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Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

India: Situation of Sikhs outside the state of Punjab, including treatment by authorities; ability of Sikhs to relocate within India, including challenges they may encounter (2009-April 2013) [IND104369.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Demographics

According to statistics from the 2001 census, there are over 19 million Sikhs in India, representing approximately 1.9 percent of the population (India [2001]a). The majority of Sikhs live in Punjab (ibid.; MAR n.d.; VFF 12 Apr. 2013). According to the census, over 14 million live in Punjab, accounting for approximately 60 percent of the Punjab population (India [2001]a).

There are also sizable Sikh minorities in other states (WSO Canada 17 Apr. 2013; MAR n.d.; Professor 9 Apr. 2013). According to the 2001 census, there are Sikhs living in all states in India, with over one million in Haryana, and populations of over 100,000, but less than one million in the states or union territories of Chandigarh, Delhi, Jammu and Kashmir, Madhya Pradesh, Maharashtra, Rajasthan, Uttar Pradesh, and Uttaranchal (India [2001]a). In correspondence with the Research Directorate, a legal counsel for the World Sikh Organization (WSO) of Canada explained that

[a]lmost every major Indian city has a Sikh community. There are very large communities in places like Delhi and Udham Singh Nagar in the state of Uttranchal (also known as the Terai area) as well as the states that border Punjab such as Jammu, Rajasthan, Haryana and Himachal Pradesh. (17 Apr. 2013)

Similarly, in a telephone interview with the Research Directorate, the interim executive director of the Hong-Kong based Asian Human Rights Commission (AHRC), who is also a lawyer in India, said that there are "strong" Sikh communities in cities across India, including cities in the south of the country (AHRC 19 Apr. 2013). He said that Sikhs can be found in any metropolitan city in India, as the cities are very multicultural (ibid.). A legal researcher with Voices for Freedom (VFF) Asia, an international NGO with offices in India, the UK, Canada and the US (VFF n.d.a) that advocates for legal accountability and human rights (ibid. n.d.b), noted in a telephone interview with the Research Directorate that there are Sikh communities in New Delhi and Mumbai, as well as small Sikh neighbourhoods in some of the other large cities (ibid. 12 Apr. 2013).

2. Treatment

According to the US Department of State's *International Religious Freedom Report for 2011*, the "vast majority of citizens of all religious groups lived in peaceful coexistence and was conscious of religious freedom and minority rights" (US 30 July 2012, 1). The report notes that religious freedom is protected in the Constitution, that the government "generally respected religious freedom," and that Sikhs are one of five religious groups recognized as a minority community under the 1992 National Commission for Minorities Act (ibid., 1, 3). However, the report also states that, under the Constitution, Sikhs are considered a sect of Hinduism, whereas Sikhs view their religion as distinct and want to follow their own personal laws (ibid., 6).

According to the *International Religious Freedom Report for 2011*, allegations of religious discrimination are reportedly investigated by the Ministry of Minority Affairs, the National Human Rights Commission and the National Commission for Minorities, who make recommendations for redress to central and local authorities (US 30 July 2012, 3). During the period of 1 April 2012 to 31 March 2013, 151 of 2,133 complaints of discrimination filed with the National Commission for Minorities were related to Sikhs (India [2013]). Details of those claims could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the interim executive director of the AHRC, there is "no discrimination" against Sikhs in India (AHRC 19 Apr. 2013). Other sources state that there is little discrimination against Sikhs throughout India (HRLN 12 Apr. 2013; Professor 9 Apr. 2013). The status of Sikhs in India has reportedly improved greatly since the 1980s (Professor 9 Apr. 2013; Sarvashrestha Media 10 July 2012). In the mid 1980s, there was widespread violence and human rights abuses against Sikhs in which over 3,000 people were killed (Human Rights Watch 25 Apr. 2011; NDTV 26 Feb. 2013). However, despite the formation of several government commissions, state authorities responsible for the killings were not brought to justice (ibid.; VFF 12 Apr. 2013; Human Rights Watch 25 Apr. 2011). According to a 26 February 2013 article by New Delhi Television (NDTV), there were 10 different commissions established in the last 30 years to address the killings of 8,000 Sikhs in the country, including 3,000 Sikhs in New Delhi, but only 30 people in 12 murder cases were convicted, while politicians and policemen who allegedly instigated the violence have not been convicted. For further information about this time period, please refer to Response to Information Request IND102546.

In a telephone interview with the Research Directorate, a professor of history at the University of Toronto, who is a specialist on India, stated that Sikhs are not subject to attacks and that "there is no sense of fear of Sikhs" (9 Apr. 2013). In contrast, an academic at the University of California (UC) at Berkeley who conducts research on armed conflict in India said that "Sikhs are distrusted by a large segment of the Indian community because of a large anti-Sikh propaganda effort during the 1980s and 1990s" (Academic 23 Apr. 2013).

The current two-term Prime Minister of India is Sikh (US Mar. 2012, 304; Sarvashrestha Media 10 July 2012). In addition, as noted by an Indian media source, many Sikhs have risen to other prominent positions in India, including four governors, the director of the Intelligence Bureau, chief ministers, ambassadors, Supreme Court judges, and other important leaders in politics, government, academia, judiciary, and business, among other fields (ibid.).

Several sources indicate that Sikh minorities living in states outside Punjab have access to housing, employment, health care, education and freedom to practice their religion (HRLN 12 Apr. 2013; Professor 9 Apr. 2013; WSO Canada 17 Apr. 2013). The legal counsel of the WSO said that, in general, Sikhs outside Punjab "do not have any particular hardship in practicing their faith or having access to the services and facilities available to the general public" (ibid.). When asked about how state authorities outside Punjab treat Sikhs, the WSO legal counsel added that

Sikhs in general are not the target of specialized abuse on a frequent basis. That having been said, Sikhs with particularly political opinions or those who advocate for those opinions may be subject to harassment, detention and torture. This is however much more common in Punjab than outside of it. (ibid.)

Corroborating information could not be found among the sources consulted by the Research Directorate.

Sources indicate that people who converted to Sikhism face potential difficulties in some states (VFF 12 Apr. 2013; WSO Canada 17 Apr. 2013). According to the legal counsel of WSO, converts from lower castes often face a backlash from their communities (ibid.). Some states have anti-conversion laws (VFF 12 Apr. 2013; US 30 July 2012, 4).

2.1 Treatment in Gujarat

The VFF legal researcher indicated that Sikhs have faced problems in some areas of India, including Gujarat (VFF 12 Apr. 2013). She noted that in Gujarat, the state passed legislation stating that people from outside the state cannot own land, which is retroactively affecting Sikh farmers who bought farmland and relocated from Punjab to Gujarat in the 1960s (ibid.). Indian media sources report that the Gujarat government, invoking legislation from 1958, put a freeze on land belonging to Sikh farmers who had cultivated the land for

several decades after moving from Punjab and Haryana (*The Times of India* 6 Sept. 2012; *Deccan Herald* 1 Sept. 2012). The *Deccan Herald* notes that the land freeze affects over 1,000 Sikh farmer families (ibid.), while the *Times of India* indicates that hundreds of farmers are affected (6 Sept. 2012). The *Times of India* reports that the Gujarat High Court ruled against the Gujarat government, but that the state government was appealing the decision to the Supreme Court (6 Sept. 2012).

2.2 Treatment in Jammu and Kashmir

Media sources report that the Chairman of the All Party Sikh Coordination Committee (APSCC) claims that Sikh communities in Jammu and Kashmir have been "neglected" by the government (UNI 16 Jan. 2013; IANS 11 Aug. 2012). He reportedly faulted the government for not providing Sikhs with internal displacement certificates, which were provided to other minorities in Kashmir (ibid.; *Kashmir Images* 12 Aug. 2012). He noted that a large number of Sikhs in Kashmir left their farmlands (UNI 11 Aug. 2012) for urban areas due to "hardships" (*Kashmir Images* 12 Aug. 2012). The APSCC chairman also reportedly criticized the Jammu and Kashmir government for having no Sikh representation in the state government and for the number of vacant Punjabi teacher positions in schools and colleges (UNI 16 Jan. 2013). The APSCC chairman further blamed the government for the decline of the Punjabi language (*Kashmir Images* 12 Aug. 2012).

Media sources report that in August 2010, Sikhs in the Kashmir valley--a minority community of 60,000 people [or 80,000 according to the *Economist* 24 Aug. 2010]--received threatening letters telling them to leave the Valley if they do not convert to Islam (*The Times of India* 21 Aug. 2010) or take a stand against Indian rule in Kashmir (*The Economist* 24 Aug. 2010; *The Economic Times* 21 Aug. 2010). Various state authorities reportedly pledged to protect the Sikh minority (ibid.), while the separatist leader Syed Ali Shah Geelani claimed the letters were "fake" and that no one would force Sikhs to join the protests (ibid.). Further information about this incident could not be found among the sources consulted by the Research Directorate.

3. Ability to Relocate

Several sources indicate that Sikhs do not face difficulties relocating to other areas of India (Professor 9 Apr. 2013; AHRC 19 Apr. 2013; HRLN 12 Apr. 2013). Sikhs are reportedly free to move to any state in India (ibid.; AHRC 19 Apr. 2013). The interim executive director of AHRC explained that Sikhs face neither legal nor procedural problems relocating (ibid.). According to the 2001 census, approximately 41 million Indians had migrated between states (India [2001]b).

For her part, the legal researcher at VFF stated that there is no law against relocating, but that it would be "very hard," particularly for Sikh farmers, who account for the majority of Sikhs in Punjab (12 Apr. 2013). She explained that it would be possible for Sikhs who are skilled and educated to find employment outside Punjab, but that it would be difficult for those who are unskilled and uneducated (VFF Apr. 2013). She also noted that it would be difficult for Punjabi Sikhs to relocate to the southern part of the country due to language barriers (ibid.). She also said that some states--such as Rajasthan, Himachal Pradesh, Jammu and Kashmir and Maharashtra--have restrictions on people from out of state owning land (ibid.). Media sources corroborate that there are regulations limiting non-state residents from owning land in Jammu and Kashmir (UNI 18 Feb. 2008) and Himachal Pradesh (IANS 8 Apr. 2013). Further information about land regulations could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources note that traditional Sikhs are easily identifiable due to their beards and turbans (VFF 12 Apr. 2013; Academic 23 Apr. 2013). According to the VFF legal researcher, this poses a potential challenge for Sikhs to relocate as they are "easily recognizable during any communal riots" in states outside Punjab (VFF 12 Apr. 2013). The UC Berkeley academic also noted that the Punjabi language and the Punjabi accent in Hindi are distinctive and are other factors that make Sikhs identifiable (Academic 23 Apr. 2013).

3.1 Residence Registration

Several sources indicate that Sikhs, and others, are not required to register their residences when relocating (HRLN 12 Apr. 2013; Professor 9 Apr. 2013; AHRC 19 Apr. 2013), with the exception of people living in Jammu and Kashmir (VFF 12 Apr. 2013). According to the AHRC interim executive director, proof of residence may be needed for various things, such as buying land, renewing a passport, or registering in the electoral roll, but none of these things require interaction with the police (AHRC 19 Apr. 2013). The academic at UC Berkeley indicated that registration is required to obtain ration cards (23 Apr. 2013). According to the VFF legal researcher, people need to update their identity documents, such as voter ID cards, when they move (VFF 12 Apr. 2013). She also said that some cities, such as Delhi, have laws that require landlords to register their tenants, which requires getting a police background check of the tenant (ibid.). She noted that, while some landlords are not aware of the law, many prefer to get police background checks on tenants as a security measure (ibid.). In contrast, the interim executive director of AHRC said that renting does not involve the police (19 Apr. 2013). For further information on this subject please refer to Response to Information Request IND104372.

For his part, the WSO legal counsel said that registration at the police station "can be required" when someone moves, but that it is not unique to the Sikh community (17 Apr. 2013). He also noted that as the Universal Identification Card "Aadhaar" becomes more common, it will become "virtually impossible" to relocate without being traceable (WSO Canada 17 Apr. 2013). He explained that while not mandatory, the card, which requires proof of identity, address and birth date, and includes fingerprinting and an iris scan of the subject, will be increasingly required for services (ibid.). The UC Berkeley academic also noted that this new system "promises to equip the government authorities to track any resident within minutes" and "would lessen the chances of anonymity and security" for someone fleeing to another state (23 Apr. 2013). For further information about the Aadhaar card please refer to IND103736.

3.2 Ability of Police to Track People Who Relocate

Several sources state that the Punjab police have the ability and authority to track suspects who move to other states, but they must have the cooperation of the police in the other state (HRLN 12 Apr. 2013; Professor 9 Apr. 2013; AHRC 19 Apr. 2013). In a telephone interview with the Research Directorate, a representative of the New Delhi-based Human Rights Law Network (HRLN), an NGO of lawyers and social activists located throughout India who promote human rights and justice (HRLN n.d.), said that the Punjab police would require a court order and help from the other state's police in order to track someone who moves to a different state (12 Apr. 2013). She expressed the opinion that they would likely only track someone in "extreme" cases (HRLN 12 Apr. 2013).

The interim executive director of the AHRC said that, by law, if someone is wanted for a crime, the state police are supposed to pursue them if they move to another state (AHRC 19 Apr. 2013). However, he added that the police do not "function the way that they should"; describing the policing system in India as "riddled with corruption and nepotism," he explained that people with money and political clout can pay the police to fabricate charges against someone, including making false allegations against people who are seen as a political threat, who speak out against the leading party, speak out against impunity, or speak out in defense of human rights (ibid.). He noted that the police subject suspects to arbitrary arrests and detention, and use "torture" against detainees (ibid.). In his opinion, whether the police would pursue someone who was falsely charged to another state was "subjective" and would depend on the context of the situation (ibid.).

The VFF legal researcher similarly described the Punjab police as "corrupt" and able to "act with impunity" (VFF 12 Apr. 2013). She claimed that if the police are suspicious of someone's activities, they can make "false accusations" of terrorism and put the person on a list of "militants" or "high profile individuals" (ibid.). She said that targets of the Punjab police include people who are fighting for the rights of the victims of the 1984-85 violence against Sikhs, people who criticize the police or government for their activities, and members of Sikh youth organizations (ibid.). She expressed the opinion that the Punjab police and the intelligence service would pursue these people even if they move to another state, that they would be subject to arbitrary arrest, and that their family members would also be pursued (ibid.).

The WSO legal counsel said that "Sikhs who advocate for independence from India or oppose the ruling party have in the past been falsely implicated in terrorism cases and harassed" (17 Apr. 2013). He expressed the opinion that if a person is wanted by the police, it would "be difficult to evade detention and the abuses that often accompany detention such as torture, harassment of family, etc." (WSO Canada 17 Apr. 2013). Noting Babbar Khalsa as the "default group cited when trying to affiliate an individual with terrorism," he provided several examples from 2010 and 2011, supported by media articles, in which the Punjab police operated together with other state police forces to apprehend suspects with alleged links to Babbar Khalsa (ibid.). Arrests of people suspected of having links with Babbar Khalsa in 2010 and 2011 in which different police forces did cooperate include the following:

- in Chhattisgarh (*The Indian Express* 3 May 2010);
- in Mumbai, Maharashtra state (PTI 23 June 2010);
- in Uttar Pradesh (*The Indian Express* 25 Oct. 2010);
- in Delhi (IANS 1 Jan. 2012). In the case from Delhi, the suspects were later released on bail by the courts due to a lack of evidence (Punjab Newline 28 June 2012).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Attempts to contact representatives or professors of the following organizations were unsuccessful: Ensaaf, People's Union for Civil Liberties, South Asia Forum for Human Rights, National Human Rights Commission, National Commission for Minorities, University of Windsor, University of Winnipeg, University of British Columbia.

Internet sites, including: Amnesty International; Asia Society; Asian Centre for Human Rights; Commonwealth Human Rights Initiative; ecoi.net; Hudson Institute's Center for Religious Freedom; Human Rights First; India — Ministry of Law and Justice, Law Commission, National Human Rights Commission, Ministry of Minority Affairs; International Crisis Group; International Federation for Human Rights; United Nations — Refworld, Office on Drugs and Crime.