

NHRC told to fairly investigate into 'enforced disappearance' of youth off Bangla border

<https://www.counterview.net/2024/01/nhrc-told-to-fairly-investigate-into.html>

In a representation to the National Human Rights Commission (NHRC) chairman, human defender Kirit Roy, who is secretary, Banglar Manabadhikar Suraksha Mancha (MASUM) and national convenor, Programme Against Custodial Torture & Impunity (PACTI), has said that his fact finding team has found out how the Border Security Force personnel are responsible for allegedly "enforced disappearance of a minority youth" off the border with Bangladesh.

Roy demanded that the NHRC should "fairly intervene" in the 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.

Text:

I wish to attract your attention over the systematic use of enforced disappearance practice by Border Security Force (BSF) personnel in 24 Parganas (North) to initiate an era of brutality at the said area of Indo- Bangladesh bordering area of West Bengal.

Through our fact finding it has been reported that the BSF illegally apprehended, tortured the victim to death and then instrumental in disappearing the body. From the time of incident the body of the victim could not be traced. The mother of the disappeared victim in this incident, Mrs. Nokila Mondal lodged complaints to the Swarnnagar police station, Superintendent of Police of 24 Parganas (North) and Sub Divisional Officer of Basirhat sub division of 24 Parganas (North) district but authority failed to trace out the victim.

It must be mentioned here that enforced disappearance is considered to be the worst form of crime as the feeling of insecurity generated by this practice is not limited to the close relatives of the disappeared, but also affects their communities and society as a whole. It also an act of destruction of evidence of crime. This case is also adding up to the list of murders by Border Security Force, where the higher officials and police administration in a nexus, tries to save the perpetrators. It is also to be mentioned that the place of the incident is well inside Indian Territory from border of Bangladesh.

The perpetrator Border Security force personnel not only violated the rights 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 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

incident and subsequent impunity legitimize our long standing demand for immediate ratification of United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment and Declaration on the Protection of all Persons from Enforced Disappearances. 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 perpetrator Border Security Force personnel also made offence under section 201 of Indian Penal Code for causing disappearance of evidence in order to screen their offence. I am sorry to say that thousands of incidents of torture, killing and disappearance by men in uniform have been reported to NHRC and other governmental agencies but no proper remedial or corrective measures have been taken.

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 Commission's own investigating team.

In first instance while the mother of the victim made a written complaint to the Swarupnagar PS on 15th of December 2023, no FIR has been registered, later while she made the similar complaint to the Superintendent of Police on 26th December 2023, FIR has been registered, thus punitive action must be initiated against the on duty police personnel of Swarupnagar PS.

Immediate direction should be given to the concerned authorities for taking necessary action to recover the body of the disappeared victim.

The guilty Border Security Force personnel involved must be booked and prosecuted in open court of law.

The police and BSF administration must take appropriate steps to control cross border smuggling in bordering villages instead of collaborating with the smugglers.

The family of the victim must be duly compensated and security and safety of the witnesses and family members must be ensured.

Any other action as the Commission may deem fit and proper.

Name of the Victim: Mr. Milan Mondal, son of Late Arshad Mondal, aged about 33 years, by faith - Muslim, other backward caste, by occupation an agrarian wage labour and part time involvement in cross border smuggling of goods as mere courier, without possessing agrarian land, resident of village- Daharkanda, Police Station- Swarupnagar, Block - Swarupnagar, Gram Panchayet- Bithari- Hakimpur, Post Office - Hakimpur - 743273, District - 24 Parganas (North), West Bengal. Aadhar card no. 418181583594

Name of the secondary victims: (i) Ms.Nokila Mondal, aged about 54 years, mother of the victim. (ii) Master Hasan Mondal, aged about 6 years, son of the victim. All are residing at village Daharkanda Police Station- Swarupnagar, Block - Swarupnagar, Gram Panchayet- Bithari- Hakimpur, Post Office - Hakimpur - 743273, District - 24 Parganas (North), West Bengal.

Thousands of incidents of torture, killing and disappearance have been reported to NHRC, yet no proper remedial measures have been taken

Date & Time of the incident: On 14.12.2023 at about 5:30 pm and thereafter.

Place of the incident: At the bank of Sonai river inside Indian territory, between 7 and 8 No. BSF OP of Bithari BOP of BSF Battalion No. 112 .

Details of the perpetrators: 1) Border Security Force personnel who were on duty at the mentioned date and time of the incident at the OP number 7 and 8 at the bank of Sonai river, attached with Bithari BOP of 112 Battalion of BSF, 2) Mr. Rabindra Kumar Yadav, Company Commander of BSF, 3) Officer in Charge of Swarupnagar Police Station and 4) on duty police personnel of Swarupnagar Police Station.

Details of the witnesses: 1. Mr. Jubbar Sardar, son of Ajgar Sardar of Village - Padmabila, Post Office - Hakimpur, Police Station - Swarupnagar 2. Ms. Abeda Sardar, daughter of Late Dhanai Sardar, Village - Padmabila, Post Office - Hakimpur, Police Station - Swarupnagar 3. Ms. Nazma Bibi, daughter of Ater Ali, village- Daharkanda, Post Office - Hakimpur, Police Station- Swarupnagar

Fact Finding Report of MASUM: The victim Milan Mondal lost his father and subsequently his wife. 23 years ago his widow mother returned to her paternal village and started living with Milan. They don't possess a piece of land for agriculture and sustaining without any regular income. Nokila Mondal; mother of the victim used to work as agrarian labour. Milan Mondal's wife died four and half years ago due to blood cancer, leaving a boy child, who is 6 years old now and totally dependent on his father, the victim. Milan Mondal has part time involvement in cross border smuggling as courier like almost all unemployed youth of that area. Presently none from the area has been allotted with MGNRGEA work. We found that the poverty alleviation and self

employment schemes of state and central government is not reaching the masses in this area. Milan's mother is getting 5 kilogram of rice and 3 kilogram flour per month from ration shop free of cost.

On 14th of December 2023, Milan left his home at around 5 pm and reached at the bank of Sonai river (between 7 and 8 OP of BSF) with a bag consisting few bottles of Phnsydil (an Indian brand of cough syrup). The on duty BSF personnel of OP number 7 and 8 encircled and captured/ detained him. At this very moment, the people of that area and passerby heard sound of gun shot (which the witnesses confirmed later) and within few minutes two BSF vehicles; one green coloured jeep and one black bigger vehicle reached at the spot of occurrence, and BSF personnel started restricting villagers to reach the spot. Ms. Nazma Bibi, a witness informed the fact finding team that the gun shot sound which she heard was just few minutes before the entry of BSF vehicles at the place of occurrence and subsequent restriction made by BSF to reach the bank of Sonai river. From that time only, there is no trace of Milan Mondal. At around 7.15 pm, Mr. Kalimuddin Molla, son of Samsuddin Molla of village Daharkanda; who employed Milan Mondal to smuggle the goods called Milan on his mobile from his mobile (Kalimuddin Molla's mobile number 8670565770 and Milan Mondal's mobile number 9800168796) but the call was received by one BSF personal, who informed that he picked the mobile phone from bank of the Sonai river along with a Gamcha (towel). Later on 15th December 2023 at around 12 noon, someone informed the mother of the victim that Milan's trouser, t-shirt and sandals were lying at the bank of the river, which she collected from the spot. Milan's mother Nakila Mondal visited Swarupnagar PS on 15th December 2023 with a written complaint, which has been entered as GDE No. 702/23 dated 15/12/2023 but that was not transmitted into FIR.. On 15.12.2023, police personnel from Swarupnagar PS, villagers, professional divers and BSF collectively made search operation but in vain.

The mother of the victim made another subsequent appeal to the police officials and in this course on 26th December, she made complaints to the Superintendent of Police of Basirhat Police District and requested him for the whereabouts of her son. This complaint was registered as Swarupnagar PS Case No. 768/23 dated 26.12.2023 under sections 302 and 201 of Indian Penal Code against unknown BSF personnel of Bithari BOP of 112 Battalion of BSF.

The local administration and Gram Panchayet members, named Hakim Gain, a Gram Panchayet member and Illiyas Gazi; husband of Gram Panchayet member Ms. Rupsa Gazi are intimidating and threatening the family members and witnesses and asking the mother of the victim to withdraw the complaint. On 31.12.2023 evening, BSF personnel with a convoy from Bithari BOP of 112 BSF Battalion visited the house of Jubbar Sardar; a witness, and pressurised him and ask him to keep mum.

As the place of occurrence (river bank of Sonai) is under the jurisdiction and complete control of BSF and BSF personnel are present there to guard the area, it is evident that only they have the whereabouts of the victim, secondly the mobile phone set is with one BSF personal also corroborating their involvement. The place of occurrence is being heavily guarded by BSF personnel, in this situation none other can put the apparels and slippers of the victim at the bank of the river, so it is clear that Milan was apprehended/ captured by BSF personnel and only they have the whereabouts of Milan Mondal.

From dust to dignity Justice Shivaraj V patil's journey is time well spent

<https://www.newindianexpress.com/good-news/2024/jan/14/from-dust-to-dignity-justiceshivaraj-v-patils-journey-is-time-well-spent-2650805.html>

His village, Mandakal, was the poorest of all and lacked amenities. It did not have electricity until the 1970s, and children often studied under a kerosene lantern in the late hours.

BENGALURU: From travelling on a bullock cart to school, 32km from home, to pursuing law in a defunct prison, to embarking on a journey and becoming a judge of India's apex court, Justice Shivaraj V Patil is a man made of sheer determination and integrity. Over the last 43 years spent in the public eye, Justice Patil brought honour to all the positions he held, be it principal in the college where he studied, an advocate in the High Court, judge in various other courts, Chief Justice of the Rajasthan High Court, and ultimately as a judge in the Supreme Court. However, his journey to attain this stature was a challenging one, filled with many life lessons and several hard-earned victories.

In his autobiography which will be released on January 21, 'Time Spent and Distance Travelled', Patil takes the readers on a conscientious journey and illustrates how one can overcome adversity with perseverance. In five broad chapters, the former judge talks about his early years, legal career trajectory, productive retirement, blessed family and memorable moments throughout his lifetime, spent with peers, gurus and grandchildren.

With limited resources and being born into a humble family of three sisters in Gulbarga (now Kalaburagi), Patil explains how Devadurga taluk of Raichur district was the most backward region of the Hyderabad-Karnataka region. His village, Mandakal, was the poorest of all and lacked amenities. It did not have electricity until the 1970s, and children often studied under a kerosene lantern in the late hours.

In his prologue, he talks about embracing hard work, integrity and humility as qualities. Along with these, divine grace guided him in life. With his unwavering commitment to succeed, Patil wore only one shirt for six months when he was in Grade 7. He diligently washed it at night and wore it the next morning, remembering and following his father's principles. Some days, he didn't even have enough to fill his stomach.

Patil's autobiography is as raw as it gets. "I mention all these (my struggles) not to boast about my success but to illustrate that our ambitions need not be limited by the circumstances of our birth. I offer my life story as a humble road map for those who might find it useful," he writes. He adds that the legal fraternity would find it particularly

useful to read about his conduct with clients, colleagues and litigants in court, and cases that he heard.

In his 400+ pages of memoirs, he notes down 10 commandments that would help new judges at the cusp of their careers. A few that stood out were, 'To be a good judge, one must first be a good human being', 'Use technology but don't become its slave; don't surrender your creativity, innovation and original thinking' and 'Your oath is your religion, be true to it; your conscience is your watchman, obey it'.

Shivamurthy Shivacharya Mahaswamiji of Sri Taralabalu Jagadguru Brihanmath, Sirigere, was amazed by the artistic mind of Justice Patil. One noticeable aspect of the latter was his suggestion to the designer of his biography. He proposed that the cover page of the book should include two images -- the bullock cart at the bottom and the edifice of the Supreme Court of India at the top. "They figuratively cover his life achievement, from a poor village boy who went to school seated in a bullock cart to become an esteemed judge. The entire contents of the book are covered by these two images at a glance," says Shivamurthy Mahaswamiji. He adds that Patil climbed his judicial career step by step.

Post his retirement from the SC, Patil contributed significantly to the National Human Rights Commission as chairman, leading a committee for the Prevention of Child Marriage Act, 2G Spectrum, identifying lapses in the allocation of 2G spectrum to telecom operators, and Karnataka Lokayukata in August 2011.

MN Venkatachaliah, former Chief Justice of India, describes Patil's book as a "difficult personal chronicle" and a "document particularly marked by the absence of the parade of ego that most autobiographies exhibit". He adds that Patil's career was shaped by two significant events in his personal life -- one was "God-ordained" when he shifted his law practice from Kalaburagi to Bengaluru. He decided the same on January 4, 1979, at Shree Sharanabasveshwara Temple and news of becoming a judge was also received in the same shrine. The other significant decision was when he declined the invitation from then chief minister Veerendra Patil to contest the assembly elections from Devadurg legislative constituency.

"The Indian Judiciary had thus this unique gift of a noble and learned judge," says the former CJI. He concludes by saying that he hopes someday, someone will make a list of the best judicial autobiographies, and the one written by Justice Shivaraj Patil will find its place in it.

Having garnered multiple accolades over the decades, the 84-year-old says he was born in the 20th century and is living in the 21st century, acting as a bridge between the two. He wishes to continue adapting to the changes and never stop learning.

The autobiography will be released on January 21 in Bengaluru, in the presence of Jagadguru Dr Shivamurthy Shivacharya Mahaswamiji, Jagadguru Shree Shivaratrideshikendra Mahaswamiji, Justice MN Venkatachalaiah and Chief Guest Justice RF Nariman

Stir still on in case of fake encounter

<https://timesofindia.indiatimes.com/city/chandigarh/protest-demanding-action-on-allegations-of-police-shooting-and-bribery/articleshow/106827184.cms>

Hisar/Charkhi Dadri: A protest to demand action on allegations of police shooting at a man and demanding a bribe from his family to not torture him in custody, continued on Saturday.

Police also recorded the statements of the complainant and two others. However, complainant Bijendra alleged that while recording his statement, he was intimidated and pressured in many ways and the inquiry team got his signatures on a statement written as per their wish. He said he has sent a complaint against the inquiry team to the director general of police, National Human Rights Commission and Haryana home minister. He said he will also filed a petition in the Punjab and Haryana high court.

Advocate Sanjeev Takshak, who was leading the protest, said that in the afternoon, deputy superintendent of police Subhash Chandra gave notice to complainant Bijendra, and Sanjay Sahu and Jagbir, to call them for questioning. After this, Bijendra was made to sit in a separate room along with two other police officers. He claimed that Bijendra was harassed for about two hours. The inquiry team also harassed the complainant in different ways under the pretext of inquiry and exerted illegal pressure, he said.

Takshak said they will call a meeting of local citizens soon. The case is related to police shooting a man named Sonu in the leg and showing the incident as an action taken to nab him. It has also been alleged that the police had taken Rs 10 lakh from his family to not torture him in police custody. DSP Subhas Chander could not be contacted despite repeated attempts.