

IN COLD BLOOD: DEATH BY POISON, DEATH BY BULLETS

Human Rights Violations at the Tata/Tetley-controlled Powai Tea Estate in Assam, India

<p><u>Injuries:</u> One penetrating injury of size 9 mm in diameter oval in shape, abrasion collar and contusion collar present in the margin with inverted margins, is present over the right lower</p>	<p>2.—Wounds—position, and character.</p>	<p>all the organs and when no disease injury is found write "Healthy" I—EXTRANAL APPEARANCE</p>	<p>Sri Sorbon Sri Dipak Sri Mohan</p>
<p>back, 13 cm from right anterior superior iliac spine and 45 cm from the right shoulder joint.</p>	<p>3.—Bruise—position, size and nature.</p>		<p>29/5/10—</p>
<p>On dissection, subcutaneous tissues and muscles are lacerated → rupture of the right kidney → laceration of the peritoneum and mesentery → perforation of the ascending colon</p>	<p>4.—Mark of ligature on neck dissection, etc.</p>		<p>29/5/10—</p>
<p>→ rupture of the liver → rupture of the diaphragm → Fracture of the 6th rib and 6th costochondral junctions making a tract and coming out through an exit wound of size 4cm x 2cm</p>			<p>As per</p>
<p>with everted and lacerated margins, and present over right lower chest at 6 cm distance from the right nipple. Clotted blood present in the abdominal and thoracic cavity</p>		<p>I—Walls</p>	<p>UBC/604 B Sri Sorbon Sri Dipak Sri Mohan</p>

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assam, north-east india



The state of Assam coloured red, with the approximate location of the Powai tea plantation circled. Source: Wikipedia.

NOTE: The borders shown in this map in no way reflect the opinions or policy of the IUF regarding the borders of India or those of any country sharing borders with India.

preface

The International Union of Foodworkers (IUF) is an independent world-wide federation of 392 trade unions representing more than 2.8 million workers in 124 countries, including tea workers in India.

For many years, the IUF has been deeply concerned with the systemic, gross exploitation of tea plantation workers in India and the widespread impunity with which employers flaunt the law.

In May 2010, 25-year-old pesticide sprayer Gopal Tanti dropped dead suddenly while at work. Mr Tanti was working at a tea plantation in Assam, controlled by Tata Global Beverages (TGB, formerly Tata Tea) through their company, Amalgamated Plantations Private Limited. TGB are owners of Tetley, one of the world's highest selling tea brands.

The IUF was outraged to note that neither TGB or Amalgamated took any responsibility and acted as if nothing had happened.

Was the chemical Mr Tanti using safe for the environment and made known to the community? Was he adequately trained to carry out what was clearly a dangerous job? Did his employer provide him with proper protective equipment needed for the job? What were the safety practices put in place by management?

Does Tata Global Beverages, makers of “ethical” tea and owners of the global brand “Tetley”, not owe the public an answer?

Unfortunately, no answers were forthcoming.

Mr Tanti's death became an even greater tragedy with the killing of two workers and the serious injuring of 15 when police opened fire on a workers' protest the same day. Workers had gathered at the factory in anger over the lack of safety in their workplace and the disrespect shown by management for the worker who died. The role played by the Powai plantation management and the circumstances under which police used lethal force to shoot protestors was of sufficient concern to many, who therefore called for a public inquiry.

In response to requests from trade unions in Assam, the IUF sent a fact finding team with extensive experience in July 2010 to investigate.

This is the report of the team, whose work was forcefully obstructed by the management of Amalgamated Plantations and Powai Tea Estate.

On the basis of this report, the Recommendations provided should be seriously considered and acted upon by Tata Global Beverages, the Tata Group and by the governmental authorities concerned.

Ma Wei Pin
Regional Secretary
IUF Asia/Pacific

October 2010



IUF
UITA

introduction

This report outlines conclusions and recommendations issued by an independent fact-finding research team convened by the IUF following allegations of multiple, gross violations of human and labour rights at the Powai Tea Estate in Assam, north-east India.

The team was convened in response to a request from several trade unions with tea worker members in Assam, including the All India Trade Union Congress (AITUC), the Assam Tea Labour Union (ATLU) and the Centre of Indian Trade Unions (CITU).

Research for this report was hindered due to physical threats, harassment and the illegal denial of access to workers by the employer, Tata's Amalgamated Plantations Private Limited (APPL), in close collusion with the Assam police.

Under the current circumstances, where repression of workers' rights by APPL at Powai Tea Estate has been so brutal, substantial civil society attention and action is required to achieve justice.

As Tata's key supplier in India for tea to its global brand Tetley, the actions of the APPL management at Powai have ensured that Tetley tea is linked to core human rights violations and the death and killing of tea workers.

Sujata Gothoskar
Ashwini Sukthankar
Jasper Goss

October 2010

background: Tata's control of APPL and the Powai Tea Estate

According to promotional materials, the Powai Tea Estate houses the largest tea processing factory in India, producing more than 5 million kg of black tea every year. The estate spans 1266 hectares, with 924 under tea.¹

Powai is one of 22 estates operated by Amalgamated Plantations Private Limited (APPL) in the state of Assam; there are four more estates in West Bengal. Previously, these 26 estates were wholly owned and operated by Tata Tea (now known as Tata Global Beverages - TGB).

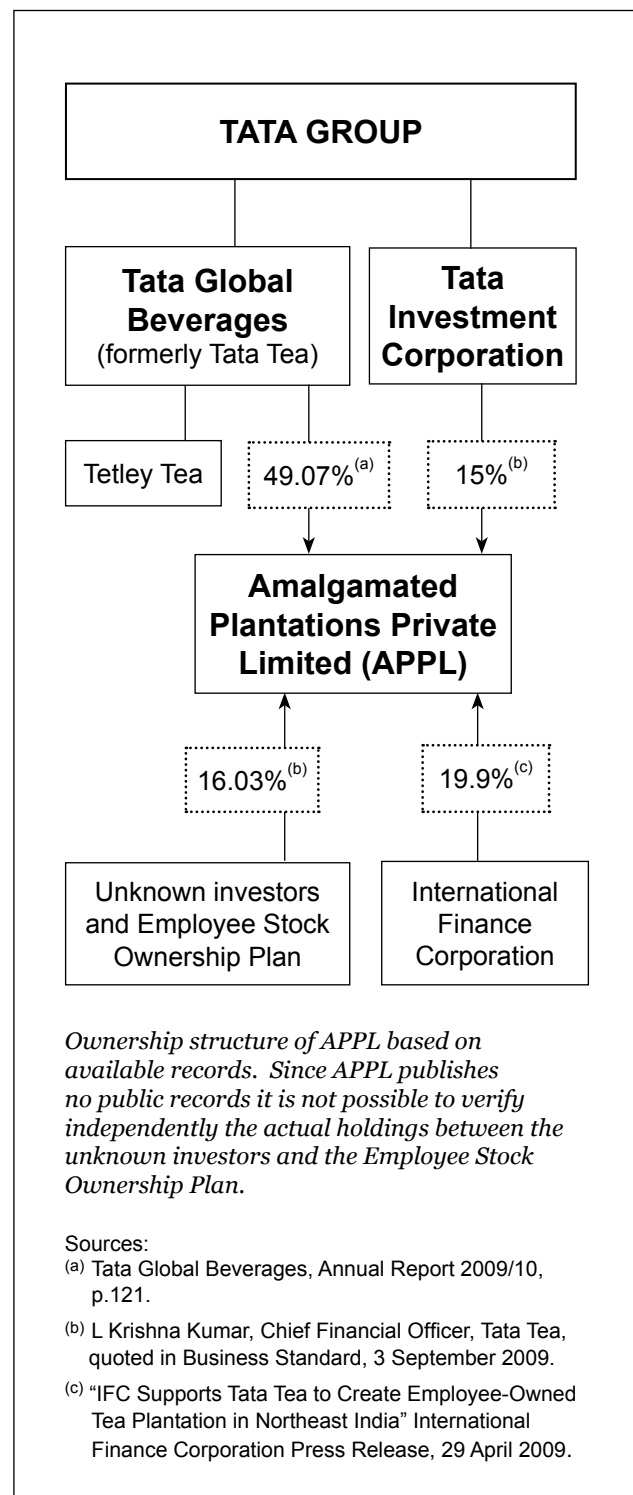
With the acquisition of the Tetley's brand in 2000, Tata Tea began a process of increasing integration into global markets. Starting in 2006, the company began to restructure, the key element of which was divestment of direct ownership of plantations.

The 26 estates in northeast India which previously comprised Tata's "Northern India Plantations Operations" were transformed into a new company, Amalgamated Plantations Private Limited (founded in 2007).

Today, TGB retains 49.07% of APPL, which is a controlling interest of APPL, since the next largest shareholder is the World Bank's private investment arm, the International Finance Corporation (IFC), which holds 19.9%. IFC investments are typically as a "silent partner". In addition, the Tata Investment Corporation also acts as a shareholder, further reinforcing Tata's corporate control of APPL.

The creation of APPL by Tata Tea included an Employee Stock Ownership Plan (ESOP) which was designed to encourage workers to purchase shares in the company. This was controversial when first announced and remains a contentious aspect of the restructuring.²

The key result, whoever the minority shareholders of APPL, is that TGB and the Tata Group retain control of APPL and are clearly responsible for the actions of APPL's management.



¹ http://www.amalgamated.co.in/estate_assam.asp

² See "Unilever & Tata Tea: pruning workers, reaping profits", 21 September 2007, <http://asianfoodworker.net/?p=7>

Trade unions in Assam contacted the IUF in June 2010 alleging that the management of Powai Tea Estate had violated critical provisions of Indian law and core labour standards, related to civil liberties (including the right to life), occupational health and safety, and associational rights.

Complaints were also raised against the police forces deployed on 28 May 2010 at Powai: specifically, police gave no warnings to workers when fired upon and workers were shot with the express intention to kill.

evidence

Death of Gopal Tanti

ON 28 MAY 2010, A 25-YEAR-OLD WORKER NAMED GOPAL TANTI, ASSIGNED TO PESTICIDE SPRAYING AT POWAI TEA ESTATE, COLLAPSED AND DIED ON THE JOB.

According to interviews with his father, Binod Tanti, and other workers, conducted by the fact-finding team in July and September 2010, Gopal and the other spray workers had not been wearing any personal protective equipment: no mask and/or respirator, no chemical-resistant gloves, spraying coat or boots. In fact, Gopal was wearing nothing more than shorts, a T-shirt, and rubber slippers.

At no time...had Gopal Tanti received any personal protective equipment whatsoever.

According to the Assistant Labour Commissioner of Tinsukia district, it is common practice among the tea estates for pesticide spraying to begin early in the morning, before 6AM, with a one-hour break for lunch beginning at noon. This was the practice at Powai.

According to interviews, before going to work Gopal Tanti complained of feeling unwell with a headache and approached supervisor Rustom Ali Morha to obtain sick leave. The manager reprimanded him, accused him of being lazy and told him to work. Gopal Tanti, given no choice, complied.

Later in the day, near lunchtime, Gopal Tanti collapsed in the field while working. His work colleagues noticed and went to his aid, also informing Supervisor Morha of what happened and requesting medical assistance for him. Supervisor Morha told workers to leave Gopal



Pesticide sprayers at the Tata-controlled Powai Tea Estate in July 2010. Two months after Gopal Tanti died while working as a sprayer workers were without personal protective equipment. Faces have been obscured to protect the identities of workers.

Tanti where he was, to continue working and that they could check on him again in an hour. When workers checked on him an hour later he was dead. The Assistant Labour Commissioner informed the research team that his body was found 15 feet from the spot where he was assigned to work.

Workers were extremely distressed at the turn of events. By this time Assistant Manager S.S. Marwah had arrived at the scene. When he approached the body he prodded it with his foot. A confrontation between the spray workers in the field and the management ensued. One of the managers used his cell phone to call estate security guards armed with SLR assault rifles to the field; the security guards arrived via a jeep, firing their weapons upon approach. The security guards took the managers from the field.

At the time that he died, Gopal Tanti's cumulative exposure to pesticides was substantial: according to the Assistant Labour Commissioner's records, Gopal Tanti had been instructed to begin spraying for the season on 12 February 2010, and had subsequently worked 75 days of spraying, with each day extending from 8 to 12 hours. At no time, according to his father and other workers, had he received any personal protective equipment whatsoever.

Supervisor Morha told workers to leave Gopal Tanti where he was, to continue working and that they could check on him again in an hour. When workers checked on him an hour later he was dead.

The post mortem report prepared at Tinsukia Civil Hospital indicates that Gopal Tanti's pharynx and lungs were filled with froth. His stomach, liver, kidney and spleen were removed for further testing, to be conducted at the Forensic Science Laboratory in Guwahati, but this report, like other reports of state-led investigations into the incidents at Powai, has either not been completed, or has been kept concealed from the public.

The post mortem report prepared at Tinsukia Civil Hospital indicates that Gopal Tanti's pharynx and lungs were filled with froth.

According to the Assistant Labour Commissioner, a sum of Rs. 3,29,119.74 (US\$7,000 €5,500) was awarded through his office to the family of Gopal Tanti, under the guidelines of the Workers' Compensation Act. The amount would have been calculated under Section 4 of the Act, which calls for compensation equivalent to 50% of the monthly wages of the deceased, multiplied by a factor related to the number of years of working life remaining. This would have entailed a determination that the death was an "accident." As of the end of September 2010, the money had not been disbursed.



Binod Tanti, father of Gopal Tanti, interviewed July 2010.

Killing and injury of protestors by police

FOLLOWING THE DISCOVERY OF GOPAL TANTI'S DEATH, WORKERS GATHERED IN LARGE NUMBERS LATER THAT SAME DAY TO PROTEST PERCEIVED MANAGEMENT ACTION AND INACTION. LOCAL MANAGEMENT RESPONDED BY CALLING THE POLICE, AND ESCALATING THE SITUATION. POLICE FIRED ON THE CROWD KILLING TWO PERSONS, DEEP SONA AND RANJIT PAHARIA, AND INJURING AT LEAST 15.

According to Powai workers, the news of Gopal Tanti's death filtered through the community very quickly. Workers reported that there was particular outrage because of the foot-prodding of Gopal Tanti's body to see whether he was alive or not. According to a memorandum from the Chah Janajati Yuba Federation,¹ the management representatives responsible for treating the body with disrespect were Rustom Ali Morha and S. S. Marwah. While the police report accompanying the first information report (FIR)² does not cite this incident, it does indicate that workers were especially upset at these two individuals.

Workers reported that there was particular outrage because of the foot-prodding of Gopal Tanti's body to see whether he was alive or not.

Workers interviewed stated that a group of approximately 500 gathered at the factory in the early evening, shouting slogans and demanding that the management discuss the facts of Gopal Tanti's death, and the mistreatment of his body. The police report filed that day, however, characterized the gathering as an "irate/unruly mob" of "2,000/3,000" and references fears of physical violence and "damage to property" in justifying subsequent actions by police. In interview, the Additional Superintendent of Police, Tinsukia District, Mukul Saikia, alleged that there were "outside elements" in the group

1. The CJY Federation is an NGO of tea tribe youth.
2. An FIR is the first written report filed by police authorities, which should, in law, initiate an investigation into criminal acts.



Family portraits of Ranjit Paharia (above) and Deep Sona (below), shot and killed by police on 28 May 2010 while protesting at the Tata-controlled Powai Tea Estate.





Parents of Deep Sona, Maheshwar and Bonita, interviewed July 2010.

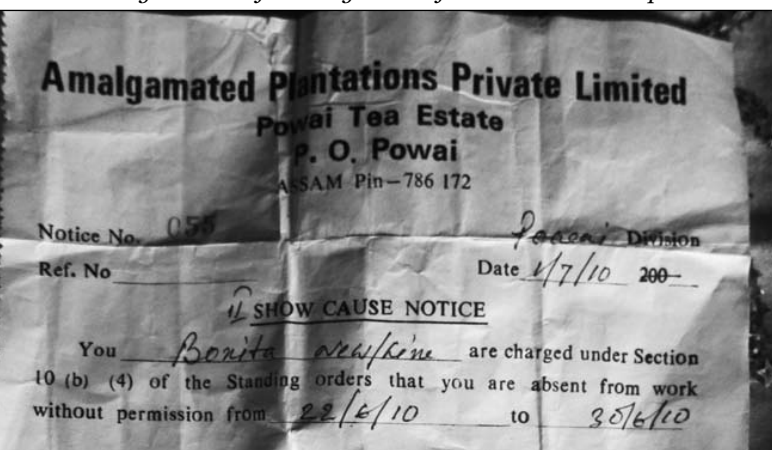
inciting “violence” and “revolution”.

...there were no prior measures or warnings taken by police before firing with live ammunition on the crowd...

According to workers present at the protest, and corroborated by interviews with the Chah Janajati Yuba Federation, there were no weapons of any kind used by those protesting, although stones were thrown at the factory building. Witnesses describe police moving freely in the area where protesters were gathered and not being hindered in their movement. In interviews, workers stated there were no prior measures or warnings taken by police before using live ammunition: no lathi charge, no tear gas, no rubber bullets, and no firing below the knees. Bullet wounds to the dead and injured indicated police shot protestors in the arms, thigh, groin, and back.

...police intend to charge workers, including those injured, with rioting, criminal trespass, attempts to deter a public servant from discharging their duty through assault or criminal force and attempted murder...

Little more than three weeks after the killing of her son by the police and still dealing with the consequences of his death, Bonita Sona was charge-sheeted for being absent from work without permission.



According to the police report, police intend to charge workers, including the injured workers, with offences including rioting (Indian Penal Code Section 147), criminal trespass (S.447) attempts to deter a public servant from discharging his or her duty through assault or criminal force (S.353) and even attempted murder (S.307).

Deep Sona was shot in the right lower back. The bullet ruptured his kidney, perforated his colon and exited through his chest...

Deep Sona, a young man born on 2 December 1984, was one of those present at the protest. At 7:30 in the evening of 28 May 2010, his parents, Bonita and Maheshwar, came to hear that he had been killed in police firing. Both are permanent workers at Powai Tea Estate: Deep Sona’s father works as an electrician in the factory, while his mother is a plucker. The post mortem report indicates that Deep Sona was shot in the right lower part of his back. The bullet, rupturing his kidney, perforating his colon and exiting through his chest, led to his death from “shock and haemorrhage,” according to the assistant and sub-assistant surgeons at Tinsukia Civil Hospital in their report of 29th May.

Following his death, the family of Deep Sona received Rs. 10,000 (US\$215, €165) in compensation...

Following their deaths, the families of Gopal Tanti, Deep Sona and Ranjit Paharia received Rs.10,000 (US\$215, €165) each in compensation from the Deputy Commissioner’s office. During interviews workers reported widespread anger within Powai estate and expressed their disappointment that neither the APPL management nor the employer-recognised union at the estate, the Assam Cha Mazdoor Sangha (ACMS), had even visited the bereaved households several months after tragedy befell the families.

Injured workers, as well as the families of the dead, expressed great dissatisfaction with the quality of representation provided by the ACMS, noting in particular the union’s extremely limited demands for resolution of the situation – chiefly, a “confidence-building” monument to industrial peace, according to contemporaneous news reports.¹ Workers interviewed sought a credible investigation, punish-

1. The Telegraph (Calcutta), 3 June 2010, http://www.telegraphindia.com/1100603/jsp/northeast/story_12515160.jsp

ment for management and police found to have engaged in wrongdoing, and proper compensation for victims and/or their families.

The family of Deep Sona also produced strong evidence of management callousness in the wake of their son's death. Bonita Sona, unable to bring herself to return to work immediately, found herself facing disciplinary action under Section 10(b)(4) of the company's Standing Orders, receiving a note demanding that she explain her delinquency, and to explain further why she should not be terminated for being "absent from work without permission."

Ranjit Paharia, was shot through both thighs, and bled to death, according to the post mortem report.

The other young man who was killed in the police firing, Ranjit Paharia, was shot through both thighs, and bled to death, according to the post mortem report. According to his parents, Kokila and Gopal, their son was dismissed by Tata Tea management three years ago, on a pretext, and has still not received his Provident Fund benefits and other dues to which he is entitled as a matter of law.

The delegation also met Sindhu Majih, a worker who was injured in the police firing and has received no compensation to date. He is a permanent worker employed at the factory. A police bullet is lodged close to his groin and has not yet been removed. He described hiding inside the factory canteen for over half an hour after having been struck by the bullet, while the police continued to fire on the crowd.



Parents of Ranjit Paharia, Kokila and Gopal, interviewed July 2010.

Sindhu Majih hid inside the factory canteen for over half an hour after having been struck by a bullet in the groin, while the police continued to fire on the crowd.

The delegation attempted to visit three workers injured in the police firing – Amit Orang, Diloo Orang, and Gohonu Orang – who were still being kept at the Powai estate hospital six weeks after being injured, allegedly without their families or workers' advocates having any access to them. It is certainly the case that the delegation was not permitted to see them, even though the proposed visit would have been during regular visiting hours, and at the express request of the workers' families. It is not clear why they were still being kept at the hospital, and why, if further treatment was necessary, they were not transferred to a medical facility better equipped to provide specialized care. In mid-August it was reported that APPL had ceased to pay their wages.

...three workers injured in the police firing – Amit Orang, Diloo Orang, and Gohonu Orang – were still being kept at the Powai estate hospital six weeks after being injured, allegedly without access to their families or workers' advocates...in mid-August it was reported APPL had ceased their wage payments

As of the time of writing this report, no record of any internal investigation by the police, or investigation by the Deputy Commissioner into possible police misconduct and/or collusion with management, has been made public.

Intimidation and harassment of investigators and workers continues

THE DELEGATION'S VISIT INDICATES THAT LITTLE HAS CHANGED AT POWAI TEA ESTATE SINCE THE INCIDENTS OF 28 MAY 2010. SPRAY WORKERS STILL HAVE NO PROTECTIVE EQUIPMENT, AND WORKERS AND THEIR ADVOCATES ARE STILL TREATED WITH A HEAVY HAND.

On the afternoon of 14th July, the team attempted to visit spray workers in the labour lines of Powai Tea Estate. Section 16(f) of the Plantation Labour Act guarantees "access to the public to those parts of the plantation wherein the workers are housed," without prior permission of management. A group of five spray

workers were returning from the morning shift, and were carrying the spraying equipment, with the hoses wrapped around their bodies. They had no personal protective equipment at all.

Powai estate managers threatened to set the car on fire, beat up the research team and seize the cameras.

The conversation with the workers was cut short by the abrupt arrival of three managers. They were accompanied by several drunken individuals claiming to be “workers”, who were subsequently identified as tea leaf contractors and petty businessmen from the area.

The managers insisted that the area was “private property,” and “our land,” and threatened the delegation with physical harm and property damage when the guarantees under the Plantation Labour Act were pointed out.

The managers threatened to set the car on fire, beat up the research team and seize the cam-

eras. They stated, “Even if you get permission from the DC [Deputy Commissioner], we will see to it that you cannot enter.” The individuals masquerading as plantation “workers” were equally belligerent, accusing the delegation of attempting to close the estate, destroy the current atmosphere of “peace” that prevailed, and take away workers’ jobs.

APPL management has installed secured gates at the entrances to all labour lines, and instructed workers that only ambulances shall have access to these areas in the future.

In order to avoid being physically attacked the researchers were forced to leave. The members of the team noted that the roads within and around the estate were lined with dozens of police officers. In mid-August, the delegation was informed that secured gates have been installed at the entrances to all labour lines (housing) with workers instructed that only ambulances shall have access to these areas in the future.

analysis

It would not be hard to locate, at the root of the current problems at Powai Tea Estate, the complete absence of genuine negotiations between the local management and workers. It is apparent that workers are treated with a combination of contempt and fear that is toxic in its consequences. At Powai Estate there is no machinery for meaningful engagement or dispute resolution whatsoever.

This manifests itself, firstly, in the unwillingness to pay even lip service to the minimum requirements in terms of occupational health and safety. Workers’ wellbeing and lives are valued so little by the Powai estate management, and there is such a pervasive sense of impunity, that even after the death of Gopal Tanti, workers remained without any personal protective equipment.

International standards related to occupational health and safety in agriculture, codified as rights, are clearly articulated in Convention 184 of the International Labour Organisation (ILO).¹ Articles 8(1)(a) and 8(1)(b) of the

Convention state workers have the right to be “informed and consulted” on health and safety matters and to “participate in the application and review” of relevant measures, preferably through chosen representatives.

Article 8(1)(c) of the Convention articles a crucial right, specifically, workers have the right:

to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health.

Clearly, this right was utterly denied in the case of Gopal Tanti, who not only reported feeling ill and was forced to work but was denied medical assistance which could have potentially save his life. APPL management effectively left Gopal Tanti to die while at work. It would be a deep injustice that Gopal Tanti’s death might be considered an “accident” - the evidence collected here clearly points to culpable negligence at a minimum.

When Assistant Manager S.S. Marwah prodded Gopal Tanti with his foot to see whether the

1. Safety and Health in Agriculture Convention (2001), International Labour Organisation, <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C184>

young man was dead or alive, workers were correct to interpret this as management's systematic disrespect and disregard for their humanity.

Given the prevailing political situation in the north-east of India in general, and the state of Assam in particular, there are few avenues available for workers at Powai to challenge the status quo.

State authorities are all too frequently either apathetic or willfully blind, or both, and in this case clearly unable to understand this protest as an outpouring of workers' grief and anger over a preventable death. The protests which followed were an outcry over hazardous working conditions and management callousness.

Police reports and interviews with members of state agencies indicate a deep tendency to conflate worker protest with illegal activity, considering the spontaneous gatherings of workers, whose rights to associate and protest are protected under international and national law, as an somehow inherently threatening.

Such characterisation is the means and justification for the use of excessive and lethal force. It is also the means by which to initiate criminal charges designed to discourage and punish the collective articulation of grievances.

With the unhealthy coalescing of the interests of management and officers of the state in

the background, workers' rights to exercise their freedom of association are severely circumscribed.

In Assam, the situation is rendered more difficult due to the fact that ACMS is the only plantation workers trade union recognised by the state government and employers (including APPL).

In Assam, there is an unwritten alliance between the government and the employers which has locked all unions other than ACMS out of the negotiations process. This stands in marked contrast to the other key tea producing states of India (viz. Kerala, West Bengal and Tamil Nadu) where state and industry representatives recognise and bring into the tripartite bargaining structures all trade unions representing tea workers.

The present industrial relations scenario in Assam in the tea sector is one whereby all trade unions other than ACMS are deprived of the right to participate in negotiations. This serves as a convenient fig leaf for the employers (including Tata's APPL), who are able to claim that "worker consultation" and bipartite or tripartite "negotiation" takes place, when, for all intents and purposes, it does not. This situation effectively denies tea workers in Assam freedom of association as the denial of recognition suppresses the exercise of workers' choice for union representation other than ACMS.

The Misuse of the Right to Information by State Authorities in Assam

Another extremely disturbing aspect of the fact-finding mission was the attempt by many persons of authority met by the delegation – the Assistant Labour Commissioner (Tinsukia District), the Additional Deputy Commissioner (Tinsukia District) and the Additional Superintendent of Police, (Tinsukia District) – to stall investigations into the Powai incident.

When asked for any information related to the incident which should be publicly available, the delegation was frequently told: "We will not give it to you, but file a Right To Information (RTI) application and you will get it." This was the response to requests for the file on recent

labour law violations at Powai Tea Estate, the First Information Report related to events of 28 May, the documents related to investigations of police culpability, and more.

At all levels, it would seem, authorities and representatives of the State of Assam are intent on ensuring that the Right to Information legislation, which was designed to reduce the opacity and lack of accountability of government bodies, is now used as an additional hurdle against seeking justice! In our experience, it simply served to justify a lack of cooperation and the denial of information that belonged in the realm of the public's right to know.

Universal Declaration of Human Rights

Article 3

Everyone has the right to life, liberty and security of person.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

International Covenant on Economic, Social and Cultural Rights

Article 7

... the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:(...)

(b) Safe and healthy working conditions;

International Covenant on Civil and Political Rights

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 21

The right of peaceful assembly shall be recognized.

Conventions of the International Labour Organisation (ILO)

C169 Indigenous and Tribal Peoples Convention (1989)

Article 3

1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination.

C184 Safety and Health in Agriculture Convention (2001)

Article 8

1. Workers in agriculture shall have the right:

(a) to be informed and consulted on safety and health matters including risks from new technologies;

(b) to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in safety and health committees; and

(c) to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health and so inform their supervisor immediately. They shall not be placed at any disadvantage as a result of these actions.

core violations of human rights at Powai tea estate

Constitution of India

Article 19

All citizens shall have the right:

1. to freedom of speech and expression;
2. to assemble peaceably and without arms;

Article 21

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Note on the Killing of Deep Sona

The post-mortem report (below) of Deep Sona details his shooting with an entry wound in the lower back and an exit wound ten times the size in his upper chest. The injury is consistent with movement away from police at the time. The location of the wound and trajectory of the bullet suggests the police officer who shot Deep Sona, was in a crouched, kneeling or prone position, indicating ample and opportune stance for the deliberate execution of a lethal shot (or choice not to make such a shot). The trajectory of the bullet through his body also suggests Deep Sona was most likely hunched over at the time he was shot and killed. That is, the evidence here suggests he was leaning forward and moving away from police, a position which in no way could be considered threatening or warrant the use of lethal force.

PH No - 298/10
Ref: Tinsukia PS. GDR No - 132/10 (A) - 28/5/10

Station: Civil Hospital, Tinsukia
Date: 27.05.2018

POST MORTEM REPORT

②

③

I - EXTRINSIC APPEARANCE				III - THORAX								V - MUSCLES, BONES AND JOINTS								
Name, sex, Where known, age and date of birth	Where known, Village and Thana	Name of the person by whom brought and name of relative who reported	DATE AND HOUR OF DISPATCH	Arrival at dead house	Examination	Information furnished by Police Officer	By whom referred to Medical Officer	Walls ribs and cartilages	2 - Pleurae	Lungs and pleurae	Right lung	Left lung	Pleuro-pneumonia	Heart	Vessels	Trachea	Diaphragm or diaphragm	3 - Ribs ribs	4 - Joints	
Deep Sona / 30/05/1984	Civil Hospital, Tinsukia	P. S. Tinsukia	24/5/10 - 4:00 PM	24/5/10 - 4:00 PM	24/5/10 - 3:00 PM	As per report report	As per report report	& described	Healthy	Healthy	Healthy	Healthy	Healthy	Healthy	Healthy	Healthy	A. Described	Not described	A. Described	A. Described
<p>1 - Chest: No wound, no injury, no fracture, no dislocation, no abnormality.</p> <p>2 - Wounds: Entry wound in lower back, exit wound in upper chest. Both wounds are described in detail.</p> <p>3 - Brain: No injury, no fracture, no dislocation, no abnormality.</p> <p>4 - Lungs: No injury, no fracture, no dislocation, no abnormality.</p> <p>5 - Heart: No injury, no fracture, no dislocation, no abnormality.</p> <p>6 - Vessels: No injury, no fracture, no dislocation, no abnormality.</p> <p>7 - Trachea: No injury, no fracture, no dislocation, no abnormality.</p> <p>8 - Diaphragm: No injury, no fracture, no dislocation, no abnormality.</p> <p>9 - Ribs: No injury, no fracture, no dislocation, no abnormality.</p> <p>10 - Joints: No injury, no fracture, no dislocation, no abnormality.</p>																				
<p>OPINION OF ASSISTANT SURGEON / SUB-ASSISTANT SURGEON AS TO CAUSE OF DEATH</p> <p>In my opinion the death was due to shock and hemorrhage as a result of injury sustained as described. No other injuries are considered as causes of death.</p> <p>The cause of death is: Death due to shock and hemorrhage.</p>																				
REMARKS BY CIVIL SURGEON																				

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials'

Article 5 (...)

- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.

Article 9

(...) lethal use of firearms may only be made when strictly unavoidable in order to protect life.

1. Adopted Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990)

1. Public statement by Tata Global Beverages that all persons shall have access to workers as stipulated in the Plantation Labour Act and to respect the right of workers to receive representatives of trade unions.
2. Public letter of apology signed by Peter Unsworth, CEO of Tata Global Beverages, to the families of Gopal Tanti, Deep Sona and Ranjit Paharia.
3. A credible investigation, to be headed by a retired Supreme Court judge from outside of Assam, into the death of Gopal Tanti.
4. A credible review by an independent body of the existing safety practices regarding the use of pesticides at Powai Tea Estate and all plantations run by Tata's APPL.
5. A credible, open and publicly-held inquiry (to be headed by a retired Supreme Court judge from outside Assam) into the actions of Police in the lethal shooting of Deep Sona and Ranjit Paharia and the injuring of at least 15 others.
6. Inclusion of all trade unions representing tea workers in Assam into tripartite bargaining structures.¹
7. Compensation: Workers and their families must immediately be provided with the following:
 - Compensation under the Workers Compensation Act to be disbursed immediately to the family of Gopal Tanti; supplementary compensation as recommended by AITUC, ATLU, CITU and the Chah Janajati Yuba Federation of Rs.10,00,000 to be paid by APPL/Tata Global Beverages.
 - Compensation from the state (either the Deputy Commissioner's Fund or the Chief Minister's Relief Fund) to the families of those killed in the police firing, amounting to Rs.10,00,000 per family as recommended by the above.
 - Compensation to those injured in the police firing, of Rs.5,00,000 per individual.
 - Access to those injured at the Powai Estate by workers' advocates, and independent medical professionals. Guarantees of specialized medical treatment and pay during the course of their convalescence. In the event of permanent disability, compensation must be provided equivalent to lifetime earnings and benefits. APPL management and the state must be held jointly responsible for providing this payment. Detailed information on the medical and psychological condition and proposed course of treatment for, at a minimum, each of the following:
 - Amit Orang,
 - Rajesh Lohar,
 - Diloo Orang,
 - Gohonu Orang,
 - Uttam Gowala,
 - Ajoy Orang,
 - Binod Tossa,
 - Sunil Orang,
 - Sindhu Majih.
 - Payment to all workers who lost 3 days' pay – May 29, May 31 and June 1 – while locked out by management following the events of May 28.

1. This recommendation was also agreed to by all tea plantation unions in Assam at the "IUF India Assam Tea Trade Unions Meeting", Dibrugarh, 29-30 August 2009

appendix

Meetings conducted:

- Govind Taid, Assistant Labour Commissioner, Tinsukia District
- Hemanta Das, Additional Deputy Commissioner, Office of the Deputy Commissioner, Tinsukia District
- Mukul Saikia, Additional Superintendent of Police, Office of the Superintendent of Police, Tinsukia District
- Digboi Police Station
- Powai Tea Estate workers, including spray workers
- Workers injured in the police shooting at Powai Tea Estate on 28 May 2010
- Workers present during the police shooting at Powai Tea Estate on 28 May 2010
- Family of workers killed at Powai Tea Estate on 28 May 2010

The following persons refused to meet the research team:

- The Superintendent of Police, Tinsukia District
- The Assam Branch of the Indian Tea Association (ABITA)

Documents reviewed:

- First Information Report on deaths of Gopal Tanti, Deep Sona and Ranjit Paharia, filed at Digboi Police Station at 5:30 AM on 29 May 2010 by Mahesh Borah, sub-inspector
- Post Mortem reports for Gopal Tanti, Deep Sona and Ranjit Pahari
- Memorandum prepared by the Chah Janajati Yuba federation on the events of 28 May 2010
- Chargesheet for Bonita Sona
- Newspaper reports

acknowledgments

Grateful thanks to the families of Gopal Tanti, Deep Sona and Ranjit Paharia for agreeing to be interviewed and share information about the totally unnecessary deaths of their children.

Thanks to the workers injured in the police shooting and their families, and the workers of the Powai Tea Estate, who in being interviewed desire nothing more than justice and rights.

This report was completed with support from IUF Asia/Pacific and Kommunal, the Swedish Municipal Workers' Trade Union.

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