

[AHRC Article] INDIA: Will the 40th All India Police Science Congress consider the killer cop in Assam as one among them?

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The Campaign against Torture is one of the core thematic activities of the Asian Human Rights Commission (AHRC). With a view to promote local debates on torture and to encourage ordinary individuals, human rights activists, scholars and jurists to write and debate about the subject in India, the AHRC has called for articles and papers on the question of torture, of which a selected few will be published by the AHRC. The following is the first in this series.

INDIA: Will the 40th All India Police Science Congress consider the killer cop in Assam as one among them?

*Waliullah Ahmed Laskar**

There is nothing new about the police officers in the Indian state of Assam who enjoy immunity for the crimes they commit on behalf of their political bosses. They are awarded perks and promotion for their crimes. Most criminals in police uniform enjoy such immunity because they know to please those who are in power.ⁱ This *de facto* impunity is in addition to the statutory impunity provided to the state security agencies by laws, often referred to as 'draconian' and 'repressive', like the Armed Forces (Special Powers) Act, 1958; the Assam Disturbed Areas Act, 1955; the Assam Police Act, 2007; and the wrong interpretation of Section 197 of the Criminal Procedure Code, 1973. Nobody is surprised in Assam these days by reports of crimes committed by police officers and many of these criminals are rewarded with service medals, promotions and postings in important police stations where they have abundant opportunities to demand and collect bribes.

The case discussed here is a little different. On 21 September 2007, the state police tortured and killed Mr. Motahir Ali Tapadar, a 38-year-old labourer, from Bhatgram village residing under the jurisdiction of Katigorah Police Station in Cachar district of Assam. The police officers tortured Motahir first inside a Police Patrol Post, and later in full public view, at a government health centre in front of the public and the doctor treating him. The police killed Motahir since he was unable to pay bribes to the police.

A magistrate inquired about the incident and the report was kept hidden by the government. The Barak Human Rights Protection Committee (BHRPC)ⁱⁱ, an Assam based human rights organisation that is following the case obtained the Magisterial Inquiry Report,ⁱⁱⁱ after lot of effort and using the Right to Information Act, 2005 (RTI). The content of the report exposes the criminal nature of the police officers involved in the incident.

Portions from the report as recorded by the inquiring magistrate, the Additional District Magistrate (ADM) of Cachar, is reproduced below with a view to explain to the reader the incident and the criminal involvement of the police officers that resulted in the murder of an innocent person:

'A petty quarrel between Mr. Motahir Ali and his neighbour Mr. Sahab Uddin took place at about 11am on 20 September 2007 in front of their houses concerning a minor quarrel between the children from the two neighbouring houses over toys or games resulting in an argument between the elders that led to the scuffle. Sahab and Motahir went to the Police Patrol Post at Kalain and lodged a complaint against each other. Mr. Narayan Tamuli, the Assistant Sub Inspector (ASI) who was also the officer in-

charge of Kalain PP accompanied by his constables arrived at the respective houses of the complainants and took them to the PP and detained them at the patrol post.'

'Some persons from Bhatgram and the relatives of the detainees went to the patrol post with a request to bail the detainees out and to settle the case amicably. Alimun Nesa, Motahir's wife took food to the patrol post for her husband in the evening. Motahir was quite fine at the time. Alimun met officer Tamuli and pleaded for the release of her husband from police custody, stating the background of the argument. Tamuli demanded Rs. 10,000 from her as bribe to release Motahir. She informed Tamuli that they are too poor to raise the money. However, Alimun informed Motahir that she could collect Rs. 500 or Rs. 600 from her neighbours and give it to Tamuli.'

'Tamuli refused to accept any lesser amount than what he initially demanded and denied to release Motahir. On the same night Tamuli and his subordinate officers tortured Motahir. On the next day morning Alimun again went to the patrol post and found her husband lying on the lockup floor. He could hardly move or speak. Motahir could somehow express to his wife that he was brutally beaten and kicked by the police officers on the previous night and that he feared that he is badly injured in his abdomen. He further told to his wife that there is no chance of him surviving another day since he was seriously injured from the torture.

'When Motahir's condition deteriorated Tamuli dragged him into three-wheeler (auto rickshaw) and took him to Kalain Primary Health Centre (PHC). At the PHC, Tamuli and his subordinate officers, police constables stationed under Tamuli at Kalain patrol post, continued their brutal assault upon Motahir in front of the doctor and the hospital staff. The public present at the PHC witnessed the assault and tried to dissuade the police but they failed. Dr. Badal Das, the doctor in-charge of the PHC reportedly examined Motahir and after discussion with Tamuli, decided to send Motahir to Silchar Medical College and Hospital (SMCH) for treatment but he died on the way.'

The report further says: '**[i]t is revealed from the hearing that Motahir was a day labourer and the family had a hand to mouth existence. His family consisted of his wife and three minor children. His wife was expecting another child at the time of the incident. Motahir was a peace loving man and there were no former public complaints against him. It is stated by Alimun, the helpless widow of Motahir that a minor quarrel amongst the neighbours' children over toys developed into an insignificant scuffle between the elders - resulting in the filing of a police case and arrest of Motahir by the Kalain police. The inhuman torture inflicted upon Motahir for non-payment of the bribe and the brutality by the police in public and the subsequent death of a simple day labourer in the Kalian PHC before the noon of 21 September 2007 in front of the doctor of the hospital and his staff is a bitter experience for the people of Kalain.**' [Emphasis added].

'One Mr. Ramzan Ali, Constable under Tamuli administered the point of his lathi (stick) at the abdomen of Motahir while he was admitted at the Kalain PHC resulting in total silence of the body [sic] of Motahir. It is stated the constable's last stroke made the way or caused the circumstances for demise of Motahir.'

The report concludes that 'the police at Kalain patrol post was pro-active in committing brutalities upon Motahir simply for the reason that the deceased's family could not afford payment of bribes to the police officers...'

Regarding the consequent arson and destruction of public properties by the angry public, the Magistrate states that: 'the news of death spread at Kalain and adjacent areas and the public in the locality got infuriated. Hundreds of local people gathered at around 2pm in front of the patrol post and Gaon Panchayath Office and shouted slogans and pelted stones at the patrol post. Police tried to gain control over the situation with their existing force but could not succeed. Then the police opened fire injuring one person but there was no casualty though it is claimed that 80 rounds were fired to disperse the angry crowd.'

'The patrol post caught fire and it was completely gutted. Nearby GP office of Kalain also caught fire and was burned to ashes resulting in the loss of public documents and properties. There was little attempt to save the public properties and it was left at the whims of the excited public who took their own course of action.' The magistrate added, "[h]owever, the actual cause of fire in both the offices are yet to be ascertained."

Commenting on the report, Mr. Neharul Ahmed Mazumder, Secretary General of BHRPC, said: *'[s]o far as the conclusion of the inquiry concerning the death of Motahir Ali is concerned the BHRPC is substantially in agreement with the findings. However the organisation sticks to its own findings regarding the incidents of the aftermath.'* He points to the BHRPC fact-finding report that observed: *'hundreds of local people gathered at 2pm around the patrol post and started shouting slogans demanding arrest of Narain Tamuli'^v. Police charged them with sticks and rifle butts which further infuriated the crowd and they started pelting stones at the police. Police then opened fire and fired 80 rounds. In the firing there was only one severe injury. Mr. Shahidur Rahman, aged 17 years, who was watching the incident from the roof of a two-storied house, was injured badly in his left leg. He was admitted to SMCH. Being terrified by such heavy firing the crowd dispersed.'*

'Then the police themselves set fire on patrol post and burnt it down in order to distract the attention of people from the murder and hush it up. The propaganda that after the death of Motahir Ali the outraged people set on fire the patrol post is false and intentional.'

The report further says: *'the terrified public at first were silent. Nobody dared to speak anything about the incident initially. Subsequently a large number of people requesting anonymity claimed that some men arranged by the police had set on fire the patrol post. They raise two arguments to substantiate this claim. First, although there was only one person who was hit and injured among the police, the police fired eighty rounds to disperse the mob and no mob can withstand such a large quantity of firing. The mob dispersed and fled after a few rounds of firing. Secondly, the fire was first found at the backside of the patrol post. If the mob had set fire the patrol post they would have done so from the front because they were there. Moreover, there is a marsh behind the patrol post which prevented the mob from accessing the patrol post from the back side.'*

The police registered a First Information Report (FIR) against one Mr. Faruk Ahmed and other five-hundred unidentified persons and fabricated charges against them including attempt to murder and causing obstruction to the police in the performance of their lawful duty, invoking among other legal provisions, Section 307 of the Indian Penal Code, 1860 (IPC). The police in connection with this false case, raided, assaulted, abused and humiliated the family members, relatives and fellow villagers of the victim. Even they arrested three innocent persons, namely Mr. Faruk Ahmed, Mr. Ibajul Hoque and Mr. Imamul Hoque, who were subsequently released on bail by the Guwahati High Court.

When, Mr. Saidur Rahman, the person injured in the police firing, recovered a little and was released from the SMCH, the police arrested him again. There are good reasons to believe that the police might not have burnt the patrol post themselves but they did so with the help of hired criminals. In fact, the incident of burning down the patrol post is intriguing and indicative of a deeper and larger conspiracy. The manner in which the police was desperately over-active in hounding the people in relation to the case despite requests from various quarters not to harass and arrest the innocent people, is indicative of such a conspiracy.

At the intervention of BHRPC and based on the complaint of Alimun Nesa, a case was registered at Katigora Police Station as Katigora PS Case No. 484/07, dated 4 October, 2007 under Section 302 (murder) read with Section 34 (conspiracy to commit a crime) of the IPC against Tamuli, Assistant Sub Inspector Mr. Promod Nath and Police Constable Mr. Ramzan Ali Choudhury. The accused applied for an anticipatory bail at the Guwahati High Court and the court granted them an 'interim bail' with the direction to the accused to surrender before the trial court. At their appearance before the trial court all the three accused were remanded to judicial custody on 11 March, 2008. Later they were released on bail by the High Court. ^v

The Superintendent of Police (SP) of Cachar stated on 18 July 2008 that the investigation of the case is almost complete and the final case diary will be submitted soon to the court. It needs to be seen what duration constitutes this 'soon'?^{vi}

In a subsequent petition, the Guwahati High Court ordered that '*[i]t is directed that if the case is not forwarded to the Crime Investigation Department (CID) the same shall be done immediately and the CID shall investigate the case in prompt and proper manner.*'^{vii}

Does not the word 'prompt' mean 'without delay'? How much time constitutes 'delay'?

The BHRPC also submitted a complaint regarding the case before the Assam Human Rights Commission on 6 December, 2007. The Commission registered a case vide Case No. 6404/2007 dated 18 July 2008 and issued a notice to the state government asking for a report. The Commission sent a letter to the BHRPC with the report asking for its comments on the findings in the report.^{viii}

The BHRPC on 3 December, 2008 sent its comments expressing its agreement regarding the conclusion drawn in the Magisterial Inquiry Report about the facts and circumstances concerning the death of Motahir and requested the Commission to allow an interim relief to the relatives of the victim by way of compensation and urged to recommend the prosecution of the perpetrators of the crime as it is the mandate of the Commission to do so under its constituting statute, the Protection of Human Rights Act, 1993.

The BHRPC, however, disagreed with the findings in the Magisterial Inquiry regarding its observations about setting fire on the police post and the GP office, the police firing on the people, registering of false case against them, the arrest of many protestors in connection with that false case and the harassment of many others. The BHRPC requested the Commission to conduct an independent investigation into these issues. But since then Commission did not respond, despite the BHRPC sending repeated reminders.

It was later known that a departmental inquiry into the incident was conducted by Mr. R.C Tayal, Inspector General of Police (IGP) and that the inquiry report was submitted to the government on 22 September, 2007. Pursuant to the report, the three accused were placed under suspension on 11 March 2008^{ix} and a departmental proceeding initiated against them on 21 March 2008.^x But nobody knows what happened to the proceedings and when and how the accused police officers got reinstated to the service. They were soon promoted.

Tamuli was promoted from the rank of Assistant Sub Inspector to Sub Inspector and secured a posting at Sadar Police Station, the main police station in Silchar city. Silchar city is regarded as the cultural and business capital of the entire Barak valley. BHRPC recently documented another case involving Officer Tamuli.^{xi}

He was the investigating officer in a case registered at the Silchar PS^{xii} and was also entrusted with the responsibility of the execution of a search warrant.^{xiii} The complainant in both the cases was Mrs. Sharmista Das, a victim of domestic violence who was driven away from her matrimonial house by her in-laws who took away all her belongings that she received as her wedding gifts.

The victim alleged that Tamuli took bribe of Rs. 20,000 from her and demanded another Rs. 50,000 after illegally detaining her and two others when they visited the police station on 20 March, 2010. They had visited the police station to know about the progress of the investigation in the case. Social activists had accompanied Sharmista on that occasion. However Tamuli detained them demanding bribe. They could only come out of the station since the social activists who accompanied Sharmista had contacted their colleagues to secure their release from illegal custody.

When the entire system protects a murderer police officer there is little hope left to obtain justice.

The BHRPC filed an application on 24 May 2010 under the RTI, demanding the Assam Police to provide: 1) a copy of the report of the departmental enquiry into the custodial death of Motahir Ali; 2) details of the actions taken against the accused/responsible police personnel by the department; 3) if no actions have been taken the reasons thereof in detail; 4) details of the progress in investigation in Katigorah Police Station case No. 484/07; 5) details of the progress made and procedures taken by the CID in the case; 6) copy of the charge sheet submitted by the Katigorah Police or the CID in Katigorah PS Case No. 484/07; 7) if no charge sheet has been submitted the reasons thereof in detail with a copy of the final report regarding the case; and 8) any other information held by the office of the Director General of Police (DGP) or any office of the Assam Police regarding the order of the Guwahati High Court in Criminal Miscellaneous Case No. 484/07 and the custodial death of Motahir Ali. The BHRPC is yet to receive any reply for these questions.

In summary, here is a police officer who was once in-charge of a police patrol post in a remote village who arrests an innocent person, demands bribes and on refusal to pay torture the man throughout the night and kills him the next day in front of hundreds of people. The local people get agitated and demand immediate arrest of the killer officer. Police respond by opening fire at the public. The police also reportedly set fire to their patrol post and an adjoining public office allegedly for two reasons: to divert the attention of the public and to persecute the public for daring to protest against the murder by implicating innocent persons with false charges of arson, rioting, destruction of public properties etc.

After the intervention of human rights groups the police department conducts an inquiry and suspend the accused officers. A magisterial inquiry is also conducted which concludes that the officers killed the victim because his family could not meet the excessive demands for bribes made by the police officers. An FIR is also against them. The officers are arrested and then released on bail. On a petition, the High Court orders prompt investigation by the CID of the Assam Police into the case. The State Human Rights Commission also registers a case, issues notice to the authorities asking for report and then asks for comments from the petitioner on the report.

Meanwhile the officers get reinstated and their leader gets a posting in an important police station in the state with a promotion. Meanwhile the State Human Rights Commission also shelves the case file. No compensation to the victim's family is paid even after 3 years. No charge sheet is filed and trial started against the officers. In the meanwhile the accused officer continues committing crimes and remains in active service.

The authorities cleverly deceived the public by showing that some actions are being initiated while indeed they were protecting the officers. This case, therefore, shows that the police officers will continue demanding bribes and in case of refusal they could hurt you or even kill you. The case proves that nothing will happen in consequence to the officers and after an initial period of suspension at the most, they will be soon reinstated to service and may be even promoted.

While top-ranking police officers discuss issues concerning policing in the country and express concern about their lost ground with the ordinary Indian in the 40th All India Police Science Congress, we wish that you will try to understand why the ordinary people of this country consider you as nothing more than criminals paid at our expense.

**The author of this article is a journalist and human rights defender associated with Barak Human Rights Protection Committee, a human rights organisation based in Assam, India. The author can be contacted at + 91 9401134314*

Footnotes:

- i For cases of human rights violations with impunity see: VIOLATION CASES at <http://bhrpc.wordpress.com/>
- ii For more information about BHRPC visit <http://bhrpc.wordpress.com/>

- iii Magisterial Enquiry Report of Custodial Death of Motahir Ali vide NO. MISC. CASE. 1/2007/28 dated Silchar, the 9th April, 2008 published by BHRPC at the
URL:<http://bhrpc.wordpress.com/2010/05/25/magisterial-enquiry-report-on-custodial-death-of-motahir-ali/>, accessed on 1 June 2010
- iv Wali Laskar, Custodial Murder of Motahir Ali Tapader and Subsequent Police Atrocity in Barak Valley of Assam, Countercurrents.org, 31 October, 2007, accessed on 1 June 2010 at the
URL:<http://www.countercurrents.org/laskar311007.htm>
- v Order of the Gauhati High Court in B. A. No. 1074/08
- vi Letter of the SP, Cachar addressed to ADC, Cachar vide No. G/SR/3680 dated 18/07/08
- vii Order of the Gauhati High Court in Smti. Alimun Nesa Vs Shri Narayan Chandra Tamuli and others (CrI. M.C. No. 208 of 2008 in B. A. No. 1074/08)
- viii AHRC CASE No. 6404/2007/14 dated 18-0702008
- ix Assam Police Order vide D.O. No. 703 dated 21/03/08
- x Assam Police Order vide DP No. 01/08, 02/08 and 03/08
- xi BHRPC, Brief Summary of the BHRPC Fact-finding Report on Incidents of Extortion and Harassment of a Victim of Domestic Violence by Police in Silchar accessed on 1 June 2010 at the
URL:<http://bhrpc.wordpress.com/2010/05/25/brief-summary-of-the-bhrpc-report-on-sharmista-case/>
- xii Silchar PS Case No. 509/10 under sections 379 and 406, IPC
- xiii A search warrant under section 94 of the Cr PC vide Case No. 155 M/2010; for details please see: Asian Human Rights Commission Urgent Appeal: Urgent Appeal Case: AHRC-UAC-075-2010 available at <http://www.ahrchk.net/ua/mainfile.php/2010/3466/>

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About AHRC: *The Asian Human Rights Commission is a regional non-governmental organisation monitoring and lobbying human rights issues in Asia. The Hong Kong-based group was founded in 1984.*

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URL: <http://www.ahrchk.net/statements/mainfile.php/2010statements/2583/>