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Im. Fln.sekr. 1977J.nr. 71511-30

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5.6 PUNJAB AND THE SIKHS

Sikh religion and historical background

5.6.1 Sikhs form a religious and cultural community of some 16 million, less than 2% of the Indian population. Some 80% of Sikhs live in Punjab [4a] where they form the majority (about two thirds) of the inhabitants. [6b] The Sikh religion was founded by Guru Nanak (1469-1539), a high caste Hindu who denounced social and state oppression. He took monotheism from Islam, but rejected Ramadan, polygamy and pilgrimages to Mecca. He also rejected Hindu polytheism, the caste system and sati (sacrificing a widow on her husband's funeral pyre). Nine gurus succeeded Nanak. The Sikh commandments include certain prohibitions, notably against alcohol and tobacco. For men the Sikh religion requires observance of the "5 Ks": *Kes* (uncut hair and beard); *Kacch* (breeches); *Kirpan* (a double edged sword); *Kangh* (a steel comb); and

Kara (an iron bangle). [4a]

5.6.2 New religious ideologies early in the 20th century caused tensions in the Sikh religion. The Akali Dal (Army of the Immortals), a political-religious movement founded in 1920, preached a return to the roots of the Sikh religion. The Akali Dal became the political party which would articulate Sikh claims and lead the independence movement. [4a]

5.6.3 Following the partition of India in 1947, the Sikhs were concentrated in India in east Punjab. Sikh leaders demanded a Punjabi language majority state which would have included most Sikhs. Fearing that a Punjabi state might lead to a separatist Sikh movement, the Government opposed the demand. [22] In 1966 a compromise was reached, when two new states of Punjab and Haryana were created. Punjabi became the official language of Punjab, and Chandigarh became the shared capital of the two states. However the agreement did not resolve the Sikh question. [4a]

5.6.4 In 1977, Sant Jarnail Singh Bhindranwale, an obscure but charismatic religious leader, made his appearance. He preached strict fundamentalism and armed struggle for national liberation. His speeches inflamed both young students and small farmers dissatisfied with their economic lot. [4a]

5.6.5 Tensions between Sikhs and New Delhi heightened during the 1980s, as the government did not respond to Sikh grievances. Over the years that followed, Punjab was faced with escalating confrontations and increased terrorist incidents. Akali Dal only achieved limited concessions from the government and Sikh separatists prepared for battle. In the Golden Temple enclosure 10,000 Sikhs took an oath to lay down their lives if necessary in the struggle. Renewed confrontations in October 1983 resulted in Punjab being placed under central government authority. [4a]

5.6.6 The violence continued and hundreds of Sikhs were detained in the first part of 1984. Followers of Jarnail Singh Bhindranwale established a terrorist stronghold inside the Golden Temple. The Prime Minister, Indira Gandhi, then initiated Operation Blue Star which took place on 5-6 June 1984. The Golden Temple was shelled and besieged by the army to dislodge the terrorists. The fighting continued for five days. Bhindranwale was killed and there was serious damage to sacred buildings. [22]

5.6.7 Official figures put the casualties at 493 "civilians/ terrorists" killed and 86 wounded, and 83 troops killed and 249 wounded. Later in the year official sources put the total number killed at about 1,000. Unofficial sources estimated that the civilian casualties alone were much higher. There were apparently more than 3,000 people in the temple when Operation Blue Star began, among them 950 pilgrims, 380 priests and other temple employees and their families, 1,700 Akali Dal supporters, 500 followers of

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other temple employees and their families, 1,700 Akali Dal supporters, 500 followers of Bhindranwale and 150 members of other armed groups. [22]

5.6.8 The intervention had disastrous consequences for the Sikh community and the whole country. Sikh-Hindu communalism was aggravated, Sikh extremism was reinforced, and political assassinations increased. [4a]

5.6.9 On 31 October 1984 Indira Gandhi was assassinated in New Delhi by two Sikh bodyguards. In the days that followed, anti-Sikh rioting paralysed New Delhi, ultimately claiming at least 2,000 lives; unofficial estimates were higher. Sikhs were also attacked in other cities in northern India. [22]

5.6.10 A peace agreement was concluded between the Indian Government and moderate Akali Dal Sikhs led by Harchand Singh Longowal in July 1985, which granted many of the Sikh community's longstanding demands. However the extremists regarded Longowal as a traitor to the Sikh cause and he was assassinated in August 1985. Moreover the promised reforms did not take place. [22]

5.6.11 In 1987 the state government was dismissed and Punjab was placed under President's Rule. Extremists spread terror throughout Punjab and the Indian government mounted a campaign of anti-terrorist measures designed to restore the situation in Punjab to normal. In May 1988 the Punjab police and Indian paramilitary forces launched Operation Black Thunder against armed extremists who had again created a fortified stronghold within the Golden Temple. At least 40 extremists and several police officers were killed during the battle. [1], [22] & [4a]

5.6.12 President's Rule was finally brought to an end following elections in February 1992, which were won by Congress (I). However the elections were boycotted by the leading factions of Akali Dal and attracted an extremely low turnout (only about 22% of the electorate). Beant Singh of the Congress (I) was sworn in as Chief Minister, but his government lacked any real credibility. Despite the continuing violence between the separatists and the security forces, the large turnout in the municipal elections in September 1992, the first in 13 years, afforded some hope that normality was returning to Punjab. The local council elections in January 1993, the first for 10 years, also attracted a large turnout. [1]

5.6.13 On 31 August 1995 Beant Singh, Chief Minister of Punjab, was killed by a car bomb which exploded close to his car outside the Punjab Secretariat in Chandigarh. 15 security men and aides were also killed. Babbar Khalsa claimed responsibility and three suspects were later arrested. [10c]

5.6.14 State Assembly elections were held on 7 February 1997 and the alliance of Shiromani Akali Dal and the Bharatiya Janata Party swept to power, routing the ruling Congress party. The number of seats won by the parties was:

Shiromani Akali Dal (Badal)	75
BJP	18
Congress (I)	14
Communist Party of India	2
Bahujan Samaj Party	1
Akali Dal (Mann)	1
Independents	6

[1]

5.6.15 On 12 February 1997 Prakash Singh Badal was sworn in as Chief Minister. He has served as Chief Minister twice before, in 1970 and 1977. [10d]

5.6.16 Although the situation in Punjab had returned to normality, acts of violence continued. On 2 December 1996 a bomb exploded on a train near Chandigarh, killing 12 and injuring 37. An Akali Dal leader, Bachittar Singh, was ambushed by five gunmen and killed the previous day. In March 1997 at least seven were killed when a bomb exploded outside Jalandhar railway station. Then in July 1997, 33 were killed and 65 injured when a bomb exploded on a train in the Bhatinda area. [8g], [8h] & [10f]

Militant violence in Punjab

5.6.17 Virtually all of the militant groups in Punjab pursued their campaign for a separate state of Khalistan through acts of violence directed not only at members of the police and security forces but also specifically at Hindu and Sikh civilians. [22]

5.6.18 Most of the militant groups in Punjab traced their origins to Sant Jarnail Singh Bhindranwale, a charismatic Sikh preacher who rose to prominence in the mid-1970s. After the storming of the Golden Temple the number of militant groups operating in Punjab grew. Some authorities claimed there were no more than 1,700 armed militants, while many journalists believed there may have been five times that number. [22]

5.6.19 The militants were organised into at least seven major groups and all theoretically operated under the authority of one of the Panthic Committees which functioned as decision making bodies and issued instructions. The main militant organisations were: the Khalistan Commando Force (Paramjit Singh Panjwar faction); Khalistan Commando Force (Zaffarwal); Khalistan Commando Force (Rajasthan group); Babbar Khalsa; Khalistan Liberation Force (Budhisingwala); Bhindranwale Tiger Force of Khalistan (Sangha); Bhindranwale Tiger Force (Manochahal); All India Sikh Student Federation (Manjit); All India Sikh Student Federation (Mehta Chawla); and the Sikh Student Federation (Bittu). [22]

5.6.20 In addition to this there were perhaps dozens of other groups, some representing splinter factions, as well as loosely organised armed gangs. [22]

5.6.21 After they first emerged in the early 1980s the militants assassinated civil servants, politicians, journalists, businessmen, other prominent individuals and ordinary Hindu and Sikh civilians. There were also indiscriminate attacks apparently designed to cause extensive civilian casualties, in some cases firing automatic weapons into residential and commercial areas, derailing trains, and exploding bombs in markets, restaurants and other civilian areas. Some of these attacks occurred outside Punjab in neighbouring states and in New Delhi. [22]

5.6.22 Motives for the attacks varied. Moderate Sikh political leaders were assassinated for opposing the militants. Other leaders were killed as a result of militant group rivalries. A number of militant groups tried to impose a Sikh fundamentalist ideology, issuing directives that stipulated appropriate conduct for Sikhs, and prohibiting the sale of tobacco and alcohol. Failure to obey these orders meant punishment, including death. In late 1990 and early 1991 militant groups issued "codes of conduct" for journalists which also carried a death penalty for those who dared to disobey. Sikhs belonging to minority sects, which advocated practices perceived as heretical by orthodox Sikhs, were also murdered. [22]

5.6.23 Attacks on civilians were claimed as acts of retaliation for government violence. Other killings appeared to represent executions of suspected collaborators or informers. Militants also kidnapped civilians for extortion, frequently murdering their victims when their demands were not met. Threats were made to the minority Hindu population in an effort to drive them out of Punjab. As a result thousands of Hindus fled the state. [22]

Current situation of militants

5.6.24 The Sikh militant movement is no longer active in Punjab. The hard core militants have either been physically wiped out or are no longer in India. There were no reports in 1997 and 1998 of Sikh militants forcing the local population to provide them with assistance. There is no obvious support for the militants and the people of Punjab want peace. A few remaining Sikh militant leaders are now based in Pakistan and their activities appear to be ineffectual. [4g] Two militant organisations retain a capacity for activism, namely the Babbar Khalsa under the leadership of Wadawa Singh and the Khalistan Commando Force led by Paramjit Singh Panjwar. They are believed to retain bases in Pakistan and to have an international circle of support. [19b]

5.6.25 The Danish Immigration Service consulted various individuals, authorities and organisations regarding the security situation during their fact-finding mission to Punjab in March and April 2000. According to the UNHCR in Delhi, the security situation in Punjab is now under control, but as the UNHCR does not have a presence in Punjab they could not comment on the situation in detail. Three foreign diplomatic missions in India agreed that the situation in Punjab had considerably improved and that the conflict between various groups had calmed down. Acts of violence in Punjab were becoming less common, and were now at a low level. Two of the missions reported that incidents do occasionally occur, such as explosions caused by bombs on buses and trains, but that such incidents occur in the rest of India, and not exclusively to Punjab. Officials of the Committee for Co-ordination on Disappearances in Punjab (CCDP) considered that Punjab was now peaceful and that there were no problems with militant groups and no political problems either. The News Bureau Chief for the Daily Ajit remarked that police actions were rare. [37]

5.6.26 According to the available information, none of the Sikh groups or militant organisations in Punjab are banned, [28] although the Indian Government regards the wing of the AISSF led by Daljit Singh Bittu as a terrorist organisation. [19d] The Danish Immigration Service interviewed a Punjab police official who stated that there were still 300 militants on the police wanted list, but that these people were living abroad. A foreign Embassy consulted, reported that several people who had previously been militants and who had served their sentences for terrorist activities now lived a normal life in Punjab. [37]

Human rights concerns in Punjab

5.6.27 Various human rights organisations have strongly criticised the Punjab police for their misuse of power during the 1980s and early 1990s. Amnesty International reported that those who were arrested were detained for months or years without trial under provisions of special legislation suspending normal legal safeguards, and reports of torture during interrogation were said to be common. The arrest and detention of some detainees remained unacknowledged for weeks or months. Amnesty had received reports that many people simply disappeared, with the security forces refusing to admit that they had ever been arrested. It was feared that many of them had been killed in custody. [3a]

5.6.28 Amnesty International detected a pattern to the arrests, detentions, torture and disappearances which they reported. They concluded that Sikhs were often arrested on mere suspicion that they were linked to armed secessionist groups. Family members of suspects were arbitrarily detained and tortured in order to extract information about the suspect's whereabouts or activities. Amnesty said that women had been arrested and tortured simply to deter them from giving food and shelter to Sikh militants. They described torture in police custody as routine and there were persistent allegations that political prisoners died in custody as a result of torture. [3a] The Medical Foundation for the Care of Victims of Torture cite that evidence exists that the police make random arrests of innocent young Sikhs purely to extract large bribes for their release from parents or village elders, and that this corruption reaches right to the top of the police hierarchy. [30] Former Advocate-General G.S.Grewal pointed out that nowadays, cases, concerning human rights abuse were different from before in that now the abuse was individual and had specific reasons. Sikhs were not subjected to torture just because they were Sikhs or because of the general political situation. One diplomatic mission also commented that the situation was not perfect but that Sikhs in general were not being persecuted. The problems were of a different nature than before, and were often due to problems in local society, e.g. disputes over land, etc. [37]

5.6.29 Amnesty International also reported that hundreds of members or sympathisers of armed Sikh groups were allegedly captured, sometimes tortured, and then extrajudicially executed, the killings attributed by the police to armed "encounters". Amnesty stated that the police repeatedly frustrated attempts to bring those accused of human rights violations to justice. Legal safeguards for the protection of human rights do not apply to those arrested under special legislation relating to national security. [3a]

5.6.30 Most detainees in Punjab were arrested under the Terrorist and Disruptive Activities (Prevention) Act (TADA), which allowed detention for up to one year without charge for investigation into broadly defined offences. Prisoners held under the Act could be tried *in camera* [i.e. in private] and the burden of proof was shifted onto the accused to prove his or her innocence. Amnesty International reported that TADA had been interpreted to include actions entirely unrelated to violent political offences, and that trials conducted under TADA fell far short of international standards for fair trial. [3a]

See also Security legislation: paragraphs 5.28 - 5.2.11

5.6.31 In a later report, Amnesty International expressed concern at a series of incidents in which Punjab police illegally transgressed their operational jurisdiction, travelling to other Indian states to carry out under-cover operations which resulted in serious human rights violations. [3b]

See also The current situation in Punjab: paragraphs 5.6.43 - 5.6.60; Internal flight for Sikhs: paragraphs 5.6.70 - 5.6.75

5.6.32 In the aftermath of the violence, many relatives of victims came forward to pursue redress in the courts through the filing of petitions in cases of disappearance and other human rights violations. However in attempting to pursue redress through the courts, many families have faced direct harassment from the police and long delays in the judicial process. Human rights defenders in Punjab continue to be at risk of harassment for their activities. [3g]

5.6.33 In 1995 the Human Rights Wing of the Shiromani Akali Dal published the findings of research it had conducted into illegal cremations by the police. The organisation

of research it had conducted into illegal cremations by the police. The organisation produced records from cremation grounds in Amritsar district, showing how several hundred "unclaimed" bodies had been cremated by the police. In several cases it claimed to have evidence to show that the bodies were those of individuals who had disappeared following arrest by the police and alleged that its findings suggested that the Punjab police had illegally cremated the bodies of many of those who had disappeared and who had subsequently been extra-judicially executed. [3g]

See also NHRC's investigations in Punjab: *paragraphs 5.6.61 - 5.6.63*

Methods of ill treatment

5.6.34 The Medical Foundation for the Care of Victims of Torture examined 95 male Sikhs between 1991 and 1999, of whom all but eight were educated to at least secondary school level, and roughly half came from farming families and worked on the farm after finishing their education or had farming related jobs. The majority had belonged to an organisation such as the All India Sikh Student Federation. Most had been arrested on many occasions, usually for a short time ranging from 1 to 10 days, but the total time in custody ranged from 2 days to 8 months. Most were held by the police in the village police station, and a large majority were never charged with any offence. Some of the Sikhs in the study stated that in addition to their detentions, they had been arrested, questioned and threatened many times, but not detained. [30]

5.6.35 All of the Sikhs examined by the Medical Foundation as part of the study claimed they had been severely ill treated, usually worse in the first few days of detention. The methods of ill treatment included being beaten unconscious; being beaten with truncheons, fists, boots, lathis (bamboo canes), leather belts with metal buckles, pattas (leather straps with wooden handles), rifle butts, metal rods or a metal chain, and branches torn from a thorn bush. They were beaten on various parts of the body, but principally on the back, the legs or the buttocks. Beatings over the head and on the soles of the feet were also prevalent. Many had been suspended by the wrists, ankles or hair and beaten; some had had their wrists tied behind their back and then were suspended, causing injuries to the shoulder joints. Electric shocks were given. [30]

5.6.36 Another torture method consisted of forcing the hips strongly apart, often to 180 degrees, repeatedly or continuously. A thick wooden roller or a ghotna (a pestle 4 feet long and 4 inches in diameter used for grinding corn) was often rolled down the calves or thighs with one or more of the heaviest policemen standing on it. [30]

5.6.37 Much of this abuse took place during interrogation sessions, but beatings also occurred randomly at other times, including late at night when the policemen were drunk. [30]

5.6.38 As well as physical abuse, many suffered psychological abuse such as threats of further punishment, death or harm to their families, mock executions and extreme humiliation. [30]

5.6.39 The Medical Foundation found that most of the Sikhs in their study were released without charge after representations by the village elders, a politician or lawyer, but on many occasions only after the payment of a large bribe. [30]

Prosecution of security force personnel

5.6.40 Hundreds of police officials have not been held accountable for the serious human rights abuses of the early 1990s, but steps have been taken against some of them. The CBI is actively pursuing charges against dozens of police officials implicated in the "mass cremations" case in Tarn Taran. Approximately 100 police officials in Punjab were either facing charges, had been prosecuted, or were under investigation for human rights abuses at the end of 1998. [2a]

5.6.41 The Times of India in September 1997 reported Union Home Ministry figures that 123 police officials were facing trial for taking alleged illegal steps against terrorists, while 2,555 petitions had been filed against Punjab police officers by individuals and human rights organisations. The same article referred to a protest by Punjab police which said that police officers who had played a key role in containing terrorism in Punjab were now being harassed and hounded for alleged excesses and human rights violations. The protest gained momentum following the suicide of the former Tarn Taran SSP Ajit Singh, who the police claim was driven to this step because of a "witch hunt". [13a]

5.6.42 India Today reported that police officers in Punjab felt abandoned by the government and frustration is mounting in the force as more than 2,000 officers are being brought to account for the extra-judicial methods that were employed in fighting terrorism. In 1995, 585 petitions were filed in different courts. The number had doubled by June 1997, by which time the Punjab police were facing 85 CBI and 91 judicial probes. 30 policemen were in jail, around 100 were out on bail and 140 were facing

probes. 30 policemen were in jail, around 100 were out on bail and 140 were facing prosecution. Further charges are expected as the CBI investigate cases involving unidentified bodies, mass cremations and disappearances from police custody. [11f]

See also National Human Rights Commission: *paragraphs 5.2.18 - 5.2.31*

The current situation in Punjab

5.6.43 Political representatives informed the UN Special Rapporteur on Religious Intolerance during his visit to India in December 1996 that Sikhs were the victims of a policy of intolerance and discrimination based on religion pursued by the authorities. This policy of religious repression reached a climax in June 1984 with the storming of the Golden Temple in Amritsar, and was followed by reprisals against Sikhs throughout India, but particularly in Delhi, after the murder of the Prime Minister Indira Gandhi on 31 October 1984 by her Sikh bodyguards. It was alleged that Sikhs were being subjected to State terrorism which found expression in the desecration of holy places, murders, extra-judicial executions and forced disappearances of Sikhs. [6b]

5.6.44 The individuals who expressed these views to the Special Rapporteur stated that this policy had become less violent recently but was still being pursued by indirect means, such as the continuing presence of Indian security forces at the Golden Temple. [6b]

5.6.45 The Special Rapporteur was informed by other sources, including non-governmental and religious organisations, that the situation of conflict which existed in Punjab had no religious basis, rather it was purely political. The authorities were combating the development of a militant Sikh terrorist movement campaigning for a separate and autonomous Sikh state. The terrorists used religion to secure the support of Sikhs for a political cause. Certain Sikh political parties had exploited that situation for their own ends in the hope of obtaining advantages and concessions from the authorities and of increasing their influence among the Sikh population by creating confusion between religious and political matters. [6b]

5.6.46 According to these sources, the purpose of Operation Blue Star (the storming of the Golden Temple) undertaken in June 1984 had been to expel armed Sikh extremists from the sanctuary. There had been no intention of attacking the religious identity of Sikhs. The continued presence of security forces at the Golden Temple was necessary to remain vigilant against any attempt at destabilisation. Access to the place of worship had not been hindered. [6b]

5.6.47 These sources concluded that there was no religious problem, Sikhs enjoyed all their constitutional rights in the field of religion, including freedom of belief, freedom to practice their religion and freedom to proselytise. [6b]

5.6.48 The UN Special Rapporteur's own conclusions based on the information he had received, and as set out in his report of February 1997 was that the situation of Sikhs in the religious field is satisfactory. There were difficulties in the political field (foreign interference and terrorism) and economic field (in particular with regard to the sharing of water supplies). The Special Rapporteur noted information that there was discrimination in certain sectors of public administration, for example fewer Sikhs in the police force and no Sikhs in personal bodyguard units. Malfunctions in the administration of justice were described but they were connected with the anti-terrorist campaign rather than the Sikh beliefs of the accused. [6b]

5.6.49 Shortly after the 1992 elections, newspapers and magazines began to report that the situation in Punjab was improving. An indication of this was the vastly increased turnout at the local elections, in spite of terrorist threats. India Today in three articles reported agriculture and industry were returning to normal production levels. Punjabi-based business groups as well as multi-nationals were returning to the state; expansion plans were being drawn up and exports were improving. Indeed projects intended for other states had been relocated to Punjab. Hindu migrants were returning to the state and reclaiming their farms and factories. Social and cultural functions were again being held. [11e]

5.6.50 The South East Asia Straits Times reported that Punjab had returned to the path of peace and prosperity once more. Police roadblocks and the constant military presence had gone. Businesses had re-established themselves and prosperity and affluence were clearly evident. [18a]

5.6.51 The Documentation, Information and Research Branch (DIRB) of the Canadian Immigration and Refugee Board interviewed four specialists on the situation in Punjab in January 1997. The panel broadly agreed that Sikh militancy in Punjab had been virtually eliminated. Militant organisations had been shut down, reduced in size or seriously weakened. Nevertheless the Sikh search for some sort of political supremacy in the region remained a powerful ideology, and although the militants' ability to assert themselves had been suspended, perhaps temporarily, future Sikh militant action could

themselves had been suspended, perhaps temporarily, future Sikh militant action could not be discounted. [4f]

5.6.52 The panel agreed that the central government had been attempting to rein in the Punjab police, who during the insurgency were responsible for large numbers of extrajudicial executions and disappearances. Investigations into allegations of human rights abuses have sent a strong signal that the climate of impunity for the Punjab police is ending, even though that climate has been deeply ingrained over many years and will take a long time to change. Reference is also made to the extensive human rights training for the police in India, which is seen as an example of the general trend in India towards recognising and addressing systemic problems with the police. [4f]

5.6.53 The Supreme Court was seen as clearly attempting to address the failure of the judiciary up until the mid 1990s to deal with human rights violations. Judicial protection in Punjab had improved and many people were using the judicial system. People who are not high profile militant suspects are not at risk in Punjab. They have much less to fear from the police and now have better access to judicial recourse if they are treated improperly. [4f]

5.6.54 The DIRB also interviewed representatives of three human rights groups that work in Punjab, and one human rights lawyer from Punjab. All were agreed that the human rights situation in Punjab had improved since the violence between 1984 and 1995. However there were two cases of disappearances: those of the human rights worker Jaswant Singh Khaira in September 1995 and of Akali Dal (Mann) Publicity Secretary Kashmir Singh in March 1997. Torture and ill treatment in custody remain serious problems, but this was said to be a problem throughout India, not just in Punjab. [4h]

5.6.55 The human rights activists were of the opinion that the root causes of discontent and political friction in Punjab had not been addressed, and the legacy of 55,000 civilian deaths and 1,700 police deaths between 1984 and 1994 would not be erased easily. The state government of Punjab, although elected to fight state repression, had not been able to bring about a greater improvement in human rights observances, partly because of constraints from the central government in New Delhi. [4h]

5.6.56 Sikhs are coming forward in increasing numbers to press claims against the authorities, and people are beginning to have faith in the judicial process. Sikhs are bringing cases to human rights lawyers to be taken up in court, rather than to human rights groups for investigation, even though there are few lawyers taking on this type of work. However the human rights organisations were sceptical about the outcome of court cases against police officers, since the government is providing senior lawyers to defend them and is still posting many officers to areas in which they are alleged to have committed abuses. [4h] According to Ravi Nair, Director of the South Asia Human Rights Documentation Centre, a case involving a human rights violation will usually be reported at the local police station. The police will undertake an investigation and on that basis will decide whether a case should be brought. If no case is brought, the individual may bring a civil suit to the lower (district) court. Ravi Nair added that the case often stops there as the court does not always proceed with the case; however, he remarked that nowadays it was easier to have a case heard in the courts than previously. [37]

5.6.57 Dr Cynthia Keppley Mahmood of the University of Maine agrees that conditions in Punjab have greatly improved since the worst days of the early 1990s, and that it is no longer accurate to say that any Sikh is at risk of persecution simply because of his or her religion. She refers to the work of the National Human Rights Commission and the prosecutions of individuals accused of human rights violations. Overt support for the militants has slipped dramatically, but the grievances which prompted the Khalistan movement are still there. [19a]

5.6.58 However Dr Mahmood points out that human rights abuses continue to occur in Punjab, the police are still out of control in many areas, and human rights workers have themselves been targets of harassment and abuse. Lawyers are encountering difficulties in getting cases against individuals accused of human rights violations actually organised and heard, because of pressure from the authorities to withdraw charges. Dr Mahmood concludes that the current improvement does not represent a durable and fundamental shift in the Indian human rights climate. [19a], [19b] & [19c]

5.6.59 Sikhs do not constitute a persecuted group at the present time, and rank and file members of groups that were at one time targeted eg the AISSF, are in general terms now safe. There are exceptions such as people with a local history of abuse at the hands of the police, who may continue a personal vendetta; and militants together with their close relatives and supporters who continue to be followed as potential seeds for further rebellion. [4h]

5.6.60 The Danish Immigration Service in the report of their fact-finding mission to Punjab in 2000, spoke to Chief Minister Prakash Singh Badal, who underlined that there were now no security problems in Punjab. He stated that the major problem was unemployment in rural districts and the lack of a food processing industry, but that he

unemployment in rural districts and the lack of a food processing industry, but that he could not see any other basic problems in modern day Punjab. Badal also underlined that co-operation between the State government and central Government was good. [37]

The National Human Rights Commission's investigations in Punjab

5.6.61 On 12 December 1996 the Supreme Court gave an order requesting the NHRC to examine the allegations contained in two petitions filed in the Court. These alleged a pattern of human rights violations in Punjab and linked these to research, which found evidence of illegal cremations by Punjab police. However there has still been no comprehensive or consistent investigation into the allegations of human rights violations contained in the petitions. After a protracted debate about the role the NHRC should play in carrying out the Supreme Court's order, the NHRC issued an order in January 1999 which focused solely on the allegations of illegal cremations by police in one district of Punjab and would restrict the NHRC's role to awarding monetary compensation to only those families who can prove that their relatives were illegally cremated by police in that district between 1984 and 1994. [3g]

5.6.62 The original petitioners in the Supreme Court case are going back to the Court to ask that it clarify its original order or give further directions to the NHRC. [3g]

5.6.63 Amnesty International called on the Chair of the NHRC to review its order of January 1999, because the Supreme Court's order provided the NHRC with a unique opportunity to investigate a suspected pattern of grave human rights violations by the state and to ensure redress to hundreds of victims. Looking exclusively at only those cases where there is proof of illegal cremation by the police would exclude a vast number of human rights violations which have been reported from the state and which were referred to in the original petitions. Amnesty are further concerned that the NHRC appears to have restricted its role to that of awarding monetary compensation to relatives of victims of human rights violations. While compensation is part of redress, Amnesty believes that all the components of redress set out in Article 2 of the International Covenant on Civil and Political Rights should be applied i.e. restitution, compensation, rehabilitation, and guarantees of non-repetition. [3g]

Punjab State Human Rights Commission

5.6.64 The Punjab State Human Rights Commission started work in July 1997 under the chairmanship of Justice V K Khanna, a former Chief Justice of the North East states. The Commission received 90 complaints of human rights violations in 1997, and 583 up to August 1998. 170 cases have been dealt with. The Commission has intervened in a number of cases of police excesses, torture and custodial deaths, and the Punjab Government has been forced to pay compensation. The Commission has started to inspect jails, with prior notice being given to the State Government, but the Commission wants the power to make unannounced visits. [12a]

See also Human rights concerns in Punjab: paragraphs 5.6.27 - 5.6.33

The Committee for co-ordination on Disappearances in Punjab

5.6.65 This Committee came into existence in November 1997, when a variety of human rights organisations and political groups came together. Its purpose was to develop a voluntary mechanism to collect and collate information on disappearances in Punjab; to evolve a workable system of state accountability; and to lobby for India to change its domestic laws to conform to UN instruments on torture, enforced disappearances and accountability. The Committee was set up following the demand of Indian human rights groups that the independent and thorough investigation into complaints of disappearances in Punjab be allowed to proceed unhampered. [20]

5.6.66 The Committee first met in December 1997, when it called on the Punjab State Government to constitute a Truth Commission to investigate all reports of human rights violations in the State. The Committee also decided to form a Peoples' Commission to undertake the enquiries as the Punjab Government declined to do so. [20]

5.6.67 In August 1998 Committee member and former Supreme Court Justice Kuldeep Singh presented the chief minister of Punjab with a list of approximately 3,000 persons who either were missing or had died in encounters with security forces during the period of unrest in Punjab. The Commission received little co-operation from state government during 1999. [2b]

5.6.68 When asked for their views on the occurrence of disappearances, by the Danish Immigration Service on their fact-finding mission of March - April 2000, two members of the Committee observed that extrajudicial executions no longer took place in Punjab. This was not because of a change in the attitude of the police but because there was no terrorism left in Punjab. [37]

The People's Commission on Human Rights

5.6.69 The (unofficial) People's Commission on Human Rights met in Chandigarh on 8-10 August 1998. It comprised Justice D S Tiwatia, former Chief Justice of the Calcutta High Court, Justice H Suresh, retired judge of the Maharashtra High Court, and Justice Jaspal Singh, former judge of the Delhi High Court. [12a] The Commission was set up as an independent tribunal to examine complaints of illegal abductions, custodial torture, enforced disappearance, summary execution and illegal cremation. [20] The Commission has no legal jurisdiction, but it gave people who had suffered human rights abuses at the hands of the police the opportunity to air their grievances. Nearly 70 police officers who were implicated in cases of disappearances were identified for issue of notices to file their replies or appear in person before the Commission. [12c]

Internal Flight for Sikhs

5.6.70 The Indian Constitution guarantees Indian citizens the right to move freely throughout the territory of India, and to settle and reside in any part of the country. These rights are subject to restrictions as imposed by law in the interests of the general public. Punjabi Sikhs are able to relocate to another part of India and Sikhs outside Punjab are feeling more secure now than at any other time since the 1984 riots. Sikhs are a mobile community and as a result, there are Sikh communities all over India. [4i]

5.6.71 Some 4 million Sikhs live in India outside Punjab. Sikh communities are found in most Indian cities and in virtually all states. At the time of the 1981 census some 8% of Delhi's population was Sikh. They are generally urban and prosperous and they control important trades and occupy a prominent position within the central and regional administration. [4c] Most Sikhs, particularly the better educated and urban Sikhs, have some knowledge of English and/or Hindi. Punjabi Sikhs would have no more problem enrolling their children in school or obtaining employment than any other Indian relocating to a new area. [4i]

5.6.72 The increase of Sikh militancy outside Punjab during the period of insurgency led to instances of harassment of moderate Sikhs by extremists and to greater police surveillance of the Sikh community. There were also instances of communal violence, usually during periods of chaos and unrest that follow attacks by Sikh militants on Hindu targets. Some 2,150 Sikhs were killed in Delhi during the 1984 anti-Sikh riots that followed Indira Gandhi's assassination, and 50-60,000 fled the city. [4c]

5.6.73 However, at present there are no checks of any kind on a newcomer to any part of India arriving from another part of India, even if the person is a Punjabi Sikh. Local police forces have neither the resources nor the language abilities to perform background checks on people arriving from other parts of India. There is no system of registration of citizens, and often people have no identity cards, which in any event can be easily forged. [4i]

5.6.74 Sources disagree whether the Punjab police would pursue an individual they wanted to another part of India: some say it is unlikely, unless the individual had a very high profile or the Punjab police secured the involvement of the Central Bureau of Investigation or the Central Reserve Police Force. There have been instances where the Punjab police have acted on their own, for example where they pursued and killed, in May 1993 and June 1994, former residents of Punjab who had relocated to West Bengal and Nepal. [4i] The Director of the South Asia Human Rights Documentation Centre believed that a high-profile person would not be able to move elsewhere in India without being traced, but that this would be possible for low-profile people. Sources from foreign diplomatic missions in India considered that there was no reason to believe that someone who has or has had problems in Punjab would not be able to reside elsewhere in India. Reference was made to the fact that the authorities in Delhi are not informed about those wanted in Punjab. [37]

5.6.75 Other sources indicate that the Punjab police would be likely to pursue someone they wanted outside the state. People at risk would include militants or perceived militants and their families and close supporters. "History sheeters" i.e. those with a record of previous arrests and detentions and "habitual offenders" - those who are rounded up whenever anything untoward happens might also be at risk. Lists of habitual offenders are apparently distributed across India via the police computer system. [4i]

