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India: Situation and treatment of members of Sikhs for Justice (SFJ) and their family members by authorities, including those returning from abroad; overseas monitoring capabilities of the government (2020–May 2023) [IND201492.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

Hindustan Times, an Indian English-language newspaper, indicates that SFJ "started in 2007 as a human rights advocacy group" and that the organization "maintain[s] that Sikh rights are not protected in India" (2019-07-11). SFJ's website lists three offices located in Canada, the UK, and the US (n.d.). SFJ defines itself as "an international human rights advocacy group which is spearheading Referendum 2020 campaign to realize the right of self-determination for Sikh people" (2020-01-09). According to SFJ, Referendum 2020 was a political campaign which sought to hold a referendum among the "global" Sikh community on "the question of establishing Indian governed Punjab as an independent country—"Khalistan"" (2020-01-09).

In correspondence with the Research Directorate, a representative of the World Sikh Organization of Canada (WSO), an organization promoting the interests of Canadian Sikhs (WSO n.d.), noted that SFJ has organized "non-binding referendum votes" in "various" cities worldwide to "gauge" Sikh support for Khalistan (WSO 2023-05-03). According to the *Frontier Post*, a Pakistani English-language daily newspaper, voting started in October 2021 and has been held in the UK, Australia, Switzerland, Italy, and Canada (2023-03). In a telephone interview with the Research Directorate, an associate professor at Hiram College in Ohio, who has conducted

research on Sikh separatism and specializes in the politics of India, particularly Sikh politics, stated that SFJ has held votes in countries such as Australia, Canada, the UK, and the US (Associate Professor 2023-04-27). The same source indicated that the activities of the SFJ include "symbolic acts like public protests, events, conferences, putting up billboards, separatist graffiti, and pro-Khalistan advertisements" (Associate Professor 2023-04-27).

For information on Sikh militants and Khalistan supporters see Response to Information Request IND200932 of May 2023.

2. The *Unlawful Activities (Prevention) Act*

Sources report that the government of India "ban[ned]" the SFJ in 2019 (*The Indian Express* 2019-07-11; *Hindustan Times* 2019-07-11) under the *Unlawful Activities (Prevention) Act* (*Hindustan Times* 2019-07-11).

A notification from India's Ministry of Home Affairs states the following:

S.O. 2469(E).—Whereas the Sikhs For Justice (hereinafter referred to as the SFJ), has been indulging in activities, which are prejudicial to internal security of India and public order, and have the potential of disrupting peace, the unity and integrity of the country;

And Whereas, the Central Government is of the opinion that the SFJ is indulging in the activities which are prejudicial to the integrity and security of the country;

And Whereas, the Central Government is of the opinion that following unlawful activities indulged by the SFJ falls within the meaning of clauses (o) and (p) of sub-section (1) of section 2 of the *Unlawful Activities (Prevention) Act, 1967*, namely:-

1. SFJ is involved in anti-national and subversive activities in Punjab and elsewhere, intended to disrupt the sovereignty and territorial integrity of India;
2. SFJ is in close touch with the militant outfits and activists, and is supporting violent form of extremism and militancy in Punjab and elsewhere to carve out a sovereign Khalistan out of territory of Union of India;
3. SFJ is encouraging and aiding the activities for secession of a part of the Indian territory from the Union of India and supporting separatist groups fighting for this purpose in India and elsewhere by indulging in activities and articulations intended to disrupt the sovereignty and territorial integrity of India;

And Whereas, the Central Government is further of the opinion that if the unlawful activities of the SFJ are not curbed and controlled immediately, it

is likely to-

1. escalate its subversive activities including attempts to carve out Khalistan Nation out of the territory of Union of India by destabilising the Government established by law;
2. continue advocating the secession of the Khalistan from the Union of India while disputing the accession of State with the Union;
3. propagate anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
4. escalate secessionist movements, supports militancy and incite violence in the country;

And Whereas, the Central Government is also of the opinion that having regard to the activities of the SFJ, it is necessary to declare the SFJ to be an unlawful association with the immediate effect;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (3) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Sikhs For Justice (SFJ) as an unlawful association and directs that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette. (India 2019-07-10, bold in original)

The 2004 amendment to the 1967 *Unlawful Activities (Prevention) Act* provides the following on the penalty for being a member of an unlawful organization:

"10. Where an association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section,—

1. a person, who—
 1. is and continues to be a member of such association; or
 2. takes part in meetings of such association; or
 3. contributes to, or receives or solicits any contribution for the purpose of, such association; or
 4. in any way assists the operations of such association, shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and
2. a person, who is or continues to be a member of such association, or voluntarily does an act aiding or promoting in any manner the objects of such association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits any act

resulting in loss of human life or grievous injury to any person or causes significant damage to any property,—

1. and if such act has resulted in the death of any person, shall be punishable with death or imprisonment for life, and shall also be liable to fine;
 2. in any other case, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine."
- (India 2004, quotation marks in original)

The National Investigation Agency (NIA) of India provides the following information about charges filed against SFJ members under the *Unlawful Activities (Prevention) Act*:

NIA filed [a] chargesheet against 10 accused persons including [one] designated terrorist ... before the NIA Special Court, Mohali, Punjab ... [under the *Unlawful Activities (Prevention) Act*]. The case relates to series of acts of violence including acts of arson in Punjab during the year 2017–18, carrying out of propaganda activities both online and on ground campaigns in support of SFJ and Referendum-2020. These acts were committed by a gang of radicalised Sikh youth under direction and financial assistance from SFJ handlers located abroad as part of an organized conspiracy by the accused for launching a concerted secessionist campaign for creation of "Khalistan."

...

4. Investigation in the case has revealed that SFJ, a secessionist outfit, has launched an incessant campaign using numerous social media accounts on Facebook, Twitter, WhatsApp, YouTube Channels and a number of websites to propagate sedition and disturb peace and harmony in India. These social media accounts are being used to radicalise impressionable youth & breed enmity on the grounds of region and religion. Investigation has also clearly established that ... ([the] leader of SFJ), radicalised and recruited the other accused persons into SFJ The accused persons had received funding from their handlers located abroad ... to further the conspiracy. (India 2020-12-18, 1)

An article by the *Economic Times*, an Indian English-language daily newspaper owned by the Indian media conglomerate Times Group (The Times Group n.d.), citing a Home Ministry spokesperson, notes that based on a recommendation of the Ministry of Home Affairs, in 2020, the Ministry of Electronics and Information Technology "block[ed]" 40 SFJ websites (2020-07-05). India's Ministry of Information & Broadcasting stated in February 2022 that it had "ordered the "blocking" of apps, websites, and social media accounts belonging to "foreign-based" Punjab Politics TV for "having close links with" SFJ; the Ministry cites "intelligence"

that the channel was "attempting to use online media to disturb public order during the ongoing State Assembly Elections" (India 2022-02-22).

According to an article from the *Indian Express*, an Indian English-language daily news publication, the [former] Punjab Chief Minister "welcomed the [government's] decision to ban the SFJ as an unlawful association, describing it as the first step towards protecting the nation from the 'anti-India/secessionist designs of the ISI-backed [Inter-Services Intelligence, Pakistan's intelligence agency] organisation'" (2019-07-11). Media sources quote the [same former] Punjab Chief Minister as stating that that SFJ "deserved to be treated as a 'terrorist organisation'" (*Hindustan Times* 2019-07-11; *The Indian Express* 2019-07-11).

According to the [former Punjab] Director General of Police, as cited by the Indian daily newspaper *The Tribune*, "with the SFJ being declared as an unlawful association, people will not fall prey to their objective of radicalising youth and unleashing violence in the state" (*The Tribune* 2020-01-10). However, the WSO representative stated that there has "never been any evidence to suggest that SFJ has engaged in any terrorist activity" (2023-05-03). The same source noted that the government perceives "any advocacy that it feels threatens the unity and integrity of the country as extremist and terrorist and takes any measure necessary to crush it" (WSO 2023-05-03).

3. Treatment of SFJ Members and Their Family Members by Authorities

The Associate Professor stated that because SFJ is a "banned organization," "known" members would "certainly be targeted," and there have been cases where "alleged [SFJ] activists" in India have been "harassed and even arrested by the authorities" (2023-04-27). The WSO representative stated that "generally speaking, any supporter of Khalistan, and particularly those affiliated with SFJ, can expect to be monitored, harassed and detained by state authorities" (2023-05-03).

According to the *Times of India*, an Indian English-language daily newspaper owned by the Indian media conglomerate Times Group (The Times Group n.d.), "[t]he National Security Act was invoked against" a "self-styled Khalistani preacher" who "had designs to vitiate the peaceful atmosphere of Punjab" for, among other factors, his "alleged link" with SFJ (2023-04-24). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The *Times of India* reports that in September 2021, the Punjab Police arrested three individuals who were in possession of "numerous secessionist pamphlets promoting 'Referendum 2020' activities" in Khanna; four US-based individuals were also arrested, as well as an additional individual from Khanna (2021-09-18).

The WSO representative stated that "individuals are fearful of expressing support for SFJ either in public or on social media for fear of persecution" (2023-05-03). According to the Associate Professor, there have been cases where "families in India of overseas Sikh activists have been harassed and even detained" by authorities to "pressure" these overseas activists to "stop their political activities" (2023-04-27). The WSO representative noted that "when a supporter of Khalistan is sought by authorities but is not found, family members can find themselves detained and harassed by police in order to pressure the absconding individual to surrender" (2023-05-03).

4. Overseas Monitoring Capabilities of the Government

According to the *Indian Express*, citing the [former] Punjab Chief Minister, "any country allowing SFJ to use its soil for destabilising India would also suffer the consequences of such an act as no nation could remain unaffected as a result of supporting terror or violence against another" (2019-07-11). The same source further added that in the three years prior to July 2019 the Punjab Police registered "several criminal cases against alleged SFJ leaders/operatives based in various countries and working under the command of SFJ promoters, operating from USA, Canada, UK, Malaysia" (*The Indian Express* 2019-07-11).

According to the NIA of India, the agency "filed Chargesheet" under the *Unlawful Activities (Prevention) Act* against 16 people based in Canada, the UK, and the US (India 2020-12-09, 1). The NIA states the following about the case:

3. Investigation in the case has revealed that Sikhs for Justice, a secessionist outfit floated in the garb of "Human Rights advocacy group" with its offices in various foreign countries like the USA, Canada, the UK, Australia etc, is a frontal organization of Khalistan terrorist outfits operating from foreign soils including Pakistan.

...

4. Based on the dossiers provided by NIA and other agencies, the chief patrons of SFJ ... have already been designated as "Terrorist" under [the *Unlawful Activities (Prevention) Act*]. During the course of investigation, NIA identified immovable properties belonging to terrorist ... [in] Punjab. Based on the request of NIA, the Government of India, Ministry of Home Affairs, in exercise of powers conferred under Section 51-A of Unlawful Activities (Prevention) Act 1967, has ordered attachment of these properties. (India 2020-12-09, 1-2)

The NIA states the following in its First Information Report (FIR) [1] in the case against the three "designated [SFJ] terrorists":

(a) Suspected Offence:

In furtherance of above conspiracy, huge funds are being collected abroad for on-ground campaign and propaganda against Government of India including staging demonstrations outside Indian missions in countries like the USA, UK, Canada, Germany and so forth. It has also been learnt that large amounts of funds so collected are being sent through Non-Governmental Organisations to pro-Khalistani elements based in India, to undertake terrorist acts and to strike terror in the people of India. SFJ leadership has planned large scale disruptive activities intended to damage government and private property and also disrupt supplies and services essential to the life of the community of India. (India 2020-12-15, bold in original)

The NIA states the following information in another case:

NIA has registered a case ... against ... a Germany based operative of Sikhs for Justice (an unlawful association), and his other associates.

2. This case relates to criminal conspiracy hatched by [the individual] with several other pro-Khalistani elements located abroad for radicalizing, motivating and recruiting youths in Punjab on ground and online through social media platforms to propagate their ideology with the aim to secede Punjab from the Union of India. They have been involved in raising funds to procure arms, ammunition and explosives by using smuggling networks in Punjab to revive terrorism in Punjab. [The individual] has also been in contact with ISI operatives to carry out terror attack in Mumbai and other parts of India. (India 2021-12-31)

The *Tribune* reports that INTERPOL "has rejected India's request to issue a Red Corner Notice against" [2] the founder of SFJ, noting that "the separatist leader is facing 22 cases, including three of sedition, in Punjab" (2022-10-13). The same source states that SFJ's leader "has been charged with abetting mutiny, provocation with intent to cause riot, wanton vilification and offence at a place of worship" (*The Tribune* 2022-10-13). The *News International*, citing "[p]apers" it gained access to, reports that the INTERPOL Commission rejected India's request because "the Indian allegations were essentially political or religious and lacked evidence of any crime" (*The News International* 2022-10-12). The *Indian Express* states, according to "sources," that the Commission concluded that SFJ leader's activities "have a 'clear political dimension', which cannot be the subject of a Red Corner Notice" and that India had provided "'insufficient information'" to support "the 'terrorist nature of the crime'" and the leader's "'possible active and meaningful involvement in terrorist activities'" (*The Indian Express* 2022-10-12).

The Associate Professor stated that the "in recent years, the Government of India and NIA have become more active" in "monitoring" social media

posts of Sikh activists overseas (2023-04-27). The same source further added that the Indian "security apparatus (including the Punjab Police) overall has become increasingly sophisticated" (Associate Professor 2023-04-27). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4.1 Facial Recognition Technology to Identify SFJ Members

According to Reuters, "facial recognition technology is being increasingly deployed in airports, railway stations and cafes across India, with plans for nationwide systems to modernise the police force and its information gathering and criminal identification processes" (2021-01-22). Scroll.in, an Indian online news source, notes that facial recognition software, called 'Digi Yatra', is available for boarding procedures at some airports in India, as "an alternative to the current process involving physical verification by Central Industrial Security Force personnel"; however, the same source notes that "[c]urrently" its use is "not mandatory" (2022-12-14).

According to the WSO representative, video recordings are "regularly" made of anti-India protests [in Canada] by individuals or "members of the Indian Consulate or High Commission in Canada" (2023-05-03).

According to CNN, India had plans in 2019 to work with a private company to build a national facial recognition system, a national database of "mug shots of criminals, passport photos and images collected by agencies" that would be searchable based on uploaded images, including those published in newspapers and submitted "by the public" (2019-10-18). Information on the implementation of this project could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. According to a privacy advocate interviewed by CNN, "'India does not have a data protection law'," and "'is also not planning to adopt a specific legal framework for the new facial recognition system, which means it will essentially be devoid of safeguards'" (CNN 2019-10-18). The same source further added that this technology "could become a tool of social policing" or "to control the whereabouts of ethnic minorities" (CNN 2019-10-18). According to a program manager at Delhi-based think tank The Dialogue, as interviewed by the Indian online news source Scroll.in, "India's current laws do not provide stringent punishments in case of violation or breach of sensitive data" (Scroll.in 2022-12-14).

According to the WSO representative, SFJ activists and their families are "rightly fearful of returning to India as they face detention, torture and being implicated in false cases" (2023-05-03). The Associate Professor noted that it would "certainly be risky for a member of a banned Sikh organization to return to India for the fear of harassment, detention, or even arrest" (2023-04-27).

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.

Notes

[1] For information on First Information Reports (FIRs), see Response to Information Request IND200628 of June 2021.

[2] According to INTERPOL's website, a Red Notice is "a request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender, or similar legal action" (INTERPOL n.d.).

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Associated documents

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