

# Deaths in Tihar Jail

*A Report on Invisible Lives*

ऊँची दीवारों के पीछे, लोहे की सलाखों के अंदर  
रहते हैं मक्कफल कुछ इंसां, इंसां जो नहीं इक गिनती हैं  
वो दिन आखिर कब आएगा, जब बदलेगा ये मौसम—ए—गम  
कुछ बेकस रुहें आस लगाए, उम्र की घड़ियां गिनतीं हैं

— आनन्द नारायण मुल्ला  
अध्यक्ष, अखिल भारतीय जेल सुधार समिति

**People's Union for Democratic Rights**  
**Delhi**  
**October 1994**

With a sanctioned capacity of 2,500 and housing over 8,000 undertrials and convicts, Tihar Jail is one of the most over-crowded jails in the country. There have been attempts to bring about some reforms, which have received widespread publicity. Through this process a drug de-addiction centre and facilities for adult education were started. Special arrangements were also made for food, wherein additional food (eggs and *bread pakoras*) was made available on payment. Ironically each of these reform measures has led to a death. Overdose of de-addiction pills took the life of Juan Antonio on 21 August 1993. The attempt to obtain a *bread pakora* from the jail canteen resulted in the death of Bhagwan Das on 14 August 1993. Recently the refusal by Raj Kumar to participate in the adult education programme resulted in his death on 6 October 1994.

Raj Kumar was a resident of Old Subzi Mandi, Malkaganj in North Delhi. The eldest son in a family comprising his mother, three younger brothers and a sister, Raj Kumar was the sole earning member. He worked at a *kharat* machine making metal washers. Still in his early twenties, Raj Kumar was accused in many petty cases of crime. He had thus been to jail a number of times for brief periods.

Following a brawl on 26 August, a complaint was filed against Raj Kumar at the Roop Nagar police station. The same day he was arrested from his house and a knife was recovered from his possession. Thus Raj Kumar reached jail again. On 27 August he was remanded to the judicial custody of Tihar jail where he remained till his death. His mother visited him twice when he was brought to the Tis Hazari courts, the second time on 27 September. Raj Kumar had expressed revulsion at being forced to clean latrines and to sweep floors in the jail.

The next time Raj Kumar's mother managed to see him was on 4 October. He was unconscious in hospital. He never regained consciousness. Thus, jail inmates, jail authorities, and doctors are probably the only people who can provide a clue about the circumstances that led to the death. While access to the inmates is impossible, doctors are tightlipped. The account that follows has therefore been pieced together through a detailed investigation for over a fortnight. We met the Superintendent and Deputy Superintendent, Jail No. 4, Tihar Jail, the Sub Divisional Magistrate, Punjabi Bagh, SHO, Hari Nagar P.S., a doctor, Medical Superintendent and employees at the Record Office at Deen Dayal Upadhyay (D.D.U) Hospital, Medical Record Officer, Ram Manohar Lohia (R.M.L) Hospital, and Delhi Police and Delhi Armed Police (DAP) personnel posted at R.M.L hospital, head of the mortuary of the Civil Hospital, Rajpur Road (commonly referred to as the Tis Hazari Mortuary), and family members and relatives of Raj Kumar.

The incident that was to cost Raj Kumar his life started at the *chakkar*

(an open compound) in Jail No. 4 on the morning of 30 September. Each Jail Warder is under an unwritten obligation to get all the inmates for the adult education classes at the jail. Else he is admonished. Raj Kumar not only refused to attend the classes at the jail but also threatened the Jail Warder, Neel Bahadur and lunged at him. What followed was a collective thrashing of Raj Kumar by the Warder along with five inmates. Wooden rods and a steel pipe were used. Raj Kumar lost consciousness many times while he was thus being beaten and dragged from the *chakkar* to the barrack.

At 5.40 p.m. on 1 October he was in D.D.U. hospital (MLC No. 7095, under Dr. Pratap). The MLC does not record anything about the medical status of the patient. The doctor refused to even divulge whether the patient was in his senses. At 1.30 a.m. Raj Kumar was brought in a police ambulance to the DAP post at R.M.L. hospital at 1.30 a.m. on 2 October. According to the hospital Superintendent, patients are sent to R.M.L. hospital only in the case of problems related to neurology. Fifty minutes later he was admitted in the Emergency Ward, Unit III (C.R. No. 31377). The entry made in the Delhi Police records at the hospital states one word “assault”. At 8.05 a.m. on the same day Raj Kumar was discharged from RML hospital.

Raj Kumar’s whereabouts are not known for the next 27 hours and 50 minutes. He was admitted afresh to DDU hospital at 11.55 a.m. on 3 October. The next day Raj Kumar’s mother received information through a letter from an inmate of the same ward in Tihar Jail, Ramesh Kumar alias Nikku, that her son had been fatally attacked in the jail and admitted to a private hospital. She immediately rushed to Tis Hazari courts to obtain permission to meet her son. Courts had closed for the day and on a lawyer’s advice she proceeded to R.M.L. hospital. Hospital staff directed her to D.D.U. hospital where she learnt that permission was required from the Inspector General, Prisons (I.G.). Though permission was granted, the I.G. was reportedly ignorant of the events. The mother reached the hospital around 8 p.m. and found Raj Kumar in an unconscious state. His right arm and right leg were in plaster. There were bruises on the other arm, below the eye, and on the ear. His head was tender.

The Deputy Superintendent, Rameshwar Dass Bohet came to the hospital. He offered Rs. 500 and said “*jo hona tha, so ho chuka, ab aap iski dekh-bhaal karo*” (what has happened is in the past, now look after him). The mother then showed him the injuries on the upper thighs, groin and waist. Raj Kumar was shifted to the ICU soon after. He died there at 00:45 hours on 6 October. The family got official intimation from two police stations.

The Jail Superintendent, Nirmal Singh, along with another person reached the hospital, met the mother and told her that justice had been done. The persons responsible for Raj Kumar’s death had been severely beaten and one of them hospitalized. Hence, he stated, there was no need for a *postmortem*

examination. The *postmortem* was conducted on 7 October and the body handed over to the family. The SDM, Punjabi Bagh, started the inquest.

The most disturbing feature is the manner in which the FIR was lodged in the case of Raj Kumar's death. For a full five days no action was taken. The Deputy Superintendent and Superintendent of Jail No. 4 were in full knowledge of the happenings, at least from the time when Raj Kumar was shifted to hospital. It was only after the mother entered the picture, and the I.G. was informed, that an FIR was lodged at Hari Nagar P.S. However another FIR was recorded at the same time. This was lodged by the Warder in which Raj Kumar was the accused -- for obstructing a public servant on duty.

The seven inmates have been arrested. The Warder who subsequently proceeded on leave has not been arrested. The SHO, Hari Nagar P.S. states that he too will be arrested once he rejoins. Since when have the police started waiting for a person to rejoin? However the need has probably not been felt for criminal action against the higher officials for denying medical treatment and delaying the lodging of an FIR.

### **Jail Version**

Jail authorities refute the charge that Raj Kumar was injured in the jail. They agree that some altercation took place, but "no excessive force" was used. They assert that Raj Kumar was a drug addict suffering from severe withdrawal symptoms and therefore routinely lost control over himself. The family refutes this charge as baseless. Tis Hazari mortuary sources also state that no signs of drug addiction were found during *postmortem* examination.

The Deputy Superintendent repeatedly asserted that Raj Kumar sustained no external injuries in the jail. But Raj Kumar's arm and leg were in plaster right till the post mortem examination. There were many other minor and major injuries all over the body. And Raj Kumar was in judicial custody till his death. This fact is not denied. So jail authorities are liable to explain the cause of his injuries.

The need for a consistent account while denying the fact of injuries, led the jail authorities to assert that Raj Kumar was in the jail till 2 October, when he complained of pain in the abdomen. Hospital records however show otherwise. Raj Kumar was in D.D.U. hospital on the evening of 1 October. The fresh admission in the hospital on 3 October seems to be an attempt to conceal evidence of earlier treatment.

It is not surprising therefore that the family received no official intimation regarding Raj Kumar's admission into hospital. The SHO Hari Nagar and the Deputy Superintendent assert that intimation was sent to the family. They were however unable to provide the name of the person or the police station that sent this intimation.

## **An Earlier Death**

Shakuntala Devi got information on 14 August 1993 that her husband was in a serious condition in Tihar Jail. Her attempts to reach him sent her from Tihar Jail to Hari Nagar police station, back to Tihar Jail and then to Hari Nagar P.S. There she waited till midnight and was told by the SHO to come back the next morning. Early next morning she telephoned the Hari Nagar P.S. Then she was informed that her husband, Bhagwan Das had committed suicide the previous afternoon.

When Shakuntala Devi saw the body in Tis Hazari mortuary, it was covered with marks of beating. The entire region from waist to thighs was covered with blood. There were no clothes of the body save an underwear and a small towel. A small piece of rope was tied around the neck.

Bhagwan Das (50) was arrested on charges under the Narcotics, Drugs and Psychotropic Substances (Prevention) Act. While in jail, some officials were regularly extorting money from him. Shakuntala Devi had been giving Rs. 400-500 to her husband every week for this purpose. Three written complaints were made to the jail authorities naming those involved in the extortion. On 6 August 1993 when she last met her husband, Bhagwan Das had complained that the officials were harassing him and demanding Rs. 10,000. This was not paid.

But eight days later, around 9 a.m., Bhagwan Das felt like having some more food. He took the permission of the warden to purchase a *bread pakora*. Having purchased it he was returning to the barrack when the head warden Jai Kishen stopped him. Despite pleas and explanations that he had taken due permission, the *bread pakora* was snatched and thrown into a drain. Merciless beating started. He was pulled out into the *chakkar* and then into a cell. By this time Bhagwan Das was bleeding profusely. At 3 p.m. all the inmates were told that Bhagwan Das had committed suicide by hanging himself.

Despite clear evidence of grievous injuries, Tihar jail authorities give a variety of reasons why action is not called for. That Bhagwan Das was a drug addict and that he was mentally upset. That he committed suicide in a fit of depression, by hanging himself with a rope made by tearing a strip of cloth from a bedsheet. Firstly, as a drug addict he should not have been kept in the ward but in the de-addiction centre. Secondly, his two sons were to be married a fortnight later and his bail application had been filed. Rather than being mentally upset, he was in fact looking forward to the marriage. Thirdly even if he did commit suicide, it does not prevent prosecution for the merciless beating he suffered and for abetment to suicide. The assertions of the jail authorities do not hold water. And yet, no action has been taken.

## **Conclusion**

What is most striking about Tihar Jail is the total lack of concern on part of the authorities. It permeates to all levels. For instance visitors to the jail are

without a clue as to which jail of the four jails within Tihar, the prisoner they wish to meet is lodged in. They rush from one jail gate to another to get this information. Over a kilometre's distance separates the four gates. No public transport system connects them. Then the visitors are back to the central administrative office at the gate of Jail No. 1 to obtain the permission slip. Then back to the jail where the prisoner is lodged. To be successful, this process has to be completed in two hours. Having completed the process once does not make it any simpler for the future. Inmates are shifted from one jail to another as a regular practice. Therefore any assumption that the prisoner is in the same jail probably means that the meeting will not be possible.

It is unnecessary to state how easily this can be worked out and visitors saved from avoidable harassment. That visiting is not made easier reflects attitudes rather than practical constraints. Despite the fact that around 50 percent of the prisoners are undertrials (of the 859 people lodged in Jail No. 2, only 420 are convicts), all prisoners are believed to be criminals. And criminals have no right to demand anything. Those who visit them are equally ineligible for any facilities.

When it comes to dealing with the prisoners themselves, the attitude becomes worse. Food provided twice a day, is badly cooked or undercooked. According to rules it should be provided thrice a day, four times for inmates who are ill. And inmates are prone to ailments. According to health experts who visited Tihar Jail on 26 January 1994, "prisoners are prone to tuberculosis, skin diseases and venereal ailments". This is a telling comment on the conditions of sanitation and nutrition in the jail. And whatever cleaning is done, is by undertrials such as Raj Kumar, who according to law are not to be engaged in labour.

In this context, for a prisoner addicted to drugs, or a prisoner who makes demands or complaints the attitude turns spiteful. And if they become aggressive as Raj Kumar had become, they are to be beaten into submission. In this way perhaps both the deaths of Raj Kumar and Bhagwan Das are "natural".

But simply giving rights to a prisoner is inconsequential to the question of his life and living in the jail. A procedure is required that guarantees the prisoner a space to state grievances. In Tihar jail a green box is carried by jail officials once a day through every ward for prisoners to put in their complaints. This is used only in the most rare instance. One undertrial wishing to complain against inedible food was advised by others not to resort to such action. And perhaps rightly so.

The situation becomes grave when a prisoner is physically attacked by jail officials. There are no avenues for that prisoner or any others who are witness to the incident to lodge a criminal complaint. The beating of Raj Kumar could come to light only through a letter sent by another prisoner to Raj Kumar's



family. But that reached many days later. Meanwhile Raj Kumar had no right even to demand medical help. He was not shifted to hospital for a full thirty three hours.

But in hospital the doctors are reluctant to provide any information regarding the nature of the injuries. To make matters worse, family members of the patient are not informed even about the hospitalization. Since government hospitals function with an assumption that a family member or friend is constantly present, this adversely affects treatment of a patient from jail.

The lack of information is not limited to this alone. In the case of Raj Kumar's death, the information about beating, injuries and subsequent hospitalization had not even reached the I.G. (Prisons). In fact it is due to the existence of a concerned witness, a fellow jail inmate, that the family was able to reach the hospital, that case of culpable homicide was lodged, that 7 of the accused have been arrested. Else Raj Kumar's death could have easily transformed into a death akin to that of Bhagwan Das or Juan Antonio. Now this witness is facing

### **The Prisons Act, 1894**

**Section 15: Report on death of prisoner:** On the death of any prisoner, the Medical Officer shall forthwith record in a register, the following particulars so far as they can be ascertained, namely:

1. the day on which the deceased first complained of illness or was observed to be ill,
2. the labour, if any, in which he was engaged on that day,
3. the scale of his diet on that day,
4. the day on which he was admitted to hospital,
5. the day on which the Medical Officer was first informed of the illness,
6. the nature of the disease,
7. when the deceased was last seen before his death by the Medical Officer or medical subordinate,
8. when the prisoner died, and
9. (In cases where a post mortem examination is made) an account of the appearance after death,

together with any special remarks that appear to the Medical Officer to be required.

**Note:** It is not clear whether such information is in fact recorded and regularly maintained. In any case this is not available either to the family or any concerned citizen.

threats inside the Tihar Jail.

This denial of information however goes further in the case of deaths in judicial custody. A sketchy sequence of events is rattled off by the jail authorities. Though it is mandatory that the jail keeps a record of each death, the information is never provided (see Box). The security arrangements effectively ensure the denial of access to the place of occurrence and to the witnesses. Deaths when they occur are rarely reported. Even totals for the year, or a block of years are not available. Yet deaths there are many. A rough estimate from 1988 to the present would be over 230 deaths i.e. one death every eleventh day.

The problems faced by jail inmates are compounded by the outlook towards convicts and undertrials in our society. Their existence somehow slips beyond the pale of democratic society. Incarceration leads to invisibility, so that prisoners become less than citizens, ciphers in the democratic process. Thus breeding utter disregard on the part of jail authorities towards law and judicial procedures.

But somewhere in this entire process of dealing with prisoners, perfected over decades, what is forgotten is that the people in jail are in fact in judicial custody, in the custody of the courts of our country. That what is being brought in today in the name of "reforms" is in fact a right that has been denied for many years. That many other such rights are still being denied.

**PUDR demands:**

1. That Ramesh Kumar, the sole independent witness to the assault on Raj Kumar, be provided adequate protection.
2. That criminal cases be instituted against jail officials responsible for the death of Bhagwan Das.
3. That the Warder, Neel Bahadur be immediately arrested and criminal charges be filed against the Superintendent and Deputy Superintendent.
4. That compensation be paid to the families of Bhagwan Das and Raj Kumar.
5. That civil rights organizations be given permission to visit the jail. Provisions be made for prison inmates to express their grievances to independent authorities.

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