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May 12, 2006

Hina Jilani

Special Representative on the Situation of Human Rights Defenders

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

CH-1211 Geneva 10

Switzerland

urgent-action@ohchr.org

**Re: Disappearance of Human Rights Attorney Sukhwinder Singh Bhatti
(India)**

Dear Special Representative:

We submit this communication to provide information on the disappearance of human rights attorney Sukhwinder Singh Bhatti. We respectfully request you to send an allegation letter to the Government of India regarding his disappearance and the government's failure to criminally prosecute the accused policemen. Twelve years ago today, on May 12, 1994, Indian security forces disappeared human rights attorney Mr. Bhatti because he used legal mechanisms to protect people from custodial torture and death. The Supreme Court of India has failed to resolve this disappearance case, despite ordering a judicial inquiry in 1994. The failure of the Court to act on the Chief Judicial Magistrate's findings, submitted to the Court in 2004, and the refusal of every institution to hold the perpetrators accountable, has contributed to the climate of impunity and deterred attorneys from litigating human rights cases. In fact, the government has promoted a key accused in the disappearance of Mr. Bhatti to one of the highest positions in the Punjab police. We request your intervention in this case to ensure that his family's right to an effective remedy is enforced.

We submit this letter at the request of Mr. Bhatti's widow, Harcharanjit Kaur Bhatti. The information in this letter draws from court documents and interviews we conducted with Mrs. Bhatti in March 2004, and February and May 2006.

Information on Victim

Sukhwinder Singh Bhatti (m) was a resident of Badbar village, Dhanaula subdivision, district Sangrur, Punjab, India. He was a practicing attorney in Sangrur, Punjab. At the time of his disappearance, Mr. Bhatti was around 43 years old and had been married to Harcharanjit Kaur Bhatti for 13 years. He and Mrs. Bhatti had two daughters and one son.

Status as a Human Rights Defender

Mr. Bhatti worked as a criminal defense attorney in Sangrur, Punjab. He practiced primarily in two courts located on the premises of the high security jail in Sangrur and Nabha Jail in Patiala.¹ Mr. Bhatti was Sangrur's leading defense lawyer for individuals accused of crimes under the Terrorist and Disruptive Activities (TADA) Act, 1987,² a draconian law that established *in camera* courts and authorized the detention of persons in a "disturbed area" based on mere suspicion. For certain charges, detainees were presumed guilty until proven innocent.³ Further, in practice, TADA courts admitted confessions extracted through torture.⁴ Mr. Bhatti was working on 131 TADA cases at the time of his disappearance.⁵

Mr. Bhatti also represented victims of human rights abuses perpetrated by the Punjab police. In particular, Mr. Bhatti began defending against a new strategy used by the police to construct fake encounters. Encounters were a euphemism for extrajudicial executions.⁶ In 1993, the Punjab police started to apply for and receive production warrants that allowed them to remove individuals accused in TADA cases from jail, and kill them in fake encounters. Mr. Bhatti filed writ petitions in the High Court and secured orders preventing the Superintendent of Jail from allowing his clients to be removed from jail, without the permission of the High Court.⁷

Violations Committed Against Mr. Bhatti

In May 1993, Mr. Bhatti applied for an Indian passport. On September 7, 1993, the Senior Superintendent of Police (SSP) of Barnala wrote to the Regional Passport Office, Chandigarh, stating that Mr. Bhatti was defending "terrorists" and securing their release from courts, and should not be issued a passport. Mr. Bhatti, thus, was denied an Indian passport.⁸

A week before his abduction, in early May 1994, Mr. Bhatti told his mother Amar Kaur that the SSP of Sangrur police district, Jasminder Singh, had threatened him. The SSP, along with Station House Officer (SHO) Rajinder Singh Sohal, Deputy Superintendent of Police (DSP) Surjit Singh, SHO Rajwir Singh, and Superintendent of Police (SP) Pritpal S. Virk, came to his office

¹ Rattan Singh Mahal (PW 17), Statement to Chief Judicial Magistrate, Patiala, Mar. 1, 2002.

² Central Bureau of Investigation (CBI) Final Report, *DS Rajput v. State of Punjab & Ors.*, CrWP No. 337/1994, ¶34.

³ U.S. Department of State, *Country Reports on Human Rights Practices: 1992*, 1139 (India).

⁴ U.S. Department of State, *Country Reports on Human Rights Practices: 1989*, 1386 (India).

⁵ CBI Final Report, ¶36.

⁶ Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence: The Legacy of Abuses in Punjab* (1994), 1.

⁷ CBI Final Report, ¶36.

⁸ CBI Final Report, ¶39.

in the District Courts Complex of Sangrur and threatened him, telling him to stop his work defending accused militants within a week. If Mr. Bhatti refused to stop his work, the SSP ordered the other police officials to teach Mr. Bhatti a lesson, as the police had done with other Punjab human rights attorneys.⁹ Mr. Bhatti's colleague Rattan Singh Mahal also discussed the police threats with Mr. Bhatti about a week before his abduction.¹⁰

On May 12, 1994, witnesses noted the presence of a white Maruti van parked about 100 yards from Kunra Police Post starting around 9:30 a.m.¹¹ The van did not have a license plate. Jaswant Singh, the gunman of DSP Surjit Singh later testified to the Central Bureau of Investigation (CBI) that DSP Surjit Singh owned a white Maruti van, that was primarily driven by his gunmen.¹²

When Mr. Bhatti returned from the Sangrur courts on a public bus that day, armed men in civilian clothes stepped out of the white Maruti van and stopped the bus as it passed the Kunra Police Post around 4:30 pm. The men from the Maruti van took Mr. Bhatti into their custody and drove away in the direction of Sangrur. Many people witnessed the abduction, since it occurred in broad daylight during rush hour. The driver of the bus Malwinder Singh told the CBI that the men were policemen, because he faced similar checks by the police on a regular basis.¹³ One of the bus passengers, Darshan Singh, knew Mr. Bhatti because Mr. Bhatti had represented him in two cases.¹⁴ He immediately informed Mr. Bhatti's family about the abduction.

A witness Surjit Singh from Patiala later testified before the Chief Judicial Magistrate of Patiala that he saw Mr. Bhatti in detention at the Central Intelligence Agency (CIA) Staff in Bhawanigarh when he was illegally detained there, starting May 25, 1994.¹⁵ There were 15 to 20 detainees at the interrogation center, including Mr. Bhatti. Each time SSP Jaswinder Singh and DSP Surjit Singh visited the CIA Staff Bhawanigarh center, they interrogated Mr. Bhatti. Surjit Singh (the detainee) could see Mr. Bhatti from where he was detained as Mr. Bhatti passed through the hall for these torture sessions. Mr. Bhatti's condition was critical and he could barely walk. After each torture session, the police would throw him into his cell. Mr. Bhatti was held there for seven days after detainee Surjit Singh arrived, and then was moved to another detention center. Surjit Singh was later released on June 21 after a warrant officer raided the CIA interrogation center and recovered him.

Another witness Gurbachan Singh, a childhood friend of Mr. Bhatti's, subsequently saw Mr. Bhatti detained at an unofficial interrogation center located in Bahadur Singh Wala Qila, an old fort near Sangrur. The 'C' Company, 26th Battalion of the Central Reserve Police Force (CRPF) was stationed at Bahadur Singh Wala Qila from March to June 1994. The Company Commander of the Battalion in 1994 stated that DSP Surjit Singh had set up an office at the Qila and used to

⁹ Amar Kaur (PW 11), Statement to Chief Judicial Magistrate, Patiala, Aug. 18, 2001. The Punjab police disappeared several human rights attorneys in Punjab. *See, e.g.*, a protection order for Punjab human rights lawyers: *Navkiran Singh & Ors. v. State of Punjab*, CrWP No. 242-258/1994, July 2, 1995.

¹⁰ Rattan Singh Mahal (PW 17).

¹¹ Amar Kaur (PW 11).

¹² CBI Final Report, ¶58.

¹³ CBI Final Report, ¶43.

¹⁴ CBI Final Report, ¶45.

¹⁵ Surjit Singh (PW 13), Statement to Chief Judicial Magistrate, Patiala, Feb. 9, 2002.

bring accused “terrorists” there for interrogation.¹⁶ Other members of the battalion told the CBI that SSP Jasminder Singh also used to visit the Qila to interrogate the detainees.¹⁷ A total of 16 members of the battalion, interviewed by the CBI, corroborated that DSP Surjit Singh maintained an office at the Qila, which SSP Jasminder Singh regularly visited.¹⁸ DSP Surjit Singh’s gunman, Baljinder Singh, also testified that Surjit Singh used to visit Bahadur Singh Wala Qila regularly, but that the gunmen and vehicle were not allowed to enter the Qila.¹⁹ When questioned by the CBI, SSP Jasminder Singh admitted that Bahadur Singh Wala Qila was used as an interrogation center.²⁰

Gurbachan Singh was detained at Bahadur Singh Wala Qila from May 30 to June 16, 1994.²¹ SSP Jasminder Singh tortured him and other detainees. He saw about three to four people illegally detained there. On June 8, 1994, Gurbachan Singh saw Mr. Bhatti in critical condition; he managed to speak to him and learned that Mr. Bhatti had been brought to the interrogation center by DSP Surjit Singh and tortured by DSP Surjit Singh and SSP Jasminder Singh. Gurbachan Singh heard Mr. Bhatti’s cries from torture from June 8 till the next two to three days. Thereafter, he never heard or saw Mr. Bhatti again,²² and since then, Mr. Bhatti has not been seen alive.

At no point was there a criminal case pending against Mr. Bhatti.²³

Perpetrators of the Torture and Disappearance

Witnesses and family members attribute Mr. Bhatti’s abduction to orders given by SSP Jasminder Singh to DSP Surjit Singh, SP Pritpal S. Virk, SHO Rajinder S. Sohal, and others. Jasminder Singh currently serves as Inspector General of Police (IGP) (Computers & Telecommunications).²⁴ The rank of IGP is the second highest in the Punjab police.

As discussed above, eyewitnesses to Mr. Bhatti’s detention stated that SSP Jasminder Singh and DSP Surjit Singh tortured Mr. Bhatti in illegal detention. Members of the CRPF and DSP Surjit Singh’s gunmen confirmed that DSP Surjit Singh had an office at the unofficial interrogation center Bahadur Singh Wala Qila, where Mr. Bhatti was illegally detained, and he and SSP Jasminder Singh used to visit the Qila regularly. SSP Jasminder Singh confirmed the existence of the unofficial interrogation center.

¹⁶ CBI Final Report, ¶50.

¹⁷ *See, e.g.*, CBI Final Report, ¶51.

¹⁸ CBI Final Report, ¶51-2.

¹⁹ CBI Final Report, ¶60.

²⁰ CBI Final Report, ¶74.

²¹ Gurbachan Singh (PW 14), Statement to Chief Judicial Magistrate, Patiala, Feb. 9, 2002.

²² The CBI did not find Gurbachan Singh’s statements reliable. CBI Final Report, ¶81. Gurbachan Singh informed Mrs. Bhatti, however, that the CBI deliberately misrecorded his statements. Here, we rely on Gurbachan Singh’s statement before the Chief Judicial Magistrate.

²³ CBI Final Report, ¶67.

²⁴ *List of Officers in the rank of IGP of Punjab Cadre* at: <http://www.punjabpolice.org/post/index.html> (last accessed May 12, 2006).

During her efforts to find information on the whereabouts of her husband, Mrs. Bhatti contacted acquaintances of SSP Jasminder Singh, who confirmed SSP Jasminder Singh's role in Mr. Bhatti's disappearance. For example, Mohinder Singh, who served as the head of the Nagar Panchayat Handiaya (Town Council of Handiaya), held at least three meetings with SSP Jasminder Singh in Gurdaspur, where the SSP had been transferred, on behalf of Mrs. Bhatti. During their first meeting in 1995, SSP Jasminder Singh said that Mr. Bhatti was alive and they should contact SP Pritpal Virk for his release. When Mohinder Singh contacted SP Virk, SP Virk said that SSP Jasminder Singh had to authorize the release. Mohinder Singh met SSP Jasminder Singh in Gurdaspur again on December 30, 1995, and the SSP promised to release Mr. Bhatti a few days after the retirement of Director General of Police K.P.S. Gill. Mohinder Singh then met the SSP again on January 14, 1996, at the SSP's residence, at which point the SSP denied any involvement in the disappearance of Mr. Bhatti.²⁵ Other individuals interviewed by the CBI corroborated Mohinder Singh's statements regarding his conversations with SSP Jasminder Singh about Mr. Bhatti's disappearance.²⁶

Actions Taken

Police Investigation

The Punjab police claim to have made all efforts to trace Mr. Bhatti,²⁷ conducting an investigation under various supervisors from May 15 to July 4, 1994.²⁸ These efforts allegedly included announcing a reward for information,²⁹ examining witnesses,³⁰ making inquiries with all district police chiefs throughout Punjab,³¹ posting Mr. Bhatti's photograph in major newspapers,³² and conducting raids on terrorist hideouts.³³ In interviews with the CBI, however, the victims of these alleged raids denied that such raids were ever conducted at their residences.³⁴ Further, Mrs. Bhatti and Mr. Bhatti's relative Harbans Singh maintain that the police refused to record a First Information Report on May 12, 1994, and only recorded it on May 16 when they received notice of the petition pending in the High Court.³⁵

Civil Society Actions

The President of the District Bar Association contacted senior police officials the evening of Mr. Bhatti's disappearance.³⁶ The following day, he convened a meeting of the Bar Association. The

²⁵ CBI Final Report, ¶21, 28.

²⁶ CBI Final Report, ¶29, 22.

²⁷ CBI Final Report, ¶2

²⁸ CBI Final Report, ¶8.

²⁹ CBI Final Report, ¶3.

³⁰ CBI Final Report, ¶4, 13-4.

³¹ CBI Final Report, ¶4.

³² CBI Final Report, ¶3, 4.

³³ CBI Final Report, ¶16, 68.

³⁴ CBI Final Report, ¶55-6.

³⁵ CBI Final Report, ¶23, 21.

³⁶ CBI Final Report, ¶34.

Bar in Sangrur observed a strike from May 13, 1994 to June 11, 1994, in protest against Mr. Bhatti's disappearance.³⁷

High Court Case & CBI Inquiry

Two cases were filed after Mr. Bhatti's abduction.

The first case was filed by attorney Daljit S. Rajput as a public interest litigation, without the involvement of Mrs. Bhatti. He filed a habeas corpus petition before the High Court of Punjab & Haryana, Criminal Writ Petition No. 337/1994, on May 14, 1994 based on a news item in the daily *Ajit* reporting Mr. Bhatti's disappearance. On June 17, 1994, the High Court ordered the Central Bureau of Investigation (CBI) to investigate Mr. Bhatti's disappearance.³⁸ In March 1997, the CBI inquiry concluded that the location of Mr. Bhatti could not be determined nor liability for his disappearance established, despite the overwhelming evidence discussed above.

The CBI report describes extensive evidence indicating police responsibility for the disappearance of Mr. Bhatti. For example, DSP Surjit Singh denied visiting Bahadur Singh Wala Qila and possessing a white Maruti van.³⁹ His own gunmen, however, maintained that he possessed such a van, and that he regularly visited the Qila.⁴⁰ Further, all of the members of the CRPF stationed at the Qila and interviewed by the CBI maintained that DSP Surjit Singh had an office at the Qila.⁴¹ SSP Jasminder Singh himself admitted the existence of the interrogation center at the Qila and stated it was used for interrogating top "terrorists."⁴² Further, witnesses saw the white Maruti van without a license plate by the place where Mr. Bhatti was abducted, near Kunra Police Post, all day.⁴³ Despite this consistent and corroborated evidence, the CBI inexplicably concluded that the case be closed as untraced.

The majority of the people questioned by the CBI, besides the police officers themselves, confirmed aspects of police involvement, except for Ajaib Singh, a Member of Legislative Assembly (MLA) who had approached SSP Jasminder Singh on May 26 and May 27. Mrs. Bhatti and her family maintain that Ajaib Singh, an acquaintance of SSP Jasminder Singh, had informed them that the SSP admitted to him that Mr. Bhatti was being detained, but would be released. After the conclusion of the inquiry in 1998, DSP (CBI) H.R. Chopra, who had conducted the CBI inquiry, summoned Mrs. Bhatti to his office. He took her to the office of the SSP (CBI) Manchanda. The SSP (CBI) indicated that MLA Ajaib Singh had failed to corroborate Mrs. Bhatti's version of his conversation with her because he was afraid of retaliation from SSP Jasminder Singh.

Mrs. Bhatti also feels that the CBI purposefully exonerated the police, but were aware of the police's responsibility for Mr. Bhatti's abduction, torture, illegal detention, and disappearance.

³⁷ CBI Final Report, ¶36.

³⁸ CBI Final Report, ¶6.

³⁹ CBI Final Report, ¶73.

⁴⁰ CBI Final Report, ¶58, 60.

⁴¹ CBI Final Report, ¶50-52.

⁴² CBI Final Report, ¶74.

⁴³ Amar Kaur (PW 11).

During the inquiry, DSP (CBI) Chopra questioned Mrs. Bhatti more than 15 times. During one such meeting, Mrs. Bhatti listed who she thought was in the white Maruti van, used in the abduction of her husband. DSP (CBI) Chopra immediately responded to her list, saying only that SP Pritpal Virk was not there in the van, implying that he had knowledge of the passengers' identities.

Despite the evidence implicating the police officers, especially SSP Jasminder Singh and DSP Surjit Singh, the CBI inquiry concluded that "No clue...has emerged regarding his [Mr. Bhatti's] whereabouts. It has also not been possible to fasten responsibility on any police personnel regarding this incident."⁴⁴ Relying on the CBI report, the High Court, thus, dismissed the case. In his order, the justice wrote that the petitioner could revive his petition if new evidence emerged regarding Mr. Bhatti's whereabouts.⁴⁵

The Supreme Court Case

The second case was initiated before the Supreme Court on May 27, 1994, when Simranjit Singh Mann, the leader of the political party Shiromani Akali Dal, wrote a letter to Justice Kuldip Singh of the Indian Supreme Court about the abduction and feared elimination of Mr. Bhatti. Through a letter dated June 9, 1994, the Supreme Court informed Mr. Mann that it had ordered the Chief Judicial Magistrate (CJM) of Patiala to conduct an inquiry into the disappearance of Mr. Bhatti. Judge Gursewak Singh began the inquiry by summoning Simranjit Singh Mann, the bus driver, bus conductor, Mrs. Bhatti, and a few others. After an attorney could not appear for questioning because of the death of a friend, the CJM suspended the inquiry in 1994 itself. Mrs. Bhatti unsuccessfully tried to reinstate the inquiry every three to four months. The inquiry, however, was not reinstated until 2000, when another CJM, Paramjit Singh, took up the case. The CJM proceeded to take statements from Mr. Bhatti's mother-in-law Amar Kaur, eyewitnesses to Mr. Bhatti's detention, and others.

The person who served as CJM was transferred several times during the inquiry. According to Mrs. Bhatti's conversation with her attorney Brjinder Sodhi, the CJM concluded his inquiry in mid-2002 and submitted his report to the Supreme Court in April 2004. The inquiry report has not been made public. Further, Mrs. Bhatti has not been informed of any developments or actions taken by the Supreme Court on the case since April 2004.

Requested Actions

ENSAAF respectfully requests the Special Representative to contact the Indian Government through an allegation letter requesting an explanation of the government's failure to charge and prosecute the police officers who abducted, illegally detained, tortured, and disappeared Mr. Bhatti. Further, the Supreme Court has not acted on the inquiry report it ordered and that was submitted to it over two years ago. Given that this case has been languishing for twelve years, Mrs. Bhatti's right to an effective remedy is long overdue, and, at a minimum, she deserves to know the findings of the Chief Judicial Magistrate.

⁴⁴ CBI Final Report, ¶82.

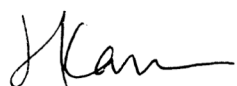
⁴⁵ *D.S. Rajput v. State of Punjab & ors.*, CrWP 337/1994, July 18, 1997.

Information on Party Submitting Communication

ENSAAF is a non-profit U.S.-based organization fighting impunity for human rights violations in India. We work to bring perpetrators to justice, investigate and expose human rights violations, and organize survivors to engage in advocacy. Detailed information on ENSAAF is available on our website at: <http://www.ensaaf.org>.

We would greatly appreciate acknowledgment of receipt of this communication.

Sincerely,



Jaskaran Kaur
Executive Director, ENSAAF

//s//

Sukhman Dhani
Legal Director, ENSAAF