

Intentional murder of a Dalit boy by BSF -BSF tried to disappear the evidence of offence - Without declaring the victim as dead, inquest was done by Police and SDO - Legal procedure was not followed - No action against the perpetrators – IMPUNITY

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To
The Chairman
National Human Rights Commission
Manav Adhikar Bhawan
Block – C, G.P.O. Complex, INA
New Delhi – 110023

Date: 22 June 2023

Respected Sir,

Here I want to draw your kind attention towards another incident of intentional killing of one Dalit marginalized villager namely Mr. Goutam Barman by the Border Security Force attached with Arjun Border Out Post, Battalion number 6. The victim is a resident of 94 Fulkadabri village under Mekhliganj block and Kuchlibari police station in the district of Cooch Behar.

On 15.06.2023 at about 10 pm when the victim went to the open field for defecation, the on duty BSF person attached with Arjun Border Out Post, Battalion number 6 fired one round bullet which directly hit the forehead of the victim. Before firing, the perpetrator BSF person did not warn the victim rather he directly shot the victim. After committing this brutal crime, the perpetrator BSF personnel tried to disappear the body of the victim. They placed the body of the victim one and half kilometre away from the place of incident.

Next day, without taking the body of the victim to the nearest hospital, police personnel associated with Kuchlibari Police station took the body of the victim to their police station. We do not know who declared the body of the victim as dead? Why did the on duty police personnel not take the body of the victim to the nearest hospital?

On 17.06.2023 Mr. Nripen Barman lodged one written complaint to the Officer in Charge, Kuchlibari Police Station which was received by the concerned police station but till date no FIR was registered and no steps has been taken by the concerned police against the perpetrator BSF personnel. The police personnel of Kuchlibari Police Station violated section 154 of the Code of Criminal Procedure and apex court judgment in the case of Lalita Kumari vs. State of Uttar Pradesh & others [WP (Crl.) no. 68 of 2008].

The above stated incident attracts section 300 (Murder) and 201 (Causing disappearance evidence of offence) and section 166A (Public servants disobeying directions under law) of the Indian Penal Code.

The perpetrator Border Security force personnel not only violated the rights of the deceased victim guaranteed in Article 21 of Indian Constitution but also the premise of Article 7 of International Covenant on Civil and Political Rights as well as the Goal number 1, 8 and 16 of Sustainable Development Goal earmarked by United Nations and in both these international instruments; the government of India is a party and have agreement. The perpetrators also violated the article 2, 3 and 8 of Code of Conduct for Law Enforcement Officials; Adopted by General Assembly resolution 34/169 of 17 December 1979.

The deceased victim Mr. Goutam Barman's family is in penniless condition. He earns their living by working as a migrant worker in different states. But this fatal incident leading to the death of the victim has plunged his family into deeper poverty. While the Government of India has been considering implementing the Sustainable Development Goals within 2030 and where the first goal is to eliminate poverty, the agent of the government (here BSF) by intentional killing of the victim pushed the deceased's family to the face of poverty.

In Article 1 of the United Nation Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions it is stated that the "Governments shall prohibit by law all extra-legal, arbitrary and summary executions". But in India, the illegal practice of resorting to summary execution by BSF instead of bringing the alleged criminals before the court of law is increasing day by day.

It is very much astonishing fact that when Basic Principles on the Use of force and Firearms by Law enforcement officials which was adopted in the eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders which must binding upon the Border Security Force personnel but they just did not pay any heed and without any cause use firearms upon the innocent villagers in the bordering areas. While the United Nations Code of Conduct of Law Enforcement Officers lays down that in the performance of duties, Law enforcement officers shall respect and protect human dignity and maintain and uphold human rights of all persons, but the BSF personnel without any attention exercising their arbitrary power upon poor, helpless people.

I hope that the Commission would fairly intervene in this present case as the right of the family of the deceased victim for a fair enquiry has been denied and such denial is still in continuation.

Under the circumstances we demand:

- BSF should be posted in actual borders and not inside villages.
- The whole incident must be investigated by the investigating agency of the Commission.
- The complaint of the deceased victim's father submitted before the Officer in Charge, Kuchlibari Police Station should be registered as First Information Report since the complaint disclosed commission of offence cognizable in nature and investigation should be directed to be commenced forthwith. Provisions of Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act must be applied against the perpetrators as the victim is a Dalit youth, who has been killed intentionally.
- Immediately give direction to the concerned authorities for taking necessary action against the perpetrator police personnel who without taking the body of the victim to the nearest hospital, took the body of the victim to the police station.
- The guilty Border Security Force personnel involved must be booked and prosecuted in open court of law and not in the Security Force Court under in-camera proceedings, where the accused, prosecutor and judge are brothers.
- The administration must take appropriate steps to control cross border smuggling in bordering villages.
- The family of the victim must be duly compensated and security and safety of the family members must be ensured.
- Any other action as the Commission may deem fit and proper.

Thanking you,
Yours sincerely,



Sujoy Singh Roy
Assistant Secretary, MASUM

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Name of the victim: Mr. Goutam Barman, aged about 28 years, Son of Mr. Nripen Barman, resident of village 94 Fulkadabri, Post Office Mekhliganj, Police Station Kuchlibari under Mekhliganj Block in the district of Cooch Behar.

Name of the secondary victims: (i) Mr. Nripen Barman, aged about 63 years, father of the victim; (ii) Mrs. Subarna Barman, aged about 53 years, mother of the victim; (iii) Mr. Parimal Barman, aged about 31 years, elder brother of the victim; all are residing at 94 Fulkadabri village under Mekhliganj Post Office and Kuchlibari Police Station under Mekhliganj Block in the district of Cooch Behar.

Name of the perpetrators: Border Security Force personnel attached with Arjun Border Out Post, Battalion number 6.
Date and time of the incident: On 15.06.2023 at about 10 pm

Place of the incident: 50 meters distance from the house of the victim's aunt placed at 70 Mekhliganj village under Kuchlibari Police Station and about 2 kilometer distance from the International Border Pillar (IBP).

Details of the incident: Goutam Barman was a migrant labourer working in different states of India. On 03.06.2023 Mr. Goutam Barman returned to his house from Jaipur, Rajasthan, with the purpose of casting his vote for the upcoming Panchayat elections. After returning to his house, Mr. Goutam Barman worked as a daily labourer in a tea garden.

On 15.06.2023 Mr. Goutam Barman came to the house of his aunt, Mrs. Sushma Roy, located at 70 Mekhliganj village under Mekhliganj Block in the district of Cooch Behar. Just before having dinner, at about 10 pm Mr. Goutam went to the open field for defecation. The place is about 50 meters away from the house of Mrs. Sushma Roy. At that time the aunt of the victim heard one round of bullets firing. Mrs. Roy at once went outside her house and called by the name of "Goutam" but there was no reply. On the next day dated 16.06.2023 at about 5 am the villagers and neighbours found one bullet shell and spot of blood on the ground which is situated 50 meters away on the northern side from the house of Mrs. Sushma Roy. The body of the victim was not there. When the family members of the victim searched here and there for tracing Goutam at about 8 am they found that his body was laying on the ground in front of IBBR pillar number 9 which is about one and half kilometer distance from the place of incident. BSF personnel guarded the body of the victim. They did not allow the family members to see the body of the victim.

From this it is clearly revealed that BSF tried to disappear the evidence of crime. After firing, perpetrator BSF transferred and placed the body of the victim to the International Border Pillar which is situated about one and half kilometer distance from the place of firing. BSF personnel tried to prove that the victim was a smuggler and they fired for self-defense. But here the most important point is the firing took place one and half kilometer distance from the International Border Pillar (IBP) and inside the Indian Territory. Why did BSF personnel come one and half kilometers from the border and inside the village at 70 Mekhliganj? BSF is a force who are supposed to guard the international border but in this case perpetrator BSF personnel without guarding the border roamed inside the village at night and intentionally killed the victim.

At about 8.30 am police personnel of Kuchlibari police station came to the IBBR pillar number 9 and took the body of the victim to the Mekhliganj Police station which is about one and half kilometer distance from the place from where the body of the victim was recovered. One Unnatural Death case was registered vide Kuchlibari police station U/D Case number 09/2023 dated 16.06.2023

It is most important to note that police personnel of Kuchlibari police station did not take the victim to the nearest hospital. Why was one Unnatural Death case registered before declaring the victim as dead? Who declared the body as dead?

At about 9 am the inquest over the victim's body was done at Mekhliganj Police Station by the Sub Divisional Officer, Mekhliganj. According to section 174 of the Code of Criminal Procedure it is mandated that the inquest must be done at the place where the body of the victim declared as dead. But here without declaring the victim as dead, an inquest was done. During the time of the inquest the family members of the victim were present there. At about 10 am the body of the victim was taken to Cooch Behar MJN Hospital for post mortem examination. At about 5 pm the post mortem examination was conducted vide PME no. 553/2023 dated 16.06.2023. On that very day the body was handed over to the family members after a post mortem examination.

On 17.06.2023, Mr. Nripen Barman, father of the deceased, lodged one written complaint at Kuchlibari Police Station against involved Border Security Force personnel. His complaint was received but no First Information Report (FIR) was registered by the concerned police officials. This violates section 154 of the Code of Criminal Procedure and apex court judgment in Lalita Kumari vs. State of U.P. & others [WP (CrI. No.) 68 of 2008]. This incident again proves that the police and BSF are on good terms and they try to hide each other's criminal activities by violating the human rights in the bordering areas of West Bengal.

Here lie some important questions:-

- ü Who declared the body of Goutam as "Dead"?
- ü Injury received by Goutam was fatal, why wasn't any doctor consulted?
- ü Perpetrator BSF left Goutam to die. Is it not a crime?
- ü Why without any warning BSF personnel shot directly to the head of the victim?
- ü Why were the BSF not posted at the zero point of the International Border?
- ü Whether Kuchlibari police brought the body of Goutam to any medical practitioner before conducting inquest under section 174 of Cr.P.C.?
- ü Can the police declare a body as "Dead"?
- ü Genuine pathology suggests, "Shooting someone in the back who is running away from you versus shooting someone in the chest while defending yourself from an attack highlights the importance of differentiating entrance wounds from

exit wounds. From the photograph of the victim's body it is revealed that the entry and exit wounds are the left and back side of the head consecutively. From this we can primarily assume that the victim was murdered intentionally by the perpetrator BSF.

Therefore, this case must be investigated according to the guidelines of the Minnesota Protocol and the perpetrators in uniform must be booked for getting justice to the victim and his family members.

Video link - <https://youtu.be/vnN6rtUL-8U>

