

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA IND 3/2018

29 January 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 31/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of torture and ill-treatment of Mr. **Jagtar Singh Johal**, in various police stations in the State of Punjab, India.

According to the information received:

Mr. Jagtar Singh Johal is a British citizen of Sikh origin, involved in documenting Sikh persecution in the State of Punjab, India. On 4 November 2017, he was arrested by approximately fifteen plain clothes police officials, in Jalandhar, State of Punjab. He was hooded and forced into an unmarked vehicle without being presented any warrant or informed of the reasons for his arrest.

Mr. Johal remained in police custody until 26 December 2017. From 4 November to 17 November, Mr Johal was held at the police station of Bagha Purana, Moga district, Punjab, with no access to staff from the British High Commission, his family, lawyers or an independent doctor. From 17 November to 26 December 2017, Mr. Johal was held in the police station of Khanna, in the Ludhiana district of Punjab, with restricted access to his legal representatives and family members. While in the custody of the police of Khanna, he was reportedly held in isolation with a police guard present at all times and with his ankle and wrist handcuffed 24 hours a day.

Throughout his detention in police custody, Mr. Johal was subjected to long hours of interrogation by agents of the National Investigation. He was reportedly subjected to acts of torture and other cruel, inhuman or degrading treatment which included electric shocks to his ears, nipples and penis, being held in prolonged stress positions and subjected to sleep deprivation. Mr. Johal's health has significantly deteriorated since his arrest. However, despite repeated requests, he was denied access to an independent medical examination.

To date, no formal charges have been filed against Mr. Johal who was never informed of the reasons for his arrest and subsequent detention. However, on 7 November 2017, the authorities of Punjab issued a press statement naming Mr. Johal amongst four individuals suspected of a number of killings of religious leaders and political activists, as well as of collaboration with Pakistani intelligence operatives. Furthermore, on 7 December, local news aired a video footage of Mr. Johal being interviewed in detention for the said crimes. During his alleged torture and ill-treatment in police custody, Mr. Johal was forced to sign blank sheets of paper, which reportedly served to forge confessions.

On 26 December 2017 Mr Johal was remanded into judicial custody and transferred to Nabha Maximum Security Jail, where he remains detained pending his next court hearing which is scheduled for 1 February 2018.

Mr. Johal's alleged treatment seems to occur in the context of what appears to be a pattern of arbitrary detention and ill-treatment against members of the Sikh community in the Punjab.

While we do not wish to prejudge the accuracy of these allegations, grave concern is expressed at the alleged torture and ill-treatment of Mr. Jagtar Singh Johal in police custody; and at the fact that Mr. Johal may be deprived of his liberty for his legitimate and peaceful work in documenting human rights violations against members of the Sikh community in Punjab.

We would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In particular, we would like to refer to the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in article 7 of the International Covenant on Civil and Political Rights, to which India acceded on 10 April 1979. This article provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, is a peremptory international norm of jus cogens, as reflected, inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156. In this context, the principle that States may not use any information obtained by torture as evidence in any proceedings (the "exclusionary rule") is an integral part of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

In addition and without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Johal is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to

be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the ICCPR.

We would also like to appeal your Excellency's Government to protect Mr. Johal's right to freedom of religion or belief in accordance with the principles set forth in article 18 of the UDHR, as well as articles 2 (1), 18 and 27 of the ICCPR.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the seriousness of the matter, we would appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of Mr. Johal in compliance with international instruments, in particular those ratified by India

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide further information and details about the factual and legal basis for the arrest and detention of Mr. Johal.
3. Please provide information concerning the measures taken to protect Mr. Johal against any form of torture and ill-treatment while in detention, and to ensure the respect of his physical and psychological integrity.
4. Please provide the details, and where available the results, of any additional investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to the case, and particularly the allegations of torture and ill-treatment and the fact that confessions extracted under torture may be used against Mr. Johal in court.
5. In the event that perpetrators of the alleged acts of torture are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? What were the results?
6. Please provide information on the measures taken to protect the freedom of thought, conscience and religion of the Sikhs and to ensure the free practice and manifestation of their religion without fear of harassment or persecution.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Ahmed Shaheed  
Special Rapporteur on freedom of religion or belief

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment