heavily suppressed groups are human rights activists who expose police atrocities. The

Indian state and its enforcement arm — the country's police — show particular disregard for the life, liberty and freedom of expression of that group. The government, constantly worried about projecting the right image to the international community, will relentlessly pursue anyone who publicizes its abuses. This has become such a severe problem that some activists have made a specific focus of their work to defend the human rights of human rights activists.

A recent manifestation of this was the National Consultation on Human Rights Defenders, a November 19-20, 2011 conference hosted in New Delhi by a coalition of human rights groups. One speaker at the conference was Sanjiv Bhatt, a Gujarat Indian Police Service (IPS) officer who exposed Gujarati Chief Minister Narendra Modi's culpability in ordering police not to restrain violent rioters in 2002. At least 1,267 people (mostly Muslims) were killed during the Gujarat riots in 2002 when Gujarat Police passively stood by and allowed Hindu nationalists to arm, riot and target Muslim victims.

In April 2011, Bhatt filed an affidavit with the Indian Supreme Court stating that he, along with other high-ranking officers, was present at a February 27, 2002 meeting at Modi's home in which the Chief Minister ordered police to treat Hindu rioters with kid gloves. In September, he was arrested immediately after filing another affidavit implicating Modi in the murder of a fellow government official, as *The Hindu* reported:

Mr. Bhatt's arrest comes within 48 hours of his having filed another affidavit, this time in the Gujarat High Court, alleging the indirect involvement of the Chief Minister and his former Minister of State for Home, Amit Shah, in the murder of another former Minister Haren Pandya. Mr. Bhatt had claimed that Mr. Modi and Mr. Shah had repeatedly asked him to destroy some "very important documentary evidence" regarding Mr. Pandya's murder, but he refused to oblige them, following which he was transferred from the post of Superintendent of the Sabarmati Central Jail and kept without any posting for over two and half months in November 2003.<sup>51</sup>

Neither allegation has been disproven. Instead the government has responded by flinging whatever charges it can at Bhatt, hoping to intimidate him into silence. Perhaps the Gujarat government is especially troubled by exposure of its links to fanatical Hindu nationalist elements, such as those involved in rioting. Although this relationship has existed since before India's independence, it has grown particularly strong in recent years. For instance, Modi is a member of the Bharatiya Janata Party (BJP), a wing of the family of militant Hindu nationalist groups known as Sangh Parivar. Adhering to an ideology termed Hindutva, the Sangh Parivar groups treat non-Hindus as foreign to India and profess India to be a Hindu nation.

Modi's collaboration with violent Hindu supremacists during the 2002 riots is beyond doubt. While the state has made him suffer for it, Bhatt is hardly the only person to have highlighted the issue. Most of the rioters in 2002 were either members of Modi's political party, the BJP, or else members of Vishwa Hindu Parishad (VHP), a socio-political organization espousing the same supremacist ideology. The admissions of many top VHP and BJP officials that Modi openly assisted their bloody efforts were made public in 2007, as reported by CNN-IBN:

Important VHP and BJP functionaries admitted on hidden camera that Modi had told them to do whatever they wanted for three days. One of the main accused in the Naroda Patiya massacre, Babu Bajrangji, said Modi advised him to leave his Ahmedabad home and even arranged his refuge in Mount Abu.

Some of the Gujarat leaders who made significant confessions on hidden camera included Gujarat Shiv Sena President Babu Bajrangji, Godhra BJP MLA Haresh Bhatt, VHP convenor for Sabarkantha district Dhabal Patel and Gulbarg Society massacre accused Madan Dhanraj Chawal.

"We slit open her abdomen (Kausar Bano's), ripped out the foetus and threw it out in Naroda Patiya. We showed them what we can do. I called up the then minister of Gordhan Zadafia and VHP General Secretary Jaideep Patel and informed them. Zadafia immediately told me to escape from Gujarat," the tapes show Babu Bajrangji as saying.

Haresh Bhatt claims: "Modi told me I'll give you three days. Do whatever you want, you will not be touched. No other CM could have done this."

Dhabal Patel claims: “We made explosives with dynamite and we manufactured a very large number of them. The cops helped us.”

“We chopped off his hands, then his legs and put the limbs and the body on fire,” Madan Dhanraj Chawal spoke about the hacking of former Congress MP Ehsan Jafri.<sup>52</sup>

The government response to whistleblowers like Sanjiv Bhatt, however, is to destroy them. Bhatt now believes he is being targeted by the BJP, saying: “I know I have a threat to my life, but it is not going to stop me. It is government’s responsibility to safeguard the life of every citizen of the country.”<sup>53</sup>

Other human rights activists have been far more brutally and fatally targeted. The case of disappeared activist Jaswant Singh Khalra is a prime example.

In 1994, Khalra compiled proof directly linking Punjab Police to the custodial murders of thousands of innocent Sikhs who had mysteriously “disappeared” throughout Punjab. The victims, he learned, were tortured in custody, extralegally killed, their bodies mis-marked as “unidentified” and then illegally cremated. Of course, the bodies were not actually unidentified, but were marked thus as “as a matter of deliberate policy.”<sup>54</sup>

Khalra identified nearly 2,100 “unidentified” bodies in Amritsar district, one of 13 in Punjab. He estimated that, across the state, at least 25,000 had been similarly killed. Besides illegal cremation, the most common method of disposal was to dump bodies in public waterways. Khalra went public in 1995, interviewing local crematoria attendants who confirmed that “police often bought firewood for one or two bodies but dumped many more on a single pyre” and publishing crematorium wood purchase records showing police marking bodies as “unidentified” so they could be disposed of without comment.<sup>55</sup>

Those bodies not immediately destroyed by police were rushed through the post-mortem process. The chief medical officer at one Amritsar hospital said the post-mortem process was treated as the briefest of formalities, in which the attending doctor merely recorded the cause and time of death of each corpse as dictated to him by the police. On one occasion, several eyewitnesses saw police bring the still breathing body of a Sikh man into the hospital. They had supposed him dead, but when a doctor pointed out he was still alive, the police took the man away and returned his corpse a short while later, making a different doctor sign the autopsy report.<sup>56</sup>

In retaliation for exposing their atrocity, Punjab Police disappeared Khalra. Eight months after publishing his findings, Khalra was abducted to be killed in police custody. Five officers were witnessed kidnapping Khalra on September 6, 1995. Other witnesses, including one officer who came forward, testified to his murder in custody.

The commanding officer behind his murder was Senior Superintendent of Police (SSP) Ajit Singh Sandhu, who was assigned to the Tarn Taran police district from 1988 to 1993. Inderjit Singh Jaijee, a human rights activist, wrote a profile of Sandhu:

Ajit Singh Sandhu, SSP of Tarn Taran from 1988 to 1993, was the prime accused in the cremation case — and 42 other cases of extra-judicial and custodial killing, abduction, torture and extortion and was under investigation by the internal vigilance cell of the Punjab police. Unfortunately, he did not live to face a single trial. Sandhu was found dead on the Chandigarh-Ambala railway tracks near Lalru on May 23, 1997, with a suicide note in his pocket, written, according to police, days before the incident.

... He climbed a virtual mountain of corpses in his rise from Assistant Sub-Inspector to Senior Superintendent of Police, each killing serving to endear him even more to DGP K.P.S. Gill, who rewarded him with out of turn promotions.<sup>57</sup>

Also mentioning Sandhu, who personally oversaw Khalra’s extended torture and custodial death before committing suicide in 1997 by jumping in front of a train (at least, according to official reports of his death), former joint director of India’s Intelligence Bureau (IB) M.K. Dhar remarked at length about the condition of Indian policing:

Our political leaders ... have been using the police and the administration for coercion in the name of preserving the unity and integrity of the country.... Their adventurism has generated several killing fields in the country. The Northeast, the ravaged lands of Naxalbari, the Bihar plains and Andhra Pradesh bear testi-

mony to their misdeeds. Everywhere, they press in the services of the forces to tackle the law and order problems arising out of their bankruptcy. The law is enforced and order is restored, at the cost of innocent lives.... Policemen were supposed to face terrorists as part of their professional duties. Their frontal and tactical engagements were well justified. But history bears testimony that hundreds of terrorists were not killed in frontal engagements and thousands of innocent youths were silently liquidated as part of ‘mass control measures’. Sandhu, who had carried out the orders of his superiors and political masters and secured Tarn Taran, thought he was above the law. Many brave and honest officers like him had committed themselves and made Punjab safe at a colossal human cost. The sacrifices performed by perfidious politicians required human blood.... Policemen are asked to break the law in the name of protecting it.<sup>58</sup>

After sixteen years arguing before one judge after another, attorney Rajwinder Bains finally achieved a court victory in the Khalra murder case November 4, 2011. Thanks to Bains’ sustained efforts, India’s Supreme Court upheld life sentences for all five officers charged with the murder. Sandhu, however, escaped punishment, as did all other high-ranking officers who would have known of the atrocity. Furthermore, human rights violations continue unabated to this day.

In fact, the *Christian Science Monitor* warned in 2010 of a sharp increase in registered custodial torture cases, which are merely a sliver of the number actually occurring. The *Monitor* reported on the topic after its own journalist, Joel Elliott, was brutally beaten for several hours by New Delhi police after he stumbled across officers beating an Indian citizen in the streets. Citing official Indian government figures on the occurrence of torture, the article stated:

Putting accurate figures on the practice is impossible due to underreporting. But a total of 377,216 official complaints against the police – involving everything from rape to kidnappings to deaths in custody – have been filed since 1993 with the National Human Rights Commission (NHRC), a government-mandated body in Delhi.

According to human rights groups, data on torture isn’t recorded unless there is a death in custody. Those annual figures have been rising: up to 1,977 cases in 2007-2008 from 1,037 officially reported cases in 2000-2001.<sup>59</sup>

In short, torture continues to be practiced on a daily basis by police all across India. Crimes of torture committed by police between 1975 and 2010 have gone almost entirely unpunished, with the very rare exception of cases like the attack on the Vachathi villagers, the officers who were caught red-handedly abducting internationally renowned human rights activist Khalra or the occasional officer who is thrown to the wolves. After all, according to the International Committee of the Red Cross (ICRC), the Indian government as a whole “condones torture.”<sup>60</sup> With zero accountability and the only pressure from upper echelons of India’s government being *to* torture rather than to refrain from the practice, there is no relief in sight for modern India’s current victims of state terror.

### 3. Methodology of Police Torture

#### Avtar Singh, a politician tortured to death

The case of Avtar Singh, a political candidate for Punjab State Assembly, is a classic example of how brutally Indian police employ torture. Early in the morning on July 25, 1991, several officers were witnessed arresting him without cause from the side of the road. Without any safeguards in place to ensure police register all arrests, they were able to hold him without record. According to a 2003 Amnesty International press release, “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.”<sup>61</sup>

Avtar Singh died of his torture wounds on August 6, 1991. The police admit to his custodial death, but their version of his death wildly contradicts photographic evidence, testimony of multiple eyewitnesses and the family’s account. They claim his interrogation elicited a confession of involvement in militancy and of a scheduled visit that same day with “top terrorists.” Police Inspector Gurnam Singh said he accompanied Avtar Singh to the meeting, at which time an armed “encounter” occurred and Avtar was shot dead.

The first and perhaps most gaping hole in the police version of events is their account of how Avtar Singh’s family came to have custody of his dead body, as recorded by Amnesty International:

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.<sup>62</sup>

The post-mortem allegedly performed by government doctors at Samana Civil Hospital claimed: “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.” However, an independent medical examination commissioned by Amnesty International concluded differently:

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 true story of Avtar Singh’s demise was revealed by the clear physical evidence on his body, which was examined by independent medical experts and recorded in full photographic color by Amnesty International. The actual cause of Avtar Singh’s death — torture — was tragically evident all over his battered body. The following acts of torture (visible in the picture below) were obvious to the naked eye and confirmed by a medical examination:

- Burning of his abdomen with a hot-iron
- Cutting open of his right forearm



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- Breaking of every major bone in both his arms
- Burning and poking of his wrists with hot pinchers
- Burning of the soles of his feet with hot steel rods



*All five injuries, save to the feet, are evident in the picture above.*

### **How many are tortured to death?**

That there is a huge discrepancy between the number of independently documented instances of torture and custodial death and the official figures released by the Indian government is a fact acknowledged by many human rights groups. Even the government's own figures from different institutions do not match up. For instance, the Asian Centre for Human Rights (ACHR) reported that the National Human Rights Commission (NHRC) recorded 127 custodial deaths in 2009, but the National Crime Records Bureau (NCRB) recorded only two. The numbers from both governmental institutions for previous years also conflicted:

2008 - NHRC said 188 deaths, NCRB said 7

2007 - NHRC said 119, NCRB said 118

2006 - NHRC said 139, NCRB said 89<sup>63</sup>

The most common cause of custodial death listed was suicide. For instance, of 89 deaths acknowledged by the NCRB in 2006, 24 were attributed to suicide. In 2007, another 31 persons were alleged to have killed themselves out of 118 acknowledged by the NCRB to have died in custody. According to ACHR's report, "Torture in India 2010":

In a reply to the Rajya Sabha (Upper House of Indian Parliament) on 12 March 2008, then Home Minister of India, Shivraj Patil cited suicide as one of the primary causes of custodial death....

The explanations of the police are also often inadequate. The police have even claimed that people have committed suicide by using handkerchiefs or by consuming poison while in police custody.<sup>64</sup>

In other words, many deaths listed as suicide are actually fabricated incidents used to cover up the actual cause of a detainee’s death, which is police torture. Besides, the numbers given above are only of those killed by police. While probably deliberately underreported, even the true figures would pale in comparison the number of people who are tortured and then either kept imprisoned or released alive. As reported by the Asian Centre for Human Rights:

The majority of torture cases do not result in the death of the victim.... Since police officials are not mandatorily required to report to the NHRC or any body on custodial torture they enjoy virtual impunity as these cases for the most part escape any official monitoring.

No record[s] of torture that does not result in custodial death are maintained.<sup>65</sup>

The astronomical number of Indian citizens who have been tortured but not killed can be extrapolated from a report by one Punjabi police officer, who acknowledged, “In his police station alone, between 4,000 and 5,000 acts of torture were committed each year from 1985 to 1990.”<sup>66</sup> In 2006, the Indian Supreme Court itself admitted that “dehumanizing torture, assault and death in custody” are so “widespread” as to “raise serious questions about credibility of rule of law and administration of criminal justice.”<sup>67</sup>

ACHR concludes: “Torture in police custody remains a widespread and systematic practice in India.”<sup>68</sup> In August 2011, *Tehelka* magazine published figures from the National Human Rights Commission covering 2008 to 2011 and showing 4,034 registered custodial deaths and 1,836 registered cases of custodial torture (custodial deaths usually begin as cases of torture).<sup>69</sup> The full NHRC figures broke down as follows:

State	Deaths (2008-2011)	Torture Cases (2008-2011)	State	Deaths (2008-2011)	Torture Cases (2008-2011)
Andhra Pradesh	369	13	Madhya Pradesh	270	23
Assam	92	18	Maharashtra	413	19
Bihar	419	27	Manipur	2	4
Chhattisgarh	121	11	Nagaland	11	2
Delhi	52	67	Orissa	161	13
Gujarat	237	19	Punjab	285	8
Jammu and Kashmir	11	7	Uttar Pradesh	999	1552
Jharkhand	198	18	West Bengal	262	16
Karnataka	132	19			

The highest number of both offenses occurred in the state of Uttar Pradesh, which possesses the highest proportional population of Dalits in India. The outcaste Dalits and members of various low-castes, which are collectively termed Scheduled Castes, constitute 87.7% of the state’s population. The state’s police force registered the worst three-year record in India with 999 deaths in custody and 1,552 cases of torture. In Punjab, the only state with a majority population of the often oppressed Sikh minority, there were 285 registered custodial deaths and 8 registered cases of torture.

It appears even what most would think are shockingly high numbers may be even more shockingly low. For one thing, as explained by ACHR, “the majority of torture cases do not result in the death of the victim” and while police are legally required to report all cases of custodial death within 24 hours, there is no such requirement to report

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allegations of torture not resulting in death.<sup>70</sup> Furthermore, *Tehelka* reported:

Human rights organisations have blamed the Central government for fudging facts on violations in these states repeatedly. They are not buying even the high figures in some states, terming them doctored, and blaming India for its poor human rights record, highly incompetent administrative system, and failure of the government to pass effective laws at par with international standards to curb such cases and bring the perpetrators to book.<sup>71</sup>

### Methods of torture

One reason torture is so widespread is that even the nation's leading human rights figures, such as Ranganath Misra, Chairman of the NHRC and a retired Chief Justice of the Supreme Court, are lax in condemning the practice, as noted by human rights activist Inderjit Singh Jaijee:

In interview in *Observer* (August 7, 1994), the NHRC chairman mentioned in passing that Indian police and other security forces had not abandoned the use of torture: "It is in vogue and to a limited extent, if one does not use it, an investigation is possible, but one must know the limits and the investigating agencies must not allow third degree methods to turn into real torture."

Justice Misra did not elaborate and the reader is left to guess just when "third degree" crosses the line into "real torture."<sup>72</sup>

A December 2010 Wikileaks release painted a clearer picture of the extent of nonfatal cases of police torture. The watchdog news group leaked emails from the U.S. Embassy discussing an International Committee of the Red Cross (ICRC) presentation at the embassy detailing how India "condones torture." The presentation showed torture data, obtained by the ICRC between 2002 and 2004 and compiled from 177 visits to detention centers and interviews with 1,491 detainees, demonstrating that torture is systemic within India's police system. In an email written about the presentation, an embassy official told the U.S. State Department:

There is a regular and widespread use of ill-treatment and torture by the security forces during interrogation. This always takes place in the presence of officers. Because the practice continues, the ICRC is forced to conclude that (the government) condones torture.<sup>73</sup>

Of 1,491 detainees interviewed, the ICRC documented 852 who had sustained police abuse. Of these, 171 were beaten and 681 were subjected to at least one of six commonly used forms of torture, namely:

- Electric shocks
- Suspension from the ceiling
- Crushing of leg muscles
- Legs split at 180 degrees
- Water torture
- Sexual abuse

Of these, 498 persons were subjected to electric shocks; 381 to suspension from a ceiling; 294 to crushing of leg muscles through use of a "roller"; 181 to 180-degree leg-splitting; 234 to various forms of water torture; and 302 to sexual abuse. ICRC officials noted: "The abuse always takes place in the presence of officers and ... detainees were rarely militants (they are routinely killed)." In the recent history of India, however, even this constitutes low-level infliction of torture by the police. As the ICRC also noted, security forces have currently halted their previous practice of indiscriminately raiding villages and arbitrarily arresting everyone found there. This, suggested the relief group, is reason to believe the situation is "much better than it was in the 1990s."

According to "Police Torture in Punjab, India: An Extended Survey," a 2002 report published by the international journal *Health and Human Rights*, most torture methods employed by the police are intentionally selected to preclude leaving scars or other lasting evidence of abuse. Only 32% of 192 victims of torture interviewed for the

report had physical scars “or other physical findings such as broken bones, thigh indentations and joint abnormalities.” Even most of the more agonizing methods such leg splitting at 180 degrees, suspension from the ceiling and roller torture to crush the leg muscles often left no evidence of abuse. The report, written by medical doctors Ami Laws and Vincent Iacopino (both members of Physicians for Human Rights), stated:

Of the 120 who reported being suspended with their hands tied behind their back, 3 had visible wrist deformities, 1 had a shoulder dislocation, and 1 had a broken humerus.... Of the 119 reporting roller torture, 14 had indentations of the thighs from muscle atrophy (degeneration), 5 had bilateral, symmetric, oval-shaped healed abrasions on their mid-anterior thighs, and 1 had a fractured femur. Thus, the most commonly reported, methodically applied methods of torture left few objective physical findings.<sup>74</sup>

The most commonly used forms of torture besides these were mock executions, near drownings, shackling in forced positions, hosing water up the nose, insertion of hot chili peppers into the anus, pulling of finger and toenails, drenching in acid or gasoline, rape and being forced to watch the torture of a relative. Forty-four percent of those interviewed by Laws and Iacopino reported being subjected to these forms of torture.<sup>75</sup>

Regarding the locations where torture occurred and the condition of the police officers involved, a 2009 Human Rights Watch (HRW) report stated:

Victims provided details of police beatings that occurred in the station courtyard, committed by constables at the direction of or with the active participation of sub-inspectors and other superior officers. Some victims also described intensification of police violence over the period of detention, with police committing the most severe beatings late at night, after they returned from patrolling duties and while they were drunk.<sup>76</sup>

The pattern of police torture was heavily documented in scores of cases investigated by the ACHR for its report, “Torture in India 2010,” which published those cases with names, dates and circumstances leading to their custodial torture. Many of the incidents occurring in 2009 illustrate the methods employed by police in torture cases not resulting in death. We present a selection of such cases:

### **Ten examples of nonfatal torture in 2009**

- From 12-15 January 2009, Mr Nooruddin (22 years, a vegetable vendor and resident of Kinnigoli) was illegally detained and tortured in the custody of the District Crime Investigation Bureau (DCIB) in Mangalore, Karnataka. Mr Nooruddin was picked up by the DCIB personnel in connection with a murder investigation on 12 January 2009. For the next four days, he was allegedly starved and tortured by DCIB Inspector Venkatesh Prasanna and his subordinates - Dinesh Bekal, Chetan, Kumar and Ashok. The victim alleged that a heavy metal roller was run over his body and he was hung upside down and beaten. On 15 January 2009, the police dumped him near a road in a semi-conscious condition. He reportedly suffered “internal injuries” and “kidney damage,” amongst others.<sup>77</sup>
- On 2 February 2009, an eight-year-old Dalit girl was tortured by Chandra Bhan Singh, Station House Officer (SHO) and Shyam Lal, Sub-Inspector of Jaswant Nagar police station in Etawah district of Uttar Pradesh. The girl was accused of theft and handed over to the police. The victim was allegedly beaten, pulled up by her hair and ears. The SHO was suspended and the SI was dismissed from service.<sup>78</sup>
- On 10 February 2009, Abdul Raheman (a labourer) and his 15-year-old son Master Hussain Ashfak (residents of Ulaibettu) were allegedly tortured in the custody of the Mangalore Rural police in Karnataka. Both Mr Raheman and his son were picked up for questioning in connection with a case. Mr. Raheman alleged that the police pulled his hands and legs out of the cell’s steel bars and hit him with a lathi (stick) continuously. Mr Raheman was seriously injured and had to be admitted to hospital.<sup>79</sup>
- On 13 February 2009, Azad Kumar Kesarwani (garment trader) was allegedly tortured at the Crime Branch Office at Bhiwandi in Thane district of Maharashtra. Mr Kesarwani went to the Crime Branch office

having been summoned by the police. However, Mr Kesarwani alleged that the police took Rs. 32,000 from him. When he protested, the police beat him. One of the officials hit him so hard on the ear that he sustained internal injuries. The officials threatened to frame him for theft if he told anyone about the incident. Medical evidence confirmed injury consistent with his allegations.<sup>80</sup>

- In May 2009, M. Sreekesh (26 years, resident of Thiruvananthapuram), an employee of a jewelry shop, was illegally detained for 12 days and tortured at Haripad police station in Alappuzha district of Kerala. Mr Sreekesh was detained after he went to the station to report the loss of jewelry. Mr Sreekesh alleged that the police, led by Circle Inspector D. Asokan, questioned him repeatedly about the theft. On 18 May 2009, the police subjected him to a lie detector test (polygraph) at the state forensic sciences laboratory. On the night of 23 May 2009, four plainclothes police personnel stripped him, bound his hands with a wet towel and made him lie on a bench. They beat him on his legs and the soles of his feet with bamboo canes to obtain a confession. The beating continued for two hours, even after the canes splintered. Later, the police used pepper spray on his eyes and genitals. His nipples were poked repeatedly with the tip of a ballpoint pen. The police released Mr Sreekesh only when his health began to seriously deteriorate, during the night of 25th May 2009. The victim's father filed a complaint with the state Human Rights Commission. The doctor who examined Mr Sreekesh stated that there were tie marks near his wrists, straight line cut wounds and bluish contusions near the soles of his feet. The cut wounds were consistent with injuries inflicted using a splintered bamboo cane.<sup>81</sup>

- On the night of 2 June 2009, a 48-year-old Dalit woman (resident of Jambada village) was allegedly gang-raped by four police personnel, including Head Constable Mishra at Amla police station in Betul district of Madhya Pradesh. On 2 June 2009, the victim was arrested in connection with a dowry case. Upon her production before the court she was sent to judicial custody. But the police told the victim that it would be late by the time they reach the jail and prisoners were not allowed to enter the jail after 6 pm. So the police kept her at the Amla police station where she was gang-raped by four police personnel at night. Medical examination reportedly confirmed rape of the victim.<sup>82</sup>

- From 29 July 2009 to 6 August 2009, a 15-year-old juvenile identified as Rohit, son of Mr Ram Dev, was illegally detained at the Kotwali Police station in Faizabad district of Uttar Pradesh in connection with a case of theft of a mobile phone. The victim was allegedly subjected to third degree torture including electric shocks to obtain a confession. The police had allegedly asked the minor's father to pay Rs. 30,000 failing which Rohit was continued to be detained and tortured. On the evening of 5 August 2009, the victim fell unconscious as a result of the torture following which he was taken to the Faizabad district hospital and then to Chhatrapati Shahuji Maharaj Medical University (CsMMU), Lucknow. Because of torture Rohit lost his eye sight and was vision-less for six months until he got back his vision after treatment at CSMMU. An investigation conducted by the Ayodhya Circle Officer R.K. Pandey reportedly found the police guilty of torturing Rohit. Following a complaint by the Asian Center for Human Rights, the National Commission for Child Rights (NCPCHR) intervened and it has informed the ACHR that a case has been registered against the accused police personnel and two of them namely Prem Prakash Pandey and Shamim Ahmad have been suspended.<sup>83</sup>

- On 30 July 2009, Ganapati Tikkam, a functionary of Bharatiya Janata Party (BJP) Fishermen Morcha in Karwar Taluk of Uttara Kannada district in Karnataka was allegedly beaten up by the police at Chitakula police station. Mr. Tikkam had gone to the police station to offer bail security to BS Pai, a lawyer. Mr Pai had been arrested in connection with a demonstration against a thermal power project in Hanakona in Karwar Taluk the same day. Tikkam sustained severe injuries as a result of torture and had to be admitted to the district hospital.<sup>84</sup>

- On 14 September 2009, Jiten Yumnam, a human rights defender, was picked up by a police team at the Imphal Airport, Manipur and arrested on false charges under section 121/121-A of Indian Penal Code (IPC), section 16/18/39 of Unlawful Activities (Prevention) Act and under the Official Secret Act. He was

arrested for organising a protest against extrajudicial execution of Sanajit on 23 July 2009 (NHRC has already registered the complaint (No. 17/14/4/09-10-FE) filed by ACHR). During interrogation in police custody, Mr Yumnam was tortured and given electric shocks in order to extract a confession. This has been confirmed by medical evidence confirming injuries consistent with his treatment.<sup>85</sup>

- On 28 October 2009, Kalicharan Das, Officer-in-charge of Panbari police out post under Kalaigaon police station in the district of Darrang of Assam arrested Hamidur Rahman, son of Habibur Rahman of village Pub Padokhat. He was arrested for exposing that Mr Das was corrupt and had led a public protest against him. Mr. Das subjected Hamidur Rahman to beatings rendering him unable to walk. Mr. Das allegedly hung Mr Rahman from the ceiling and beat him.<sup>86</sup>

### Ten examples of fatal torture in 2009

- On 8 January 2009, Harsajyoti Handique, Vice President of Sivsagar district unit of All Assam Tai Ahom Students' Union (AATASU), was allegedly tortured to death in police custody at Tengapukhuri outpost under Charaideo sub-division in Sivsagar district of Assam. Mr Handique was arrested along with two others namely Jayanta Handique and Pankaj Borgohain on the basis of a complaint filed by one Bubul Baruah, proprietor of a hotel at Tengapukhuri, over a clash with the hotel staff. The victim allegedly died as a result of torture by the police.<sup>87</sup>

- On 1 February 2009, one Krishnamurthy of Rowthanmedu in Thuvakudi died in police custody at Tiruvelumbur under Tiruppur district in Tamil Nadu. Earlier in January 2009, he was released from jail after serving a prison term but on 31 January 2009, the police picked him up on an alleged involvement in theft. The police claimed that Krishnamurthy complained of chest pain after dinner and died in hospital. But the hospital authorities stated that he was "brought dead" to the Government Hospital at Tiruchi by the police. The family of the victim have alleged that his death was a result of torture in police custody.<sup>88</sup>

- On 7 March 2009, Amol Raghunath Kuchekar (26 years, resident of Surbhi colony in Warje), died as a result of alleged torture in the police custody at Warje Malwadi police station in Pune in Maharashtra. Mr Kuchekar was arrested on the night of 6 March 2009. The medical records obtained by the Criminal Investigation Department revealed that the policemen had beaten Kuchekar with blunt objects like sticks and belts. The medical reports reportedly confirmed that Kuchekar's death was as a result of torture.<sup>89</sup>

- On 25 June 2009, Sushil Verma (28 years) was allegedly tortured to death at the Bara Banki police station under Bara Banki district of Uttar Pradesh. On 24 June 2009, a complaint was held by one Shiv Baran Singh with Jahangirabad police station stating that he had been robbed by three persons. The victim was brought to the police station to identify some suspects related to the case of robbery. The police claimed that Mr Verma suddenly collapsed in the police station and was rushed to a hospital where he died around noon. However, the victim's relatives alleged that he died as a result of torture while in police custody.<sup>90</sup>

- On 3 July 2009, Mohd Seraj died as a result of alleged torture at the Pathiha police station in East Champaran district of Bihar. The victim along with four others was taken to the police station for questioning by a police team in connection with a looting investigation. The police claimed that the victim complained of abdominal pain and died on the way to hospital. However, the post mortem report revealed that he died of "shock and haemorrhage" and there were injury marks on his body including on the head, strongly suggesting ill treatment.<sup>91</sup>

- On the night of 7 July 2009, one Rajbal, a Dalit, (son of Ratiram of Shikar village) was allegedly tortured to death at the Chappar Police station in Muzaffarnagar district of Uttar Pradesh. Rajbal was brought to the Chappar Police station along with his brother in connection with a land dispute. Mayaram, the victim's brother, who allegedly witnessed the torture, stated that Mr Rajbal was beaten with sticks until he fell unconscious. After sometime when Rajbal regained consciousness, he asked for water but he was instead again

beaten with sticks. His condition deteriorated. He lost consciousness again at about 10 pm. The police put Rajbal and Mayaram into the police jeep and took them to the district hospital, Muzaffarnagar. The police then left the hospital. Rajbal was declared “brought dead” by the doctors of the hospital. However, the police claimed that the victim died of heart attack.<sup>92</sup>

- On 4 August 2009, Satish Kumar, a resident of Delhi, died as a result of alleged torture during interrogation in the custody of Haryana Police at Bahadurgarh in Jhajjar district of Haryana. Mr Kumar with some friends had gone to Himachal Pradesh for a trip. According to victim’s friends, four police officials - Assistant Sub-Inspector Ramesh Kumar, Head Constables Ashwani Kumar and Teen Singh, and Constable Karanvir of Haryana Police arrived drunk at their hotel in Bilaspur and put them in a vehicle (Qualis) at gunpoint on the morning of 4 August 2009. The police officials told them that they were being taken to Jhajjar, Haryana for interrogation in a theft case. They were allegedly tortured on the way. The police stopped on the way for refreshments and it was at this point in the journey that Satish Kumar apparently had a heart attack as a result of abuse. He was taken to a hospital where he was declared “brought dead.”<sup>93</sup>
- On 21 August 2009, Karnail Singh (45 years), resident of Hazarsingh Wala village in Mamdot, died as a result of alleged torture in police custody, at the Guruharsahai Police station, in Ferozepur district of Punjab. Mr Singh was picked by a police team from his residence following a complaint over a monetary dispute. The police claimed that Karnail Singh was unwell and died as a result of nervousness. However, Sheelo Rani, the victim’s sister, alleged that her brother was tortured to death by the police.<sup>94</sup>
- On the night of 9 September 2009, Nand Lal Pasi, a 45-year-old Dalit and resident of Rajapur in Allahabad, was allegedly tortured to death at the Makdoompur police outpost in Kaushambi district of Uttar Pradesh. Mr Pasi, along with his brother-in-law, was on his way home in a motorbike when the police stopped them. The police asked for the registration papers of the motorbike and demanded a bribe. When Mr Pasi refused, both were taken to the Makdoompur police outpost and tortured. Mr Pasi was beaten with a stick and hit with rifle butts and collapsed. Mr Pasi was denied medical attention and was dumped near a factory and later died.<sup>95</sup>
- On 24 October 2009, Hira Lal (35 years) died as a result of alleged torture in a police lockup in Panchkula district of Haryana. Mr Lal was detained for drunkenness during a religious festival. The victim’s relatives alleged that Hira Lal was tortured at the police lockup and died as a result of the injuries.

### Why does India permit police torture?

In a November 13, 2011, interview with these authors, Indian human rights attorney Rajwinder Singh Bains said, “The courts are terrified that ruling against the police would ding India’s international image.” Eagerness to resort to torture and dedication to covering it up are marks of a weak and worried government.

Just as it was first used in the Indian Emergency of the mid-1970s, torture remains a tool for stifling freedom of speech. Most will think thrice about speaking out against a government policy with which they might disagree if the repercussions for doing so include arbitrary arrest, torture and elimination in a fake encounter. Inderjit Singh Jaijee drew that conclusion, explaining: “The State derived a double benefit from ruthless police methods; opponents were eliminated but, more importantly, fear of the suffering that would certainly befall them and their families if they fell foul of the State kept people quiet.”<sup>96</sup>

Thus, with the threat of torture, the greater portion of political dissent can be easily shut down by the ruling party, allowing the Indian government to remain tightly controlled by the few select ruling elite. Yale-educated attorney and anthropologist Winston Nagan agreed that, whether in India or elsewhere, state-sanctioned torture is used a tool for social control and intimidation. In “The International Law of Torture,” a survey published in the *Harvard Human Rights Journal*, Nagan explained the twisted moral reasoning that governments use to justify torture:

The central characteristic of the legal concept of torture is that it is an intrinsic part of the narrative of official behavior. The practice of torture is a powerful institutional expression of state craft, power, and social control. The official use of torture, even if denied in theory but used in practice, functionally means that the

state (an organ of human association) uses these powers (as critical components of security) to intimidate or sometimes even eliminate its enemies, or indeed non-enemies. When torture becomes routine practice in governance, the state does not represent the moral order of the community, but instead is the repository of authorized violence and impermissible coercion. This is expressed by achieving power through brute force. However, when power is maintained by practices of torture and ill treatment, the claim to state legitimacy is illusory, or weakened.

The state also seeks to validate its use of violence and coercion by appeals to its authority. Even naked power has its limitations in the scheme of social control. The state elite constantly search for moral and ideological justifications for their current and continued existence. The use of torture by the state indicates insecurity in the processes of governance. The state invariably appeals to some moral or normative standard in order to validate recourse to this form of violence and weaken the identification of the state with naked power or brute force. Thus, the state tries to elevate the morality of its use of violence by appeals to notions of self-defense, the protection of security interests at all levels (including national security), the morality of the survival of the state (as a romantic or moral artifact), or the morality implicit in the construction of a state as a higher order framework of human association.<sup>97</sup>

Essentially, the Indian State fears that abandoning the practice of torture would result in powerlessness over the people. Paralyzed with fear by the belief that any comprehensive action to change the system will result in the whole thing crumbling, the judiciary sits and trembles instead of reigning in the murderous executive. HRW reports that, in virtually all cases, “Law enforcement personnel continue to enjoy virtual impunity from prosecution for human rights violations including custodial torture and extrajudicial killings.” Typically, prosecutions cannot even begin without prior permission from the central government.<sup>98</sup>

Instead of condemning the police as so disorganized and corrupt that they torture rather than investigate, the Indian State attempts to elevate the morality of its actions. The police, it suggests, are selfless to even be handling such a filthy job. Flailing after every possible excuse, no matter how improbable, the state implicitly sells the practice of torture as necessary for preserving national defense, the key to securing prosecutable evidence, the only reliable way to punish criminals or simply the social glue holding everything together.





## 4. For Fun and Profit: Torturing Known Innocents

### Indian police arrest and torture a U.S. citizen

On May 19, 1996, a U.S. citizen named Balbir Singh Dhillon, a resident of Sacramento, CA, was arrested by Indian police and tortured in their custody for one week. Currently the president of West Sacramento Sikh Gurdwara, the devoutly religious Sikh had traveled to the northern Indian state of Punjab on a religious pilgrimage, a journey he had routinely made for years, both to visit his family and the Sikh Golden Temple in Amritsar, Punjab.

Immediately upon arrival in Punjab, Dhillon was summoned to a local police station by Deputy Superintendent of Police (DSP) Rajinder Singh. There police produced weapons and a small amount of RDX, which they then claimed to have discovered on his person. This planted evidence was used as justification for detention and Dhillon was locked up at the station until March 27.

During that time, he was tortured. For the first several days, police deprived Dhillon of any sleep and forced him to stand in stress positions for long periods of time. Rousting him at all hours of the night, they subjected him to brutal interrogation sessions in which he was repeatedly ordered to admit to a concocted list of crimes and was forced to sign a blank piece of paper to be used as a confession.

He could hear other detainees being brought in at all hours of the night. Often, officers in the hallways would state loudly, obviously intending him to overhear, that “so many Sikhs have been eliminated.” As a devout Sikh, Dhillon wakes early every morning for prayers. Rising in the twilight hours, he remembers hearing anguished screams. “When you hear such things,” said Dhillon in an interview with the authors of this report, “what else can you deduce but that this is people being eliminated?” He was familiar with India’s human rights record — only the previous year, Jaswant Singh Khalra had been disappeared after exposing a 10-year pattern of custodial torture and killings by Punjab Police.

After a week of torture at the police station, Dhillon was handed over to the CIA staff office in Jalandhar. He suffered a different form of abuse there, as the officers constantly harassed him by smoking tobacco in his presence. For centuries, Sikhi has viewed tobacco use as a source of ill-health and its use is as abhorrent to devout Sikhs as pork is to Muslims.

On June 4, he was again transferred, this time to Jalandhar Central Jail. He was imprisoned there for nearly three months. During his custody, police constantly harassed his relatives, dropping by their home at all hours to repeatedly enquire after Dhillon’s activities and threaten his family members with abusive language. Finally, he was granted bail on August 24. Bail conditions, however, confined him to his family’s village and required him to appear in court every 30 days.

Luckily for Dhillon, he was (and remains) a highly respected figure. Within hours, his family mobilized the Sikh community and began notifying U.S. representatives of his illegal detention. Fifty members of Congress swiftly composed a letter to then U.S. Secretary of State Warren Christopher, a copy of which was provided to the authors by Dhillon so it could be reprinted below:

Dear Secretary Christopher:

We are very distressed by the Indian government’s arrest of an American citizen, Balbir Singh Dhillon, a 43-year-old businessman from Sacramento, California. Mr. Dhillon was arrested during a visit to Punjab. He has

a wife and two children living in Sacramento and was traveling on a valid U.S. passport, number 051825191, issued on November 20, 1987 and expiring on November 19, 1997. It is feared that India's Central Bureau of Investigation (CBI) is torturing him.

We ask you to intervene with the Indian government to secure Mr. Dhillon's release. It is bad enough that India commits atrocities against those living under its rule, but the arrest of an American citizen who was innocently traveling is a violation of American sovereignty and the principles of democracy and human rights. If Mr. Dhillon has committed a violation of Indian law, then India should expel him and deport him to the United States. Otherwise, he should be released immediately.

Unfortunately, this kind of action is typical of the repression for which India has become notorious. Many of us in Congress hope that the new government will reject this pattern of tyranny and respect the freedom and self-determination of all the people of the subcontinent. The release of Mr. Dhillon would be a sign that new government intends to move India toward genuine democracy.

Please do whatever you can to secure the immediate release of this American citizen.

Thanks to the Indian government's desire to avoid negative inquiries from the international community (to which it was particularly sensitive at the time due to the recent publicity surrounding the disappearance of Khalra), Balbir Singh Dhillon is a torture victim who escaped with his life. Because a ruckus was so quickly and persistently raised by those concerned over his unjust imprisonment, he was eventually cleared of all charges and allowed to leave India by January 1997.

"I suspect the motivation for the attack on me was simply that I am a devout Sikh who opposes tyranny against the Sikh nation," said Dhillon, "and nothing more." He has never sought to return to India and has given up any hope of ever again seeing his family. Dhillon is forever cut off from all ties to his historical homeland.

### **Breeding obedient police**

To be considered a good police officer within modern India's law enforcement system, one must engage in torture and extra-judicial killings. Making this an obligatory part of the typical police officer's duty has fashioned Indian law enforcement into a profession favored by the slavishly obedient. Protected by his superiors, who are inevitably the ones ordering commitment of atrocities, the average police officer escapes all consequences for his lawless actions. Interviewed in 2009 by Human Rights Watch (HRW), one officer said:

"This week, I was told to do an 'encounter.'" .... He was referring to the practice of taking into custody and extrajudicially executing an individual, then claiming that the victim died after initiating a shoot-out with police. "I am looking for my target," he said. "I will eliminate him.""

Also termed a "fake encounter," the practice of staging an "encounter killing" originated in the 1980s. The practice of encounter killings, torture and other crimes against humanity are often performed by low-ranking officers in response to the direct orders of their superiors. Explaining how this naturally perpetuates the problem of police torture, HRW reported:

"Encounter specialists" have been suspended on charges of corruption and police across India face prosecution for fabricating shoot-outs. But the practice persists, and has undoubtedly spread beyond major cities and "specialist" police units into smaller cities and surrounding villages.

According to Human Rights Watch's analysis of dozens of court cases, cases before the NHRC, information from NGOs, and media accounts, fake encounter killings are usually carried out by station officers, sub-inspectors, and constables—that is, low-ranking police. However, considering the scale of this practice in many locales, it is unlikely that local officials and senior police officers are unaware of the involvement of police in such killings. Doubtlessly, senior officers have also been involved in planning or ordering fake encounters. An Uttar Pradesh Sub-Inspector, speaking on condition of anonymity, said he and other sub-

inspectors had committed killings in the past few years on the orders of a superintendent of police (the officer in charge of a police district).<sup>100</sup>

Stuck in a system that offers no opportunities for legitimate advancement based upon hard work and experience, those officers not already required by their superiors to be involved in the practice quickly learn they are rewarded for showing an initiative to torture. According to HRW:

The government awarded gallantry medals and promotions to police who “scored” dozens of encounter deaths, crediting the deaths, rather than arrests, with breaking organized crime’s stronghold on Mumbai and Delhi, and reducing gang violence in Bangalore. In this narrative, the police officer as judge, jury, and executioner was necessitated by the impotence of a clogged court system that, given its low conviction rate, was out of touch with the reality of escalating levels of violence.<sup>101</sup>

As though by deliberate policy, corruption is made systemic within India’s police forces with two complementary tactics. First, the upper echelon of the police ranks are only filled by direct recruitment. It is essentially impossible for one to begin a career as a constable and work his way up to Director General of Police. Second, the bottommost ranks are denied promotional opportunities. This prevents seasoned police officers from applying their street-level experiences in an administrative role, breeding obedient inferior officers and excessively empowered superiors.

These two tactics are clearly dependent on each other, as evidenced by HRW, which reported, “One reason for the limited opportunity for promotion is the system of direct recruitment to junior- and senior-ranking positions, a vestige of the colonial model.”<sup>102</sup> Most positions from the rank of Sub-Inspector on up are filled through cronyism. This makes the system notably rife for abuse by those willing to offer bribes to buy top police leadership positions.

For example, Delhi Police Commissioner P.S. Bhinder — serving from January 1980 to December 1981 — shamelessly bribed his way into office. Former top IB official M.K. Dhar wrote in his memoirs about an encounter with Bhinder where he blatantly confessed to being “the highest bidder” for his job. When Dhar made a nominal request, Bhinder demanded 1.5 million rupees as a bribe to fulfill it, money he said would be used for buying his next promotion. Recounting the conversation, Dhar wrote:

I never imagined that Bhinder would drag his feet on a minor request. He was busy with bigger tasks and responsibilities and old friend Sanjay was still around. His wife too was preparing to launch her political career from Punjab.

“Saab,” he stopped me in between, “Have I done anything wrong to you?”

“No. Why should you? In fact I have seen you for the first time today.” I replied.

The burly jat began unfastening his bag of woes. He had just managed a posting at a coveted police station in central Delhi after defraying an awesome expenditure of rupees 500,000. He got it because he was the highest bidder. His collections were yet to equal the expenditure incurred by him.

“You tell me sir,” he concluded by asking a potent question, “Is it fair to drag me out of that police station at this stage? Should I not earn at least an additional 1,500,000?”

“What for?”

“Some I would keep for the rainy days and some would go for bagging my next promotion and an equally good posting. Excuse me sir,” he finally stood up, “you’re not a real policeman and you won’t know these things. But please write me off.”<sup>103</sup>

This attitude has poisoned the entire Indian law enforcement culture. Officers are swift to realize that the only actual opportunity for advancement is to torture and kill, thus earning the approval of their superiors. When sys-

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temic corruption is almost certainly far more endemic to the top echelon than the lowest ranks, all levels of police officers are invariably inclined to engage in atrocities for no greater purpose than fun and profit.

### **Torture for failing to pay police bribes**

Thus has developed a society in which, as Steve Coll noted: “Corrupt policemen demand bribes at every checkpoint and throw drivers in jail if they don’t oblige.”<sup>104</sup> Those living on the edge of society are most negatively affected by this form of corruption. Frustrated at being turned down by those who cannot afford to pay the exorbitant bribes they demand, police officers will generally subject such poor individuals to more savage violence. HRW warned about this, stating:

Individuals who are poor and socially or politically marginalized are particularly vulnerable to police torture and mistreatment. Poor criminal suspects are unable to bribe police to secure their release and are unlikely to have connections to local political figures who can intervene. As a result, they are targets for prolonged detention and repeated violence.<sup>105</sup>

As always in caste-corrupted India, the Dalits often suffer the worst abuses at the hands of the police. Often penniless and always lacking legal protections, they have historically been viewed as “outcaste” trash worthy only of enslavement by the high-castes. An example of how police act upon this cultural attitude is seen in the case of Pradeep Singh, which was documented by HRW:

Twenty-year-old Pradeep Singh died after suffering a severe beating by police in Chitti, Dhankaur, Uttar Pradesh, in January 2007. According to Singh’s family, police arrested Pradeep with two other men. Police released the other two after they paid a police bribe. But Singh’s family, Dalits with little money, were unable to pay the police. Singh’s grandfather Kedara, age 83, visited him in lockup before he died:

When I looked at him, I felt very sad. He couldn’t stand up straight. Why? We are poor people. We don’t have money to give to them. And if it’s our caste, then they beat up all the more.... We don’t have money ourselves, where do we give money to police from? If we gave the police [money], probably it would have helped my boy.<sup>106</sup>

Two similar situations which also resulted in death demonstrate the police pattern of demanding bribes, under the threat of death, from the underprivileged. Both occurred in Uttar Pradesh, meaning that, although not specifically identified as Dalit, the victims were most likely from a low-caste background.

In the first case, occurring in June 2009, Indian police killed a pregnant woman by throwing her from a train after she failed to pay them a large enough bribe. Pregnant Kavita Lodh and her husband, Dinesh Kumar Lodh, tried carrying on a bicycle when boarding a train in northern Uttar Pradesh. Officers stopped them and demanded a 100 rupee [\$2 USD] bribe to permit the bicycle on board, reported *The Telegraph*, which continued:

When Mrs Lodh said she was not carrying enough money, and instead offered a 5 rupee (6p) bribe, the railway officers allegedly pushed her from the train.

As she struggled to grab hold of the door, she fell under the wheels of the train and was killed instantly, witnesses said. The little girl, who had been sitting on her mother’s lap, also fell out of the moving train but escaped with minor injuries.

Police bribes are a part of daily life in India, but this incident has caused widespread anger.<sup>107</sup>

In the second case, on September 26, 2011, a truck driver hauling medical supplies was beaten to death when he refused to pay an outrageously sized bribe demanded during a traffic stop. Reporting on that incident, NDTV said:

Truck driver Anant Kumar Gupta was on his way from Delhi to Bihar with a consignment of medicines when he was stopped by Regional Transport Office (RTO) officials and five UP Police constables at Nau-

batpur in Chandauli.

The driver's son, who was accompanying him, says the officials alleged that the truck was overloaded and asked for Rs. 5000 [\$100 USD] to let it pass. When the truck driver refused, they beat him to death. Gupta was in his 40s.<sup>108</sup>

### **Torture of children**

In February 2009, police in Uttar Pradesh were filmed abusing a tiny Dalit girl who was variously reported as 6 to 8 years old. *Outlook* magazine reported: "Television channels showed how [Senior Sub-Inspector Shyamlal Yadav] picked the girl by her ears and hair, threatened and scolded her ... even as six other policemen, including SHO Chandrabhan Singh, remained mute spectators." The state's DGP, Vikram Singh, called the incident "unfortunate" and said police had been "highly negligent." However, judging by the regular pattern of police abuse to which the state turns a blind eye, one wonders if he really meant it was unfortunate that police had negligently allowed themselves to be caught in the act.

The incident began with an allegation that the child had stolen 280 rupees, worth approximately \$5.60 USD. Detailing a complaint by the girl's family, *Outlook* said:

The girl Komal was beaten up on Monday after one Anju Katharia took her to Jaswantpur Police Station alleging that the child had stolen Rs. 280 from her wallet and gave the money to another boy in a market near Lohamandi in Jaswantpur area.

Sub-inspector Shyamlal Yadav then beat her up although the girl was innocent, the victim's mother claimed in an FIR.

"My daughter saw somebody running away with a wallet in the market, but the police caught my daughter," she claimed.<sup>109</sup>

Three days later, on February 6, *The Indian Express* reported that the theft case against Komal had been expunged. The police spokesman who announced deletion of the case said: "No one saw the girl stealing the money. Moreover, according to the law, no activity is an offence if a child is below 12 years. At that age, one has not attained sufficient maturity to understand the nature and consequence of an action."<sup>110</sup> Apparently, lacking any evidence whatsoever against the girl, police had merely fabricated the allegation to justify their abuse.

Even when police are investigating what may be legitimate crimes, children suffer at their hands. For instance, on March 10, 2009, a 10-year-old boy named Master Altaf died in police custody. On March 5, Uttar Pradesh police had raided the boy's home in search of his brother, who they claimed was accused in a rape case. Because the brother was not present, police instead abducted Master. What they could hope to gain from tormenting a child is unclear. Nevertheless, they subjected him to questioning and he subsequently died after five days of accompanying torture.<sup>111</sup>

Similar incidents of unprovoked abuse are legion. The Asian Centre for Human Rights (ACHR) reports that "illegal detention and torture of children in police custody is common in India." Legislation passed to correct the issues has had zero effect. No attention whatsoever is paid, for instance, to implementing bills like the Juvenile Justice (Care and Protection of Children) Act of 2000, which required the harmonious protection of both the rights of "juveniles in conflict with law" and the "child in need of care and protection." As woefully uneducated, generally, and ignorant of basic legal rights, specifically, as India's police forces are, it seems that such elementary legal concepts would not even be understood by the average police officer. Indeed, the police behave as though children ought to be in need of care and protection from law enforcement.

### **Torture by rape**

Bahareh Maghami, a teacher who was arrested by the Iranian regime in 2010, was gang-raped in prison. After her experience, she wistfully stated: "Rape is not just a blow to one person; it is a blow to the whole family. A victim of rape is never healed with the passing of time."<sup>112</sup> The sexual abuse of women detained in Indian police custody has produced countless victims who now suffer from enduring psychological wounds. According to *The Telegraph*:

All acts of rape are grave abuses of human rights. But the abuse takes on an added significance when the rapist is a public official. The UN's Special Rapporteur on torture states that rape constitutes torture when it is carried out by public officials or happens at their instigation. International and regional human rights bodies have ruled that rape by officials always amounts to torture, and cannot be considered to be simply a common criminal act.

The practice of rape as a form of torture by police officers is systemic and borders on universal in their interactions with female detainees. Most tragically, many of those abused by the police first approached the authorities to file a report of rape by non-governmental assailants. Although ACHR states that "custodial rape remains one of the worst forms of torture perpetrated on women by law enforcement personnel," it also warns that "official reporting is nothing short of appalling." Only one case was reported in 2007, two in 2006 and seven in 2005. "These figures," concluded ACHR, "cannot be considered an accurate reflection of the [incidence] of rape in custody."<sup>113</sup>

In 2009, ACHR documented several cases of torture of women by law enforcement agencies, some of the most egregious of which we have reproduced below:

- On the night of 8 February 2009, Ms Reshma (name changed), resident of Keshpura village, was allegedly raped in police custody by Satyendra Sheel, Senior Sub-Inspector and Station House Officer (SHO) of Fariha police station in Ferozabad district of Uttar Pradesh. The victim was earlier kidnapped and raped by two persons on 6 February 2009. Following a complaint by her brother, the police arrested the accused persons on 8 February 2009 and rescued the victim. However, the police brought the victim to the police station and asked her to stay back at the police station on the pretext that she will be needed to record her statement. But late at night the SHO of the police station, Senior Sub-Inspector Satyendra Sheel called her to his official residence and allegedly raped her.<sup>114</sup>
- On the night of 13 February 2009, a minor girl, daughter of Narayan Singh, was allegedly raped by Sadhu Ram, Station House Officer (SHO) at the Manendergarh Sadar police station in Rohtak district of Haryana. The victim was rescued from her abductors and taken to the police station to record her statement. Instead of recording her statement the accused raped her. The medical examination of the victim reportedly confirmed rape.<sup>115</sup>
- On 2 March 2009, a 16-year-old girl (resident of Kachiyana Mohalla in Simaria village) was allegedly gang-raped by three police personnel, including Sub-Inspector Narendra Singh Thakur, at Simaria police station in Panna district of Madhya Pradesh. Ironically the victim had gone to the police station to file a complaint of rape. One of the accused policemen, SI Narendra Singh Thakur was arrested and sent to jail.<sup>116</sup>
- On 2 June 2009, a 23-year-old woman was allegedly raped by two police constables identified as Phul Chand and Mohd. Asheer posted at the District Jail Pratapgarh in Uttar Pradesh. The accused called the victim on the pretext of arranging a meeting with her husband who was held in the jail. However, when she reached the jail, the accused took the victim to a secluded place and raped her.<sup>117</sup>
- Minor girls were also raped in custody. On 4 June 2009, two tribal minor girls were allegedly gang-raped by four persons, including three Special Police Officers (SPOs) identified as Sany Debbarma, Uttam Debbarma and Gopal Debbarma, at Mungiakami village of Atharomura foothills in west district of Tripura. Both the victims were studying in Class VI standard. The victims were abducted while returning home after watching TV at their neighbour's house. They were taken to a nearby jungle and raped. The victims were released on the morning of 5 June 2009.<sup>118</sup>

### **2008 - Varshiya Mohan Seth: tortured in staged theft case**

The July 2008 case of Varshiya Mohan Seth offers an excellent example of how police flagrantly engage in extortion and torture their victims to coerce cooperation.

A 66-year-old jewelry store owner from Varanasi, a city in Uttar Pradesh, Seth was abducted from his home by

police at about 3 P.M. on July 16, 2008. Accusing him of possessing stolen jewelry, a Sub-Inspector (SI) and five plainclothes constables seized the man and drove him around in a non-police vehicle. In their 2009 report on Indian policing, HRW reported:

Scared, Seth took police to his shop and let them confiscate all of his merchandise. Seth said, “Instead of taking me to the police station, I was taken to a *chowki* where they distributed the jewelry among the SI and constables.”

When Seth protested, constables beat him and the sub-inspector broke two of his fingers. Police then bent his head back and poured gasoline in his ear. Seth said:

When they were pouring gasoline in my ears, I was trembling and going through great pain. They said, “Sit properly or we’ll kill you.” I kept saying, “Please this is all my life, this is all my jewelry.”

Later that day, Seth was taken the police station and put in lockup. At night, police showed him a television, two mobile phones, and some jewelry and told him to sign a blank piece of paper. Seth said when he refused to sign, the SI started verbally abusing and beating him. Police then took Seth to a room where journalists were waiting:

All police and the SI were standing and the media people were taking photos. I was not allowed to speak, the police were saying they’d solved a good case of theft, they’d recovered these things.

Police did not take Seth to the magistrate’s office until the next day, but the magistrate was not there. “I just signed something because they told me,” Seth said, but because police never filed charges in his case, he was released. Seth said that while senior police told local media in June 2008 that his case would be independently investigated, nothing has happened. Seth believed that his mistreatment with gasoline was causing blindness: “My eyes have gotten weaker and weaker, in one eye I’m going blind. All of my money was robbed away. I used to run a shop, now I must go to another shop as a wage earner. [But] whatever they have taken, I have vouchers showing I bought it legitimately.”<sup>119</sup>

### **2007 - Bhageran Mato: tortured for opposing bribes**

The October 2007 case of Bhageran Mato demonstrates how police respond to those who oppose demands for bribes, especially when making organized opposition.

A fruit vendor from Varanasi, Bhageran Mato had been attempting to organize his fellow vendors to stop paying bribes to police. He was approached at about 6:30 P.M. on October 8, 2007, by seven constables, a station officer and a boy he had never seen before. HRW recorded the details:

Police asked the boy if Mato was the fruit vendor who forced him to steal mobile phones.

“The child said, ‘Yes,’ and without inquiry the police dragged me to the SHO’s [station house officer] vehicle,” said Mato. When he protested that the child was lying and that other shopkeepers could attest to his good character, the SO punched him in the face.

Mato was taken to a police post, where police showed him a “country-made” (locally constructed) pistol and rifle, which they said they had “recovered” from him. A police officer said, “Now we will take you to the police station, there you will tell us everything about where these arms came from.” Mato said he denied the allegations, responding “You accused me about mobile theft, now illegal arms and you’re telling me to accept this. What is going on?” At the police station, Mato asked the station officer to check the boy’s story. “I said, ‘Ask this boy where my stall is,’ since they had picked me up from a stall different from my usual one.” Mato said the boy did not respond, but instead told the police that Mato used to beat him in his house. So Mato told police to ask the boy where his house was:



The child again went quiet. After this, the SO started beating me, saying, "You are not going to talk anymore. Whatever we have planned, we are going to do, and this child is a witness." He punched me four times in the face and kicked me in the legs.

Officers then took Mato to the *munshi's* office. A constable came and stepped on Mato's feet for five to ten minutes, crushing his toes, saying, "All thieves speak like this. It's only when they get a nice thrashing that they confess their crime." Later that night, constables escorted Mato to another room, where two men in civilian dress kicked and beat him to elicit a confession to yet another charge: running a gang. Later, the station officer called Mato to another room, where constables tied him up before beating him:

There my hands and legs were tied, a wooden stick was passed through my legs. They started beating me badly on the legs with lathis and kicking me. They were saying, "You must name all the members of the 13-person gang." They beat me until I was crying and shouting for help. When I was almost fainting, they stopped the beating. A constable said, "With this kind of a beating, a ghost would run away. Why won't you tell me what I want to know?" Then they turned me upside down...They poured water from a plastic jug into my mouth and nose, and I fainted.

When Mato regained consciousness he was in the same room but his hands and legs were not tied. He was again taken to the *munshi's* room. The station officer admitted the child was lying and said that Mato would be released the next morning, but he was not. That night, his family came with a lawyer and secured his release.<sup>120</sup>

## Conclusion: Delhi Incentivizes Atrocities

### The Alam Sena death squad

If practice makes perfect, then torture is what India's police do best. They exist within a demonic law enforcement culture that incentivizes the most brutal to rise to the top. Those who are willing to kill to get what they want receive the most opportunities for promotion. Abject cruelty is applied to the Indian people by their police as a matter of policy. It is not just the de facto lawful occupation of a police officer, but his preeminent duty.

This is blatant in the case of former Punjab DGP Mohamad Izhar Alam, who adeptly played the game for years and consequently exemplifies the worst elements of the Indian police. The people in Punjab are terrified of him, he is best known for leading his own personal death squad in the 1980s and yet the government of Punjab is at this very moment rewarding him.

Chief Minister of Punjab Parkash Singh Badal, a fixture in Punjab politics for decades, is leading the way. On October 29, 2011, *The Times of India* reported that Badal offered Alam the Malerkotla MLA seat in the state's Legislative Assembly, having "overlooked the allegations that ... Alam was involved in killing of several innocent Sikh youth."<sup>121</sup>

"Several" is putting it mildly. Alam's bloody legacy is still reaping its toll on present day Punjab. The Khalra Mission Organisation, founded to carry on the work of human rights activist Jaswant Singh Khalra (himself a victim of torture and murder by police), reported on November 18, 2011, that it has identified the bodies of 34 young Sikhs killed in Alam's custody when he headed the police district in Amritsar.<sup>122</sup> His death squad, Alam Sena (meaning "Alam's Army"), is well-documented "in carrying out possibly thousands of staged 'encounter killings."<sup>123</sup> Regarding Badal rewarding Alam, the organisation said:

They would also move the court after seeking a legal opinion to check the entry of such "tainted cops" in the political arena. They said the SAD [Shiromani Akali Dal, a Punjabi political party] had assured the people that a probe into fake encounters prior to 1997 Assembly polls would be ordered. But today the ruling party is not "only giving them party posts but also ticket for the elections."<sup>124</sup>

In 2005, a series of leaked U.S. Embassy cables included correspondence between New Delhi-based U.S. diplomat Robert Blake and his U.S.-based superiors. Blake gave a detailed description of Alam Sena, the death squad Alam organized and led as part of his duties as a Punjab Police officer:

With regard to former senior superintendent of police (Jalandhar) Mohammad Izhar Alam, we can confirm that he now holds the position of additional director general (administration), a senior police posting... He assembled a large, personal paramilitary force of approximately 150 men known as the "Black Cats" or "Alam Sena" that included cashiered police officers.... The group had reach throughout the Punjab and is alleged to have had carte blanche in carrying out possibly thousands of staged "encounter killings." (Note: Former director general Punjab Police, KPS Gill, publicly praised the group, saying that Punjab police could not function without them.)<sup>125</sup>

Known as the "butcher of Punjab," Gill was naturally enamored with the death squad fielded by Alam. Indis-

criminate bloodshed gets an officer ahead in India's police forces and Alam really wanted to get ahead. When he visited the UK in 2003 for an Indian policing conference, three of his victims went public, accusing him of "having either watched them be tortured or directing other police officers to inflict torture, to include their arms being suspended from the ceiling, their legs being crushed under heavy weights, and the application of electric shocks and acid."<sup>126</sup> By fulfilling such duties of his job, he became a successful Indian police officer.

Savvy officers collude with the government, performing the violent crimes needed to ensure politicians win elections. When asked why officers like Alam are promoted instead of prosecuted, Rajwinder Bains (the attorney who won a rare court victory in the prosecution of the officers who killed Khalra), remarked: "People like Alam paved the way for the current rulers by killing any opposition. The police kept the current tyrants in power, so the government must return the favor."<sup>127</sup>

### **Infinitely powerful police collude with militant nationalist movements**

The police in India have too much power. The central government in Delhi allows them to operate completely outside the law, not even bothering about appearances, with infinite power to do anything whatsoever, for any reason, to India's citizens. In 2011, the United States Commission on International Religious Freedom (USCIRF) alerted the world to this ongoing state of impunity, reporting:

The failure to provide justice to religious minorities is not a new development. In 1984, thousands were killed in anti-Sikh riots that erupted in Delhi following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. In the late 1990s, there was a marked increase of violent attacks throughout India against members of religious minority communities, particularly Muslims and Christians, including incidents of killings, torture, rape, and property destruction. In 2002, Hindu-Muslim riots in Gujarat left an official death toll of 1,272 (with some groups estimating double that number of actual fatalities), the majority of whom were Muslims. In all of these cases, justice has been slow and inadequate. Also, numerous NGOs, including the Indian American Muslim Council and the All India Christian Council and religious communities believe that the masterminds of violence are often vindicated and set free, or if convicted, released with minor monetary fines, and that police are influenced by religious bias and state politics. The failure to provide swift and adequate justice to religious minorities perpetuates a climate of impunity, which allows the harassment of and violence against religious minorities to continue unabated.<sup>128</sup>

The past few decades have seen an unprecedented expansion in the popularity of a Hindu supremacist ideology known as *Hindutva*. Most of the particularly egregious acts of religious violence in the same period — the Delhi pogrom, the Babri Mosque destruction, the Gujarat riots, the Orissa killings — have occurred at the behest of pro-*Hindutva* nationalist organizations. Known collectively as Sangh Parivar, these entities include the Bharatiya Janata Party (BJP), Rashtriya Swayamsevak Sangh (RSS) and the Vishwa Hindu Parishad (VHP). Sangh Parivar, according to USCIRF, "adhere in varying degrees to an ideology of *Hindutva*, which holds non-Hindus as foreign to India." Describing the extent of their influence, USCIRF wrote in its 2011 report:

Hindu nationalist organizations retain broad popular support in many communities in India. The activities of these groups, especially those with an extremist agenda or history of using violence against minorities, often negatively impact the status of religious freedom in the country. Many of these organizations exist under the banner of the Sangh Parivar, a family of over 30 organizations that includes the Vishwa Hindu Parishad (VHP), Bajrang Dal, Rashtriya Swayamsevak Sangh (RSS), and the BJP. Sangh Parivar entities aggressively press for governmental policies to promote a Hindu nationalist agenda.<sup>129</sup>

These supremacist groups exist in a deeply symbiotic relationship with the government and its security forces. Narendra Modi, architect of the Gujarat riots and Chief Minister of that state, is a leading example of how Indian society rewards the most brutal of its bullies. His deep ties to *Hindutva* groups, as documented in Chapter 2, illustrates how top-ranking Indian politicians collude with violent supremacists.

The Gujarat riots began on February 27, 2002, after a train full of Hindu VHP members was attacked and set ablaze, ostensibly by a crowd of militant Muslims. Fifty-eight Hindus died, so in response, the VHP fielded several thousand armed thugs to extract revenge. The mobs began systematically targeting Muslims, eliminating up to 2,000

(according to some casualty reports).

A Human Rights Watch (HRW) report released on April 30, 2002, was absolutely damning of Gujarat's entire governmental apparatus, pinning direct responsibility for the genocidal Sangh parivar attacks on police abetment. In a press release announcing its report, HRW wrote:

“What happened in Gujarat was not a spontaneous uprising, it was a carefully orchestrated attack against Muslims,” said Smita Narula, senior South Asia researcher for Human Rights Watch and author of the report. “The attacks were planned in advance and organized with extensive participation of the police and state government officials.”

The police were directly implicated in nearly all the attacks against Muslims that are documented in the 75-page report, ‘We Have No Orders to Save You’: State Participation and Complicity in Communal Violence in Gujarat. In some cases they were merely passive observers. But in many instances, police officials led the charge of murderous mobs, aiming and firing at Muslims who got in the way.

Under the guise of offering assistance, some police officers led the victims directly into the hands of their killers. Panicked phone calls made to the police, fire brigades, and even ambulance services generally proved futile. Several witnesses reported being told by police: “We have no orders to save you.”<sup>130</sup>

This culture of absolute impunity allows the common officer on the street to forget the very idea of a moral conscience. There are no negative consequences for committing atrocities when doing so is implicitly and explicitly commended by all their superiors. Backed by the immense power of this deeply corrupt system, officers can do just about whatever depraved thing they want. The only real limit is the extent of their imagination. Correctly predicting the horrific outcome when such figures in power are freed from all personal responsibility, American social commentator Eric Hoffer wrote:

There is no telling to what extremes of cruelty and ruthlessness a man will go when he is freed from the fears, hesitations, doubts and the vague stirrings of decency that go with individual judgement. When we lose our individual independence in the corporateness of a mass movement, we find a new freedom — freedom to hate, bully, lie, torture, murder and betray without shame and remorse.<sup>131</sup>

In a very few isolated incidents, police are prosecuted for torture, killings or other atrocities, but that virtually never results in a heavy sentence. Only situations where police are caught completely red-handed, as when five officers were witnessed abducting Khalra (an internationally admired human rights activist), result in any real punishment. Even then, justice only comes after decades of glacially slow court proceedings and the top-ranking officers responsible for ordering atrocities are never the ones convicted.

One reason the top-ranking officers inevitably escape punishment is because of protection from the Delhi government. Not only has the Center (as the central government in Delhi is called) failed even to make torture a national crime, but as among the officers whom the Delhi politicians protect, the most brutal figures in the Center are the most successful because of their brutality.

Indeed, India's largest organized crime syndicate is the Delhi government. The Center pulls the strings of every state government at whim. One strong-arm tactic it uses to do this is called “President's Rule,” a legal method by which Delhi may easily declare any state a “troubled region,” suspend the state government and rule by fiat — essentially instituting a state-wide dictatorship. Highlighting a 1983 occurrence of this in Punjab, Amnesty International explains how this compounds impunity:

The Government of India imposed direct rule on Punjab in the face of the increased violence: the state Legislative Assembly and government were therefore dismissed and the administration of the state came under the control of the central government, through the Governor of the state. From this moment the Punjab Police started to take orders from Delhi and so stopped being accountable to any political institution within the state.<sup>132</sup>

As a result of its strategy for dealing with the Indian people, which is to degrade them into total submission through whatever methods necessary (costs be damned), the Indian State spreads warfare within the country's own borders. Mary Robinson, once a High Commissioner for the UN, wisely remarked, "Today's human rights violations are the causes of tomorrow's conflicts."<sup>133</sup> In a February 2011 report, HRW illustrated that pattern:

Abusive counter-terrorism tactics, such as torture, are routinely used by Indian police and may actually be boosting militancy in the country, a report by the New York-based Human Rights Watch (HRW) said on Wednesday.

According to the report, there is evidence of discrimination, harassment and stereotyping of Muslims by law enforcement authorities, leading to feelings of disquiet amongst the minority community in officially secular India.

"Allegations of torture are often used as propaganda for recruitment (by militant groups)," said HRW's South Asia director Meenakshi Ganguly.

"When torture happens, it is used to bring in other Muslims who are told that their community is under threat."

Torture by Indian police undeniably breeds civil unrest. Violence is consequently inseparable from the national culture. India began its existence in 1947 as a fragile coalition of diverse people groups whose only shared political bonds were as jointly colonized territories. Today, it is barely holding together after its many ethnic and religious groups have been turned against each other, often through a deliberate government policy of destabilization (as detailed in the June 2011 report "Faces of Terror in India" by Sikh Information Centre). However, the one thread of commonality running through all these accounts of atrocities is that — whether Christian or Dalit, Naxalite or Kashmiri — all are terrorized with equal opportunity by India's police forces, who systematically suppress the most underprivileged in Indian society with torture and murder.

### **Top Indian politicians lead genocidal attacks**

The Delhi pogrom will be forever etched in the memory of the Sikh nation. Several sitting Members of Parliament were complicit in the mass atrocities committed from November 1 to 3, 1984. Targeted in nationwide attacks following the assassination of Indira Gandhi, a total of 2,733 Sikhs were killed in Delhi alone. Tens of thousands were displaced and 50,000 of Delhi's nearly 400,000 Sikh residents fled the city permanently.<sup>134</sup> The violence throughout the country was clearly organized by government figures:

The behavior of policemen surpassed inaction, and often amounted to participation and instigation. If the Sikhs gathered and defended themselves, the police disarmed the Sikhs and sent them to their individual houses, making them easier targets for death squads. Congress (I) party leaders led, directed and encouraged gangs of assailants, and participated in the massacres themselves.<sup>135</sup>

Jagdish Tytler, Kamal Nath and Sajjan Kumar were all witnessed inciting and directing genocidal mob violence. Belonging to the Indian National Congress (INC), India's supposedly moderate ruling party (then and now), the three were all sitting Members of Parliament at the time.

Tytler was charged by several eyewitness with the assault on one gurdwara which resulted in the deaths of 36 people and Nath was seen controlling a mob of over 4,000 within his own district as they burned several Sikhs alive in an attack on Gurdwara Rakab Ganj.

Perhaps the most documented offender was Sajjan Kumar, who one survivor said was "directing the mob to attack us with more and more force and kill us."<sup>136</sup> He was instrumental in initiating the first acts of violence, as U.S. human rights attorney Jaskaran Kaur explains:

During the night of October 31 and early morning of November 1, Congress (I) party leaders met with their local supporters to implement their plan to massacre Sikhs and distribute weapons and money. Con-

gress (I) Member of Parliament (MP) Sajjan Kumar and Congress (I) Trade Union Leader and Metropolitan Councilor Lalit Maken paid 100 Rupees and distributed a bottle of liquor to each assailant. Jagjit Singh of Kiran Garden witnessed a meeting near his house around 8 a.m. where Sajjan Kumar distributed iron rods from a parked truck to about 120 people. The MP instructed the mob to attack Sikhs, kill them, and loot and burn their properties.<sup>137</sup>

Kumar played a very immediate role, at times even “participating in the brutal murders.”<sup>138</sup> In one incident, he kicked aside a woman pleading for the lives of her family moments before rioters killed her husband son, while in another he personally killed the two sons of another Sikh mother. While speaking to an armed gang in Mangolpuri, a neighborhood of Delhi, he also offered cash bounties for each Sikh killed. A survivor who overheard Kumar from the rooftop of his house testified that the politician said:

Whoever kills the sons of the snakes, I will reward them. Whoever kills Roshan Singh [son of Moti Singh] and Bagh Singh will get 5000 rupees each and 1000 rupees each for killing any other Sikhs. You can collect these prizes on November 3 from my personal assistant Jai Chand Jamadar.<sup>139</sup>

Sajjan Kumar and Jagdish Tytler served in Lok Sabha until mid-2009, when intense public pressure persuaded the INC to deny them both reelection tickets. Kumar, however, remains a senior party leader, while Tytler’s career until 2009 was sensational. First elected in 1980, he has filled several cabinet-level positions, with his last being an appointment as Minister of Overseas Indian Affairs that came from none other than INC member Manmohan Singh, India’s first Sikh Prime Minister.

Kamal Nath is still in office, where he currently serves as Union Cabinet Minister of Road Transport and Highways. He has filled three other cabinet-level positions since 1991. Several Western nations have denied entry to some Indian politicians guilty of human rights crimes, such as Tytler and Narendra Modi, the current Chief Minister of Gujarat. However, as a result of orienting his political career around boosting foreign trade and investment in India, Nath has been allowed to enter the United States and Canada on multiple occasions. Despite having personally led genocidal attacks in 1984, Nath has met with warm welcome and an easy crossing at the border upon arrival in both countries.

### **The need to protect individual rights in India**

The Indian State and all its offspring are a cancer on South Asia. However, like all the very worst bullies, the state is highly sensitive to criticism. India’s government considers it imperative to put on a good show for the outside world no matter what and what it least desires is for the international community to pay attention to its conduct rather than its rhetoric. Commenting upon India’s obsession with hiding behind its baseless reputation as a “democracy,” Steve Coll wrote:

The political heirs to Jawaharlal Nehru and Mohandas Gandhi have a much tougher time coping with the political morality of their death squads than Premadasa had in Sri Lanka. India’s international credibility depends on its self image as a humane, even spiritual, democracy. Confronted with evidence about state-sponsored murder in the half empty chambers of the United Nations Human Rights Commission in Geneva or in the General Assembly in New York, Indian diplomats respond by chanting the mantra of democracy — the basic syllogism is, we have elections, therefore we are not killers. They fall back, too, on the old xenophobic defenses, accusing human rights investigators of undermining India’s sovereignty on behalf of neo-imperial interests.... The Indian government has every reason to believe that it can get away with its present level of state-sponsored murder in Punjab and Kashmir indefinitely, particularly now that New Delhi’s embrace of free market reform has enlivened the interests of Western governments.<sup>140</sup>

However, the hollow sloganeering India uses to mask its crimes against humanity cannot resist the sovereign power of individual action to expose its abominations through a free press. The inquisitiveness and information saturation of our technological generation will be the downfall of Indian totalitarianism.

Within the U.S., the public attitude towards comparatively minor forms of torture such as waterboarding is growing hostile. Although most of the Republican Party’s candidates for U.S. president supported the practice, two

candidates took strong stands against the practice of torture in any form. One of these was former Utah governor Jon Huntsman and the other was U.S. representative Ron Paul, who emphatically stated:

Yes, torture is illegal. Waterboarding is torture. And it's illegal under international law and under our law. It's also immoral.<sup>141</sup>

Even John McCain, the 2008 Republican presidential nominee, firmly opposed the coercive tactic of waterboarding that was enacted by the U.S.'s last Republican president, bluntly saying, "Waterboarding is torture."<sup>142</sup> American public opinion agrees — a 2009 New York Times-CBS News poll found that 71 percent of Americans think waterboarding is a form of torture. Of course, the difference between waterboarding and tactics employed by Indian police is night and day, though it is only really a difference of degrees. Suspension by the wrists, electric shock, violent anal rape, lacerating, beating, burning, bone-breaking and unmitigated murder are India's more usually preferred tactics.

Facing these issues requires the utmost moral clarity. The favorite tool of tyranny is cruelty applied as policy. This, as U.S. Navy General Counsel Alberto J. Mora once commented, "Destroys the whole notion of individual rights."<sup>143</sup> If the free world hopes to make any impact, it must lead by example in ending such vile treatment of human beings, for as U.S. Supreme Court Justice William O. Douglas admonished, "The liberties of none are safe unless the liberties of all are protected."

As the public turns increasingly to self-education through alternative news sources, third party opinions and independent reports such as this one, they are becoming more attuned to the danger of any infringement on individual liberties. That is great news for the cause of liberty, as individuals who think for themselves can inevitably be depended upon to oppose tyranny. To take advantage of this development, concerned parties must champion individual rights — most especially freedom of the press, of expression and of assembly — above all else.

Indeed, the only hope we have of successfully opposing the great evils of the Indian State is to defend the rights of the individual to the end. After all, without the sovereignty of the individual, what can ever prevent a bandit gang writ large like the Indian State from sapping all civility out of society until only might makes right? That must never be allowed to happen, for as former U.S. president Ronald Reagan observed, "Protecting the rights of even the least individual among us is basically the only excuse the government has for even existing." If it will not guarantee the individual rights of its citizens, the Indian State has no purpose in this world.

## Rank Structure of the Indian Police

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### Senior Ranks:

**DGP:** Director General of Police

**ADGP:** Additional Director General of Police

**IGP:** Inspector General of Police

**DIG:** Deputy Inspector General

**SSP:** Senior Superintendent of Police

**AIG:** Assistant Inspector General of Police

**SP:** Superintendent of Police

**ASP:** Assistant Superintendent of Police

**DSP:** Deputy Superintendent of Police

*Senior ranking officers constitute about 1% of police forces.*

### Junior Ranks:

**SHO:** Station House Officer

**Insp.:** Inspector

**SI:** Sub-Inspector

**ASI:** Assistant Sub-Inspector

*Junior ranking officers constitute about 14% of police forces.*

### Low Ranks:

**HC:** Head Constable

**Const.:** Constable

*Low ranking officers constitute about 85% of police forces.*





**Map of Custodial Deaths by State, 2008-2011**  
*All figures from India's National Human Rights Commission*





## Glossary

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**ACHR:** Asian Centre for Human Rights

**Advani, L. K.:** An influential BJP politician who is the former president of that party (1986-1981), former Deputy Prime Minister of India (2002-2004) and who began his political life in 1947 as Secretary of the RSS (Karachi).

**AHRC:** Asian Human Rights Commission

**Alam, Mohamad Izhar:** A former DGP of Punjab Police infamous for organizing the Black Cats death squad.

**Alam Sena:** Meaning “Alam’s Army,” this was the personal, 150-man militia of Mohamad Izhar Alam, which he organized and operated as a death squad responsible for up to several thousand killings in fake encounters.

**Ambedkar, Bhimrao Ramji:** Dalit civil rights worker and politician who lived from 1891-1956 and is credited with authoring India’s constitution.

**Amritsar:** A large city in northwestern Punjab that is home to the Sikh Golden Temple.

**Assistant Sub-Inspector (ASI):** Police staff with some administrative and investigative responsibility.

**Assistant Superintendent of Police (ASP):** Head of a sub-division of a district.

**Babri Mosque:** A mosque built in 1527 by India’s first Mughal emperor and torn down by a Hindu mob in 1992.

**Badal, Parkash Singh:** The current Chief Minister of Punjab, Badal is serving his fourth term since first entering politics in 1947.

**Bhindranwale, Jarnail Singh:** A Sikh preacher who inspired a return to orthodox Sikh traditions, opposed policies of Indira Gandhi he believed were harming his community and was killed in 1984 in Operation Bluestar.

**Bhinder, P.S.:** A corrupt police officer and former Police Commissioner of New Delhi from 1980 to 1981.

**Bhullar, Davinderpal Singh:** A Sikh currently on death row in India based on his coerced confession.

**BJP:** Bharatiya Janata Party, which was founded in 1980 and controlled India from 1998-2004, is the biggest political party promoting *Hindutva*.

**Black Cats:** A commonly used term for Alam Sena, the personal death squad of Punjab Police officer Mohamad Izhar Alam.

**Chandigarh:** A large city established in northwestern Punjab in 1953 and which serves as a “Union Territory” capital city for both the state of Punjab and that of Haryana.

**Chief Minister:** The elected head of an Indian state.

**Constable (Const.):** Police station staff.

**Dalit:** The self-designated term for the people traditionally considered outcastes and treated as “Untouchables.”

**Delhi pogrom:** An ethnic cleansing of Sikhs from October 31 to November 3, 1984, primarily in New Delhi, that was sponsored and encouraged by the INC.

**Deputy Inspector General (DIG):** Head of a range, which is made up of districts.

**Dhar, M.K.:** A former joint director of India’s Intelligence Bureau (IB).

**Dhillon, Balbir Singh:** A U.S. citizen imprisoned and tortured in India whose release was demanded by fifty U.S. representatives.

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**Dhillon, Kirpal:** A former DGP of Punjab Police who was critical of the “lawless police.”

**Director General of Police (DGP):** Chief-ranking officer, in charge of state or union territory police force.

**Diwali:** The Hindu festival of lights, associated with Lakshmi, goddess of prosperity.

**Deputy Superintendent of Police (DSP):** Head of a sub-division of a district.

**Fake encounter:** A staged shooting or other armed encounter between police and their torture victims used to cover up a detainee’s death in extra-legal circumstances.

**Gandhi, Indira:** The daughter of Jawaharlal Nehru, Indira was the Congress Prime Minister of India from 1966 to 1977 and 1980 to 1984.

**Gandhi, Mohandas:** The Hindu religious leader credited as a founding father of India.

**Gill, K.P.S.:** DGP of Punjab Police from 1988-90 and 1991-95, he is known as the “butcher of Punjab.”

**Golden Temple:** The common nickname for Harmandir Sahib, the gold-plated temple in Amritsar.

**Gujarat:** A state in western India.

**Gujarat riots:** Severe anti-Muslim rioting in Gujarat in 2002, mostly in February and March, that was sanctioned and orchestrated by the state government.

**Gundas:** An Indian term meaning “thug” or “hoodlum” - a criminal designation.

**Gurdwara:** A Sikh place of worship.

**Haryana:** A state in northern India, established in 1966 to divide Haryana from Punjab and create the former as a Hindi-speaking state.

**Hindutva:** An ideology of Hindu supremacism which holds non-Hindus as foreign to India.

**Head Constable (HC):** Police station staff.

**Harmandir Sahib:** The holiest temple of the Sikhs, whose name means “God’s Abode.”

**Hindu caste system:** A hereditary system of social division in India which divides people into four main castes and a multitude of sub-castes; castes are ranked in order of importance, with Untouchables of least importance.

**Hindutva:** An ideology of Hindu supremacism which holds non-Hindus as foreign to India.

**IAS:** The Indian Administrative Service, a bureaucracy staffed by civil servants who implement government policies and encourage a national point of view.

**IB:** The central Intelligence Bureau, equivalent to an Indian FBI.

**INC:** The Indian National Congress, founded in 1885, which has usually controlled India since its independence in 1947 and was the party of India’s founding fathers Nehru and Gandhi.

**Inspector (Insp.):** Head of a police station.

**Inspector General of Police (IGP):** Head of special department; or, head of a zone, which is made up of ranges.

**Jammu and Kashmir:** The northernmost state of India, control of the Muslim-majority territory has been disputed since 1947 and has been the cause of three wars between India and Pakistan.

**Karnataka:** A state in southwestern India.

**Khalra, Jaswant Singh:** A human rights activist who was disappeared by police in retaliation for investigating the illegal killing and cremation of some 3,000 Sikhs by police in Amritsar.

**Kumar, Sajjan:** A Congress politician who served in Lok Sabha from Outer Delhi, formerly one of the largest constituencies in India, and offered rewards to the killers during the Delhi pogrom.

**Lok Sabha:** The lower house of the Indian parliament.

**Maharashtra:** A state in central India.

**Misra, Ranganath:** Chairman of the NHRC and retired Indian Supreme Court Chief Justice.

**MLA:** Member of the Legislative Assembly, the state-level legislature.

**Modi, Narendra:** The Chief Minister of Gujarat who was implicated in the 2002 Gujarat riots.

**MP:** Member of Parliament.

**Mughal:** A member of the Muslim dynasty that conquered India in the 16th century, ruling till the 19th.

**Nath, Kamal:** A Congress politician who has been Union Minister of several cabinets and was witnessed leading rioters in an assault on a gurdwara during the Delhi pogrom.

**National Crime Records Bureau (NCRB):** An Indian governmental agency responsible for collecting and analyzing Indian crime data.

**National Human Rights Commission (NHRC):** A quasi-government agency of India charged with recording and reacting to human rights violations.

**Naxalite-Maoist insurgency:** A low-scale conflict since 1967 between Maoist known as Naxalites and the government of India.

**Nehru, Jawaharlal:** A founding father of independent India and its first and longest-serving Prime Minister, Nehru was in office from 1947 until his death in 1964.

**Operation Bluestar:** The name given by the Indian Army to the unprovoked invasion of Harmandir Sahib in June 1984, which was performed under orders from Indira Gandhi and led to the deaths of several thousand Sikhs, including Jarnail Singh Bhindranwale.

**Orissa:** A state located in eastern India.

**Punjab:** A state in northwestern India.

**Rajya Sabha:** The upper house of the Indian parliament.

**RDX:** A high explosive in use since World War II.

**Ribeiro, Julio:** DGP of Punjab Police from 1986-1988 famous for his “bullet for bullet” philosophy of policing.

**Roy, Arundhati:** A renowned Indian novelist and social commentator.

**RSS:** Rashtriya Swayamsevak Sangh, the most prominent of the Sangh Parivar social organizations.

**Sangh Parivar:** An umbrella term for organizations that promote *Hindutva*, including the RSS, VHP, BJP and others.

**Sarpanch:** A democratically elected village leadership role equivalent to a mayor.

**Scheduled Castes (SC):** The legal term for the outcaste Dalits and other low-castes.

**Senior Superintendent of Police (SSP):** Head of a district.

**Shiromani Akali Dal:** A political party in Punjab.

**Sikhi:** The fifth largest religion in the world which was founded by Guru Nanak in 1499.

**Sikhs:** Adherents of Sikhi and members of a socioreligious people group primarily based in Punjab.

**Singh:** A surname adopted by all Sikh males which means “lion.”

**Singh, Darbara:** The Chief Minister of Punjab from 1980-1983.

**Station House Officer (SHO):** Head of a police station.

**Sub-Inspector (SI):** Head of a smaller police station, or staff with investigative authority.

**Superintendent of Police (SP):** Head of a district, which is made up of multiple police stations, or a subdivision of a district.

**Tytlar, Jagdish:** A Congress politician who has been a Union Minister of several cabinets and led rioters in an attack on a gurdwara during the Delhi pogrom.

**Untouchable:** Outcastes within the Hindu caste system, considering to have such a low ranking that upper-castes consider touching them to be a pollutive act.

**USCIRF:** The United States Commission on International Religious Freedom, composed of a body of independent, non-partisan commissioners.

**Uttar Pradesh:** A state in northern India having the highest proportionate population of Scheduled Castes.

**VHP:** Vishwa Hindu Parishad, a militant, international social organization promoting *Hindutva* and which is particularly known for the destruction of the Babri Mosque and the Gujarat riots.



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<sup>104</sup> Coll. 22.

<sup>105</sup> “Broken System.” 71.

<sup>106</sup> Ibid. 10.

<sup>107</sup> Henderson, Barney. “Indian police ‘threw pregnant mother from train for failing to pay bribe.’” *The Telegraph*. June 21, 2009.

<sup>108</sup> “Truck driver refuses to pay bribe, beaten to death.” NDTV. September 26, 2011.

<sup>109</sup> “Terror in Uniform: Cops Torture 6-Year Old Dalit Girl.” *Outlook India*. February 3, 2009.

<sup>110</sup> “Dalit Girl torture: police expunge theft case.” *The Indian Express*. February 6, 2009.

<sup>111</sup> “Torture in India 2010.” 31-32.

<sup>112</sup> Allen, Katy. “Rape in Iran’s prisons: the cruellest torture.” *The Telegraph*. November 1, 2010.

<sup>113</sup> “Torture in India 2010.” 27.

<sup>114</sup> Ibid. 27.

<sup>115</sup> Ibid.

<sup>116</sup> Ibid. 27-28.

<sup>117</sup> Ibid. 28.

<sup>118</sup> Ibid. 31

<sup>119</sup> “Broken System.” 66-67.

<sup>120</sup> Ibid. 63-64.

<sup>121</sup> Singh, I.P. “Badal endorses former DGP accused of fake encounters.” *The Times of India*. October 29, 2011.

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<sup>123</sup> Singh, I.P. “Alam Sena staged encounter killings.” *The Times of India*. September 11, 2011.

<sup>124</sup> “Don’t allot ticket to tainted cops: Khalra Mission.” *The Tribune*. November 2, 2011.

<sup>125</sup> Singh, I.P. “Alam Sena staged encounter killings.”

<sup>126</sup> Ibid.

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<sup>127</sup> A personal interview with Bhajan Singh Bhinder and Patrick J. Nevers on November 13, 2011.

<sup>128</sup> USCIRF. "United States Commission on International Religious Freedom Annual Report 2011," May 2011. 245.

<sup>129</sup> Ibid.

<sup>130</sup> "India: Gujarat Officials Took Part in Anti-Muslim Violence." Human Rights Watch. April 30, 2002.

<sup>131</sup> Hoffer, Eric. *The True Believer: Thoughts on the Nature of Mass Movements* (Harper Perennial Modern Classics, 2002). 100.

<sup>132</sup> "India: Break the cycle of impunity and torture in Punjab."

<sup>133</sup> Robinson, Mary. "Realizing Human Rights: Take hold of it boldly and duly." A lecture at Oxford University. November 11, 1997.

<sup>134</sup> Kaur, Jaskaran. "Twenty Years of Impunity." ENSAAF. October 2006. 4-5.

<sup>135</sup> Ibid. 5.

<sup>136</sup> Ibid. 24.

<sup>137</sup> Ibid. 27.

<sup>138</sup> Ibid. 63.

<sup>139</sup> Ibid. 27.

<sup>140</sup> Coll. 168.

<sup>141</sup> Hersh, Joshua. "GOP Debate: Ron Paul, Jon Huntsman Cemented as Foreign Policy Outliers." *The Huffington Post*. November 13, 2011.

<sup>142</sup> Weiner, Rachel. "No Republican consensus on waterboarding." *The Washington Post*. November 14, 2011.

<sup>143</sup> Mayer, Jane. "Annals of The Pentagon: The Memo." *The New Yorker*. February 27, 2006.

## **Practice makes Perfect**

Torture is used in every police precinct and station in India. One police officer reported up to 5,000 incidents of torture per year in just a single police station from 1985 to 1990. Approximately four people have died or been killed in police custody every day between 2002 and 2011, say human rights groups. Officers are never punished.

Innocent and guilty alike are tortured. Peaceful political protesters are tortured. Those too poor to pay bribes to the police are tortured. Minorities, both ethnic and religious, are tortured. The practice is systemic and the methods are beyond brutal. All evidence implicates the central government in Delhi as responsible for creating a culture of impunity by rewarding police officers who torture and murder.

*“Power is not a means, it is an end. One does not establish a dictatorship in order to safeguard a revolution; one makes the revolution in order to establish the dictatorship. The object of persecution is persecution. The object of torture is torture. The object of power is power.”*

— George Orwell

*“I would rather be exposed to the inconveniences attending too much liberty than to those attending too small a degree of it.”*

— Thomas Jefferson

*“Each time a person stands up for an idea, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.”*

— Robert F. Kennedy