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Representation
to the
President of India
on
Death Sentences of
Satwant Singh & Kehar Singh

Judicial Murder ?



PUNJAB HUMAN RIGHTS ORGANISATION

Punjab Human Rights Organisation

Chairman : Justice A. S. Bains (Former Judge of the Punjab & Haryana High Court)

22, Sector 2, Chandigarh. Telephone : 28162.

President : Justice C. S. Tiwana (Former Judge of the Punjab & Haryana High Court)

1107, Sector 11, Chandigarh. Telephone : 20307.

Vice-Presidents : Mohinder Singh Jawanda

566, Model Town, Ludhiana. Phone : 25980

Dr. Jiwan Jot Kaur

New Harindra Nagar, Faridkot.

Dr. (Mrs.) S. K. Gill

1147, Sector 15, Chandigarh.

General Secretary : D. S. Gill, Advocate

4, Pavte House, PAU Campus, Ludhiana.

Secretaries : Gurbhajan Singh Gill (Coordination)

• Jatinder Singh Sandhu, Advocate (Organisation)

Mohinder Singh Grewal, Advocate (Finance)

Dr. Gurbhagat Singh (Education)

Malvinder Singh Mali (Investigations)

N. S. Chahal (International Relations)

68, North Oval, Hamilton, Canada L8S 3Y8.

Phone : 561-2834

Tejinder Singh Ahuja, Advocate (Public Relations)

10-Lawyers Chambers, Civil Wing,

Tis Hazari Courts, Delhi. Telephone : 2927842

Head Office : 27-D, Sarabha Nagar, Ludhiana (India).

Telephone : 30098

Representation on Death Sentences of Satwant Singh and Kehar Singh

His Excellency
The President of India
New Delhi

Respected Mr. President,

Where the judicial process ends, your jurisdiction begins. Yours is the last resort to one's march to the gallows. As such, Your Excellency is constitutionally empowered to mitigate the errors which sometimes creep into judicial pronouncements due to certain legalistic compulsions and political prejudices.

The Supreme Court, more than the lower courts, as usual, have taken a purely legalistic view on the "Death sentences given to Satwant Singh and Kehar Singh" in "Indira Murder Case" based, as has been repeatedly pointed out by eminent lawyers, on erroneous and deliberately ignored evidence. Satwant Singh and Kehar Singh have been treated as hard-core criminals who have committed a common criminal act with criminal motives and intentions. It has been made abundantly clear that they were not common criminals and the offence they are accused of is political offence committed with political motives, and our appeal to your excellency is to treat it as political offence and kindly give humane and compassionate consideration after carefully studying the circumstances which impelled these very honest, sincere and loyal persons to act in the manner in which they did.

Eighteen million Sikhs in India and abroad and millions of eminent persons in other civilized countries firmly believe that Beant Singh, Satwant Singh and other persons, rightly or wrongly, accused of organizing murderous attack on Mrs. Indira Gandhi, did so to arrest and put a stop to a chain of most cruel and ruthless attacks organized by the Government of India headed by her

by ordering the troops to indulge in desecration of Golden Temple complex and killing thousands of innocent persons without even the knowledge of the then President of India, your predecessor, Giani Zail Singh. Beant Singh, Satwant Singh and the alleged conspirator Kehar Singh never had an iota of personal ambition or criminal intent against Mrs. Gandhi. They attacked Mrs. Gandhi mainly to save the Sikhs and Sikh sacred institutions from continuing oppression, repression and desecration.

Sikhism is strongly and firmly against killing innocent men and women, but Sikhism has at no period of its history carried non-violent attitude in religion or politics to the extent of allowing ruthless rulers to let loose their armies for indiscriminate desecration and destruction of their temples and their people.

No matter what their relations were with such rulers earlier, when their sacred shrines and innocent men and women were subjected to the type of oppression and repression let loose on the Sikhs in 1984, they reacted with just anger and bitterness, individually, in groups or en-mass. Mrs. Gandhi's army operation let loose in the most savage manner, against the firm advice of the then Governor, Mr. B. D. Pande and the Civil and Police administrators of Punjab, including the District Magistrate of Amritsar, was responsible for killing more than 6000 innocent pilgrims, many of them women and children and the day chosen by her was the Martyrdom Day of Guru Arjan Dev. About fifty other historical shrines were desecrated and thousands of innocent pilgrims killed in Patiala, Gurdwara Damdama Sahib and other historical shrines. Some ashrams of saintly men who had never indulged in politics and who spent day and night in prayer were completely wiped out and the saintly inmates were killed to the last man. Draconian laws and repressive measures of banning all expressions of truth and facts have still left the story of the horrifying repression untold.

The attack on Mrs. Indira Gandhi and her other accomplices against the background of this campaign of repression was an expression of the political bitterness, resistance and the counter attack by the whole Sikh community.

The Supreme Court handed down a judgement in the case of

the two Andhra peasants where it had clearly acknowledged the class of political offence as one distinct from plain murder. The learned Bench pointed out that "the Penal Code makes no such classification.....(and) we cannot rewrite the law, whatever our own views on urgent reforms". No matter how sympathetic the court might be, it was an area reserved by the Constitution for a Presidential judgement. Political offences, therefore, must be distinguished from run-of-the-mill crimes.

Moreover, the Indian leaders including Mrs. Indira Gandhi have time and again raised their voice against death sentence given to similar political offenders in other countries and have done their utmost to save them from the hallows. Many examples can be given from the time of appeals to Fascist leader Franco of Spain not to execute the Basque nationalists and Marxists to the recent example of Mrs. Indira Gandhi's appeal to save Prime Minister Bhutto of Pakistan from the gallows. In our own country, C. P. I. (M. L.) guerilla leader Mr Naghbushan Patnaik who refused to defend himself or appeal for mercy was saved from the gallows because his act of murder was a political offence. It is well known fact in history that even the Russian Czar saved the eminent novelist Dostoevsky by issuing a reprieve a few minutes before he was to go to the gallows. We hope your excellency will take a similar humane and compassionate view of the issue in question. We earnestly expect that our Head of State will act on the principles which our government has been preaching to other nations and Countries.

Amnesty International (AI)'s opposition to death penalty is unconditional and is based on the facts that every execution violates the fundamental human right to life and the right not to be subjected to torture or any other cruel, inhuman or degrading treatment or punishment as laid in Articles 6 and 14 of the International Covenant on Civil and Political Rights, the UN Covenant to which India is a party.

The Amnesty International in its August, 1988 report, while recommending the Government of India to consider certain corrective measures, too, has urged the Government to "take immediate steps to abolish the death penalty totally, in further-

ance of the UN objective of ultimate abolition of capital punishment". Pending total abolition, AI has further asked the Indian Government to "ensure that the outstanding death sentences should be commuted".

Quite a good number of our jurists, lawyers and legal experts have already given views supported by hard provable facts that the judicial process in the cases of Satwant Singh and Kehar Singh has been influenced and pressurised in indecent haste by the Central government. Having succeeded in doing so authentic newspaper reports openly state that the Prime Minister and his Cabinet are pressurising you to turn a deaf ear to all further appeals for higher justice seasoned with mercy. Thus, the Prime Minister and his cabinet have not concealed their ignoble intention of causing grave injury to your constitutional right and prerogative of giving reprieve or commuting death sentence. We earnestly hope you will uphold the dignity, independence and prerogative of your high office as President of India and give a judicious and compassionate consideration to the appeals from us and other individuals and organizations in this connection, and you will not allow your steps to falter in exercising compassionately and humanely the sacred and super-judicial right given to you by the Indian Constitution to commute death sentences of Satwant Singh and Kehar Singh.

Your excellency can not be unaware of the present Government of India's continuing insane and vindictive attitude towards Sikhs. Dozens of Sikhs are being killed daily in fake encounters. Nearly 50,000 Sikhs have perished during the past eight years. The Government of India's propagandists make the public at large believe that the Sikhs are aggressors while Hindus in Punjab are alone at the receiving end. This is a political manoeuvre on the part of the ruling party to divide and polarise the country along communal lines for purely selfish considerations. The entire Sikh community is watching the Government of India's tactics of sending men like Satwant Singh and Kehar Singh to the gallows and giving conspirators and murderers of thousands of Sikhs ministerial berths. When Governments become insane, countries do develop a tendency of breaking up. Here is the precise

moment when your excellency's intervention is called for to put a stop to the ugly process.

If your excellency surrenders the Presidential prerogative to commute such sentences under pressure and persuasion as is being exercised by the Prime Minister and his cabinet, posterity would be compelled to believe with Leo Tolstoy that "Laws are the product of selfishness, deception, and party prejudices. True justice is not in them and cannot be in them".

The Constitution has given these super-judicial powers to your excellency so that there may be a balance between Power and Justice. Pascal has rightly stated, "Power without justice is soon questioned". Sikhs have been and continue to be subjected to repression and injustices of many kinds. Your excellency's wiser and enlightened step of commuting the death sentences of Satwant Singh and Kehar Singh may not only give them a healing touch but may even persuade the government to change its policies of repression and keeping innocent people indefinitely in prison for a long time or killing mere suspects in false encounters.

It is in view of these facts we respectfully appeal to you to take a politically correct and compassionate attitude towards these cases and not only commute their death sentences but set them free forthwith.

Thanking you,

Ludhiana, October 26, 1988
(Mohinder Singh Jawanda)
Vice-President
(Dr. Jiwan Jot Kaur)
Vice-President

Yours faithfully,
(Justice A. S. Bains)
Chairman
(D. S. Gill), Advocate
General Secretary
(Gurbhajan Singh Gill)
Secretary (Coordination)

PL-0909

Other Publications of the P. H. R. O.

1. Nakodar firing (February 3-4, 1986)
2. Chandigarh Assembly Firing (March 23, 1986)
3. Anandpur Sahib Firing (March 26, 1986)
4. Dresi Ground Killings (March 27, 1986)
5. Golden Temple 'Police Action'
Operation Black Thunder-I (April 30, 1986)
6. Dera Baba Nanak Killings (August 30, 1986)
7. Brahmpura Episode (1987)
8. On Death of Sarabjit Singh Johal (September 12, 1987)
9. Sangrur Jail Killings (October 14, 1987)
10. Fake Encounters in Punjab (May 12 to Dec. 31, 1987)
11. Oppression in Gurdaspur and Amritsar districts (1987)
12. On abduction of advocate's son by the police, from SGTB
Hospital, Amritsar (January 15, 1988)
13. Annual Report-1987 (January 26, 1988)
14. The Truth about Punjab
15. Punjab Bulldozed—A Report to the World with special
reference to Operation Black Thunder-II (May 9-18, 1988)
16. Bidar Episode (September 1988)

Printed by Gurbhajan Singh Gill, Secretary of Punjab
Human Rights Organisation at Jaswant Printers,
1405, Ram Nagar, Civil Lines, Ludhiaha.