



Professor Nils Melzer
Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Office of the High Commissioner for Human Rights
CH-1211 Geneva 10
Switzerland

urgent-action@ohchr.org

By email

18 December 2017

Dear Special Rapporteur Melzer

Re: Torture of Jagtar Singh Johal, in Punjab, India

REDRESS and Ensaaf submit this urgent appeal for your intervention in the above matter in your capacity as Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

REDRESS is an international human rights organisation based in London and The Hague, with a mandate to support victims of torture and other international crimes in their quest for justice and reparations. Ensaaf is an organisation working to end impunity and achieve justice for mass state crimes in India, with a focus on Punjab.¹

On 4 November 2017, Jagtar Singh Johal, a British citizen, was seized while out shopping with his wife in Rama Mandi in Jalandhar city in Jalandhar district in Punjab, India, hooded and taken away by plain-clothes police officers from Bagha Purana police station. From 5 November until 14 November he was held incommunicado in an undisclosed location in Moga district, with no access to staff from the British High Commission, his family, lawyers or an independent medical professional, except for a brief conversation with his lawyer in public at a court hearing on 5 November. Mr Johal asserts that during 5 to 9 November the police interrogated and tortured him, including by means of electric shocks, forcing his limbs into painful positions and depriving him of sleep.

Since his detention Mr Johal has remained in police detention without charge. He has been brought before a judge for remand hearings on at least 16 occasions. According to Mr Johal, for the last seven days he has been held alone in a cell, with a police guard present at all times. His left ankle and wrist have been chained using handcuffs 24 hours a day.

His treatment in custody to date raises serious concerns about his current and future treatment, and the chances of him being subjected to further torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment) remain high. Further, during his entire period of detention the police have denied him private contact with his lawyer, family or the British High Commission. He has also been denied any independent medical assessment or treatment. This risks compounding

¹ See www.redress.org for more information about REDRESS, and www.ensaaf.org for more information about Ensaaf.

any physical or psychological harm already caused to him, and is increasing the difficulty of documenting additional evidence of the kind of treatment he has been subjected to.

REDRESS and Ensaaf recently became aware of Mr Johal's past treatment and current situation. In addition to the above issues, we are concerned about the seemingly arbitrary nature of Mr Johal's detention, his lack of access to legal representation during the initial stages of his detention and interrogation, his being forced into providing false confessions, the harassment of his family by the police, and the prejudicing of any eventual trial by public statements and videos provided to the press by the Punjabi authorities. However, in light of the particular urgency of the issues relating to his treatment referred to above, we focus on his assertions of torture and the risk of further ill-treatment, for the purposes of this urgent appeal.

We therefore respectfully request that as a matter of urgency your office enquires into this matter with the Government of India, to ensure that:

- Mr Johal is treated in compliance with international standards and any torture and ill-treatment of Mr Johal is ceased immediately;
- Mr Johal is provided immediately with an independent medical examination that will assess the physical and psychological impact of his alleged torture, sufficient to:
 - o determine what further physical and psychological medical treatment is necessary; and
 - o document the physical and psychological effects of Mr Johal's alleged torture for future evidentiary use;
- Mr Johal is provided immediately with any physical and psychological medical care that is deemed necessary during the independent medical examination;
- Mr Johal is permitted private, unsupervised visits by his lawyer and the British High Commission; and
- An independent investigation is commenced immediately into Mr Johal's alleged torture while in police custody.

We are ready to provide you with further information or to clarify any issues in relation to this matter as far as we are able.

We would be grateful if you could please direct any correspondence to Charlie Loudon, International Legal Adviser, REDRESS, at charlie@redress.org.

Sincerely

Juergen Schurr
Head of Law and Policy
REDRESS

Jaskaran Kaur
Co-Founder and Co-Director
Ensaaf

I. IDENTITY OF THE PERSON SUBJECTED TO TORTURE

A. Family Name - Johal

B. First and other names – Jagtar Singh; also known as “Jaggi”

C. Sex - Male

D. Birth date – [redacted]

E. Nationality – British

F. Occupation – Self-Employed

F. Activities (trade union, political, religious, humanitarian/ solidarity, press, etc.) – Contributor to a website documenting the Punjab militancy and stories of the persecution of Sikhs in India.

G. Residential address – [redacted]

II. STATEMENT OF FACTS²

A. Background (pre-4 November 2017)

1. Mr Johal is a 30-year-old British citizen who lives in Dumbarton, Scotland. His family is of Sikh origin. He is a contributor to a website, www.neverforget84.com, which documents Sikh persecution and the militancy in Punjab, India. Mr Johal’s role is to record and translate the stories of individual Sikhs who had faced persecution or participated in the militancy in the 1980s and 1990s.
2. On 4 April 2017 Mr Johal went to India for seven weeks to celebrate the Sikh holy festival of ‘Vaisakhi’ and to announce his engagement. The visit passed without incident.
3. On 2 October 2017, Mr Johal returned to India to marry his fiancé on 18 October 2017. On 1 November 2017, Mr Johal’s family returned to the UK while he remained in India to prepare immigration papers for his wife, who is an Indian national.

B. Detention and police custody in Bagha Purana (4 – 17 November 2017)

4. On 4 November 2017, Mr Johal went shopping with his new wife and another female relative in Rama Mandi in the city of Jalandhar, State of Punjab. At approximately 3.45pm, around 15 men took Mr Johal from his vehicle, placed a black hood over his head and put him into an unmarked vehicle. They did not identify themselves as police officers. They did not present a warrant for his arrest and did not say anything to him or his family regarding why he was being taken. Mr Johal’s wife immediately made a complaint to the police in Jalandhar and was told he was in Bagha Purana, three hours away by car. At the police station in Bagha Purana, Mr Johal’s wife and father were told that Mr Johal was not at the police station, and were told to come to court in the morning. Mr Johal’s precise location was not disclosed and his family were not permitted to speak to him.
5. On 5 November, Bagha Purana police presented Mr Johal before a duty magistrate in Bagha Purana, who placed him in police remand for five days. No formal charges were lodged against

² Unless otherwise stated, the information in this urgent appeal has been obtained through discussions with Mr Johal’s brother, Gurpreet Singh Johal, and two of Mr Johal’s lawyers, Advocate Jaspal Singh Manjhpur and Advocate Jagpreet Singh Chadha.

Mr Johal at this hearing (or any subsequent hearing to date). Mr Johal was allowed a lawyer during the hearing, Advocate Chadha, who was instructed by Mr Johal's brother Gurpreet Singh Johal.

6. On 7 November, the Chief Minister of Punjab, Captain Amarinder Singh, and the Director General of Police, Suresh Arora, issued a press statement naming Mr Johal amongst a list of four suspects who had been interrogated regarding their alleged involvement in a number of recent targeted killings and alleged collaboration with Pakistani intelligence operatives.³
7. On 10 November, Bagha Purana police presented Mr Johal before a duty magistrate in Moga, who extended his police remand for a further four days. The hearing took place behind closed doors. The British High Commission and Mr Johal's lawyers, Advocate Manjhpur and Advocate Chadha, both instructed by Mr Johal's brother Gurpreet Singh Johal, were aware of the hearing but were denied access to the courtroom during his hearing and so were unable to represent him. Court clerks, including Advocate Chadha's own clerk, and other passers-by that happened to see Mr Johal as he was being taken in and out of the courtroom, later informed Advocate Chadha that Mr Johal had had great difficulty in standing or walking, and had had to be assisted by the police officers. Mr Chadha immediately filed with the court an application for permission to meet his client.
8. On 14 November, Bagha Purana sub-divisional judicial magistrate Pushpinder Singh extended police remand of Mr Johal for a further three days, and allowed the application for Mr Johal to see his lawyer. During the hearing, Mr Johal was allowed to speak briefly with his family and his lawyers, Advocate Manjhpur and Advocate Chadha, in a non-private discussion in the courtroom. He told his lawyers that he had been tortured (see more information at paras 29-32 below) and had been forced to sign a number of blank documents by the police. Advocate Manjhpur immediately filed with the court a request for an independent medical examination (Annex 1). Advocate Manjhpur recorded Mr Johal's assertions about his treatment and being made to sign blank documents in a signed affidavit the following day (Annex 2).
9. On 15 November Advocate Chadha met with Mr Johal in police custody. Police officers were present throughout the meeting. Mr Chadha asked Mr Johal whether he continued to be interrogated and tortured. Mr Johal did not disclose any information, and said that if he disclosed anything the police would torture him again.
10. On 16 November, the British High Commission was allowed consular access to Mr Johal for the first time. The meeting took place under the supervision of senior police officers. The British High Commission classed him as a "vulnerable" consular case.⁴
11. On 17 November, the Bagha Purana police presented Mr Johal in court before sub-divisional judicial magistrate Pushpinder Singh, who ordered for him to be placed in judicial remand in Faridkot Jail. He was allowed to speak briefly with his family and representatives from the British High Commission, but not in private.

C. Police custody in Ludhiana (17 November – 6 December)

12. On the evening of 17 November, while Mr Johal was being taken to judicial custody, the Ludhiana police took custody of him. The Ludhiana police initially tried to present Mr Johal

³ See, for example, Tribune India, *Punjab Police Claim to Solve High-Profile Targeted Killings*, 7 November 2017, available at <http://www.tribuneindia.com/news/punjab/punjab-police-claim-to-solve-high-profile-targeted-killings/493932.html>.

⁴ The UK Government considers someone to be "vulnerable" when they consider that they "cannot protect themselves from significant physical or emotional harm, or be protected by others". See UK Foreign and Commonwealth Office, *Consular Charter, Support for British Nationals Abroad*, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584047/FCO_Brits_Abroad_web130117.pdf.

before a duty magistrate in Ludhiana, but he refused to handle the case and directed them to area magistrate Sumit Sabharwal. The police presented Mr Johal before Ms Sabharwal at her residence in Ludhiana. In the proceedings before Ms Sabharwal the police requested Mr Johal be placed in police remand in relation to the killing of a Christian pastor, Sultan Masih. Ms Sabharwal placed Mr Johal back into police remand for two days. She also granted Advocate Manjhpur daily access to Mr Johal between 12pm and 1pm.

13. On 19 November, police presented Mr Johal before a duty magistrate in Ludhiana who placed him in police remand for a further five days.
14. On 24 November, during Mr Johal's seventh court appearance, Rajinder Singh, a judicial magistrate, granted a further five days police remand. Three representatives from the British High Commission attended the hearing. For the first time in the court proceedings since his detention, Mr Johal was allowed to speak briefly. He stated that he was innocent and requested a private visit with the British High Commission, which was granted by the court and ordered for later that evening. However, the police subsequently cancelled the meeting, citing "technical reasons". The police allowed the British High Commission to meet Mr Johal the following day, but the meeting was not in private and instead took place in the presence of two senior police officers.
15. On 28 November, area magistrate Sumit Sabharwal in Ludhiana extended police remand of Mr Johal for two additional days. She ignored Advocate Jaspal Singh Manjpur's request for the court to address the police's violation of a court order directing the police to arrange for a meeting between the British High Commission and Mr Johal.
16. On 29 November, human rights lawyer Rajvinder Singh Bains, a third lawyer instructed by Mr Johal's brother Gurpreet Singh Johal, filed an urgent application to the Punjab and Haryana High Court requesting an independent medical examination, to be heard on 1 December 2017. However, the court has delayed hearing the application pending a response from the Punjab Police by 22 March 2018.
17. Mr Johal's police remand was extended by a further two days on 30 November, and two further days on 2 December after police requested his remand in relation to a different crime, involving the firing of a weapon at a local branch of the Hindu nationalist organisation Rashtriya Swayamsewak Sangh (RSS). On 4 December, a judicial magistrate granted one further day of remand, and this was again extended by one day on 5 December.
18. On 6 December, a judicial magistrate ordered that Mr Johal be placed into judicial remand regarding the case involving the firing of a weapon on a local RSS branch. Afterwards, Ludhiana police arrested Mr Johal in connection with an additional case regarding the killing of an activist, Amit Sharma, from the far-right political party Shiv Sena, in January 2017, and were granted five days police remand.
19. On 7 December, local news organisations aired video footage⁵ of Mr Johal being interviewed in detention, which was characterised in the media as a confession. In fact, Mr Johal did not reference in the video any of the crimes alleged against him. News organisations also aired footage of another detainee, in which he asserted that Mr Johal provided him with funds to

⁵ India Today, broadcast, 7 December 2017, available at <https://youtu.be/6i2zwb--PRs>.

purchase weapons. It is not clear how this testimony was obtained. See more information at para 38 below.

20. On 11 December, a judicial magistrate granted judicial custody of Mr Johal until 25 December 2017. Subsequently, Khanna police arrested him in relation to a case regarding the killing of Hindu leader Durga Prasad in April 2016. The judicial magistrate granted police remand in this case for a further four days.
21. On 15 December a magistrate placed Mr Johal into police remand for another two days in connection with the Prasad case. On 17 December Mr Johal was placed into police remand for two further days.

D. Current situation

22. Mr Johal remains in police remand without charge, 45 days after having been detained. He is yet to receive an independent medical examination or a private meeting with his lawyer or the British High Commission. According to Mr Johal, for the last seven days he has been held alone in a cell, with a police guard present at all times. His left ankle and wrist have been chained using handcuffs 24 hours a day.

III. CIRCUMSTANCES OF TORTURE

A. Date and place of arrest and subsequent torture

23. Approximately fifteen plain-clothes police officials from Bagha Purana police station arrested Mr Johal in Rama Mandi in the city of Jalandhar on 4 November 2017.
24. According to Mr Johal, the Bagha Purana branch of the Punjab police subsequently interrogated and tortured him from 5-9 November 2017, at an undisclosed location in Moga district.

B. Identity of force(s) carrying out the initial detention and/or torture (police, intelligence services, armed forces, paramilitary, prison officials, other)

25. Officials of the Punjab police force arrested Mr Johal. From 4 – 14 November, the Bagha Purana branch of the Punjab police interrogated and allegedly tortured him while in detention at an undisclosed location. Mr Johal continues to be held by the Punjab police.

C. Were any person, such as a lawyer, relatives or friends, permitted to see the victim during detention? If so, how long after the arrest?

26. On 5 November 2017 Mr Johal briefly saw his lawyer during a court hearing. From 5 November to 14 November, Mr Johal was held incommunicado and not permitted any access to family, a lawyer or the British High Commission.
27. On 14 November 2017 Mr Johal, when presented at the magistrate's court in Bagha Purana, was permitted to speak to his lawyers for around five minutes, and to speak with family members for one or two minutes. The discussions were held in public in the courtroom. Police refused Mr Johal permission to meet with a delegate from the British High Commission who had attended court.
28. Since 14 November 2017 the only visits Mr Johal has been allowed are: (i) one hour per day with his lawyer; (ii) occasional visits from the British High Commission. The police detaining Mr Johal

have not permitted any of the visits to be held in private. This is despite a court having ordered on 24 November 2017 that Mr Johal should be permitted a private meeting with the British High Commission, which the police continue to refuse to comply with. As a result, it has not been possible for Mr Johal's lawyers or family, or the British High Commission, to obtain information on the full extent of his torture and other prohibited ill-treatment or properly assess his physical and mental health.

D. Describe the methods of torture used

29. Mr Johal's two lawyers in the local proceedings, Advocate Jaspal Singh Manjhpur and Advocate Jagpreet Singh Chadha, have each confirmed that Mr Johal told them on 14 November how the Punjab police tortured him while in police custody at an undisclosed location. According to Advocate Manjhpur, Mr Johal told him that between 5 and 9 November 2017 police officers had:
- applied electric shocks to his ears, nipples and penis;
 - caused pain by forcibly spreading his legs apart in opposite directions, beyond the point at which they would naturally be able to go; and
 - deprived him of sleep.
30. Mr Johal has also told Advocate Manjhpur that while the police officers inflicted the above treatment on him they forced him to sign blank pieces of paper. Advocate Manjhpur recorded this, along with the allegations of torture, in an affidavit that he signed on 15 November 2017 (Annex 2). Advocate Manjhpur believes that the papers would have been for the purpose of forging confessions from Mr Johal.
31. Advocate Manjhpur understands from Mr Johal that since 7 November he has continued to be subjected to sleep deprivation. Advocate Manjhpur has been not able to obtain from Mr Johal further details about his treatment, such as the extent of the pain caused, as neither he nor anyone else has been allowed a private meeting with Mr Johal.
32. Advocate Chadha has similarly confirmed that Mr Johal told him that police officers applied electric shocks to his ears, genitals and other soft body parts, and forcibly pulled his legs apart into painful positions. Mr Johal also told Advocate Chadha on 15 November 2017 that he could not provide Advocate Chadha with more information about his torture, for fear that he would be tortured again.
33. The use of such techniques by the police in India, including in Punjab, is well documented.⁶ It is submitted that despite the limited information available, the treatment inflicted upon Mr Johal is likely to amount to torture for the purposes of Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as it:
- is likely to have caused Mr Johal severe pain or suffering;
 - was carried out intentionally by public officials; and
 - appears to have been carried out for one or several of the following prohibited purposes:

⁶ See, for example, Human Rights Watch, *The Anti-Nationals: Arbitrary Detention and Torture of Terrorism Suspects in India*, 2 February 2011, available at <https://www.hrw.org/report/2011/02/01/anti-nationals/arbitrary-detention-and-torture-terrorism-suspects-india>; Ensaaf, *Punjab Police: Fabricating Terrorism Through Illegal Detention and Torture*, October 2005, p 4, available at <http://www.ensaaf.org/publications/reports/fabricatingterrorism/fabricatingterrorism.pdf>.

- to obtain information or confessions in relation to certain crimes;
- as punishment for Mr Johal's role in contributing to a website documenting stories of Sikh persecution); and/or
- based on discrimination against Mr Johal as a person of Sikh origin.

E. What injuries were sustained as a result of the torture?

34. It has not been possible to ascertain the harm suffered by Mr. Johal as a result of the treatment inflicted upon him. As explained above, the police denied Mr Johal any contact with external parties from 5 November 2017 until 14 November 2017, and this was the period when the treatment described above was inflicted upon him. The British High Commissioner and Mr Johal's lawyers were not allowed to attend the hearing on 10 November or see Mr Johal.
35. Since 14 November 2017 any contact that the police have allowed with Mr Johal's lawyer, family or the British High Commission has been supervised by police officers, preventing Mr Johal from speaking about his abuse for fear of retaliation and further torture. During contact Mr Johal has been wearing clothing that covers his entire body, apart from his hands and face. And as explained below, Mr Johal has not been permitted to see an independent medical practitioner, despite the efforts of his lawyers to secure this.
36. Despite the foregoing, the following information is available about Mr Johal's injuries. Court clerks, including Advocate Chadha's own clerk, and other passers-by that happened to see Mr Johal as he was being taken in and out of the courtroom, informed Advocate Chadha that when Mr Johal was brought in and out of court on 10 November 2017 he had great difficulty in standing or walking, and had had to be assisted by the police officers. When Advocate Manjhpur met Mr Johal for the first time in court on 14 November 2017 he observed that Mr Johal had difficulty walking, and was held on both sides by police officers. At that meeting Mr Johal appeared disturbed and very tired. Mr Johal's appearance was sufficiently concerning to cause Advocate Manjhpur to ask Mr Johal whether he had been tortured.
37. Similarly, when the British High Commission first met Mr Johal on 16 November 2017 they classed him as "vulnerable".

F. What was believed to be the purpose of the torture?

38. Police inflicted the treatment as set out above on Mr Johal to obtain a confession or information from him relating to certain crimes that have been committed, as set out in the Statement of Facts above. Local news organisations have broadcast a video of another detainee, Taljit (also known as Jimmy) Singh, asserting in a police interview that Mr Johal provided him with funds to purchase weapons.⁷ It is not clear how the information provided by the other detainee was obtained. Local news organisations have also shown a video of Mr Johal being interviewed in police detention.⁸ Mr Johal does not confess in the video to any of the crimes alleged against him. He instead gives information about his involvement with the website, www.neverforget84.com. In a video interview, Advocate Manjhpur indicated the statements could have been obtained under torture, or threat of harm, as this is a common tactic of Indian security forces. He further states these videos are not admissible in court under the Indian

⁷ India Today, broadcast, 7 December 2017, available at <https://youtu.be/6i2zwb--PRs>.

⁸ Ibid.

Evidence Act, 1872 (Sec. 25), as no confession made to a police officer shall be proof against a person accused of any offence.⁹

39. In addition, it appears the police may have targeted Mr Johal as punishment for his involvement in the www.neverforget84.com website and/or as a result of his Sikh origin. In this respect Mr Johal's detention and torture follows a pattern of arbitrary detention and torture of Sikhs in Punjab, India.
40. According to data released by the National Crime Records Bureau, Sikhs are more likely to be detained than any other religious group in India, and there are more Sikhs in detention relative to than any other faith. Further, the conviction rate of Sikhs is three times their proportion in the general population, and the rate is a rising trend.¹⁰ Throughout India, including Punjab, police often torture suspects as a punitive measure, to gather information, or coerce confessions. Moreover, torture is most often likely when the suspect is first brought into custody. Although magistrates have a duty to ensure the wellbeing of suspects, accused are often afraid to say if they have been mistreated because they know they may be sent back into police remand.¹¹

G. Was the victim examined by a doctor at any point during or after his/her ordeal? If so, when? Was the examination performed by a prison or government doctor?

41. Mr Johal has not been permitted an examination by an independent medical practitioner, despite repeated requests by his lawyers. On 14 November 2017 Advocate Manjhpur applied to the Magistrate's court in Bagha Purana requesting an independent medical examination after Mr Johal had stated that police officers had tortured him in detention (Annex 1). This application was denied on 17 November 2017, on the grounds that Mr Johal had supposedly been examined by a prison doctor. No evidence of this alleged examination was presented before the court, and neither were the results of any such purported examination. On 29 November 2017 Mr Johal's brother submitted a separate application through Advocate Rajvinder Bains for an independent medical examination to the Punjab High Court. The hearing of this application has been scheduled for March 2018, which offers little assistance given the time sensitivity of Mr Johal's current situation.

H. Was appropriate treatment received for injuries sustained as a result of the torture?

42. It is not known what treatment, if any, Mr. Johal has received for his injuries.

I. Was the medical examination performed in a manner which would enable the doctor to detect evidence of injuries sustained as a result of the torture? Were any medical reports or certificates issued? If so, what did the reports reveal?

43. If any medical examination has taken place, the nature of that examination is not known.

⁹ News18Punjab, broadcast, 14 December 2017, available at <https://www.facebook.com/News18Punjab/videos/926909107472687/>.

¹⁰ Hindustan Times, *Sikhs, Christians More Likely to be Jailed than Hindus and Muslims*, 24 October 2015, available at <http://www.hindustantimes.com/india/hindus-least-likely-to-be-jailed-sikhs-christians-most-likely/story-Og4PhnhYsPIVJgIKyeOKL.html>.

¹¹ Human Rights Watch, *Bound by Brotherhood: Indian's Failure to End Killings in Police Custody*, undated, available at <https://www.hrw.org/report/2016/12/19/bound-brotherhood/indias-failure-end-killings-police-custody>.

IV. REMEDIAL ACTION

Were any domestic remedies pursued by the victim or his/her family or representatives (complaints with the forces responsible, the judiciary, political organs, etc.)? If so, what was the result?

44. As set out at para 41 above, applications for independent medical examination as a result of torture have been lodged with the domestic courts, but have either been refused or adjourned.

V. Information concerning the authors of the present report:

A. Authors – REDRESS and Ensaaf

B. Relationship to victim – Instructed by brother of victim, Gurpreet Singh Johal

C. Present full addresses

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VI. Annexes

Annex 1 – Application by Advocate Manjhpur for Independent Medical Examination as a Result of Torture, 14 November 2017

Annex 2 – Affidavit by Advocate Manjhpur, 15 November 2017

Annexes redacted for confidentiality