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Question and Answer Series papers are one means by which information on human rights conditions in a country and/or conditions affecting given groups or individuals deemed "at risk" within a given country is presented to Asylum and Immigration Officers. Question and Answer Series papers are brief descriptions of conditions in countries based on information provided by the sources referred to above. They are prepared by the staff of the Resource Information Center, Immigration and Naturalization Service, U.S. Department of Justice. Question and Answer papers cannot be, and do not purport to be either exhaustive with regard to the country surveyed, or conclusive as the merits of any particular claim to refugee status or asylum.

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Introduction

Several developments in the Punjab are noted in the sources consulted for this response. These include: the February 1997 State Assembly elections in Punjab which included the participation of all but the more radical of the Sikh separatists; the rejection in the election of Sikh parties with more extreme separatist stances; the reforms underway in the police and judiciary, and the related attention at the Federal level to these reforms including from the Home Ministry, the Supreme Court and the National Human Rights Commission; the open “storefront” activity of human rights groups in the Punjab; the prosecution of police accused of past abuses and the simple lack of threat posed by all but the most violent Sikh activists whose movement has otherwise been driven underground and abroad, and the subsequent focus by police on only those most radical militants. Another significant theme is the high level of fraud reported by both Canadian and U.S. immigration officials among Sikh applicants for immigrant visas who were investigated as dependents of asylees.

Who is at risk?

A May 1997 Addendum to the State Department DRL India Profile for Asylum Adjudicators emphasizes that there is no evidence that significant patterns of repression or human rights abuses currently exist in the Punjab. Militant violence and related human rights abuses are at an end. The Profile continues that “there are no unusual security force presence or curfews... There have been no reports of militancy related abuses by the police or other security forces since the abduction of human rights activist Jaswant Singh Khalra in September 1995. The Khalra case became a cause celebre and resulted in charges against nine police officers.” The Profile continues to describe how Sikhs “who have been associated with separatist militants or have supported militants may be detained and questioned by police. They may be charged with and prosecuted for acts of violence associated with separatist extremism when there is probable cause in accordance with judicial procedures.”

Mr. Bob Brack, Deputy Program Manager for Immigration at the Canadian High Commission in New Delhi, who has experience with refugees in Central America and elsewhere, interviewed the Additional Secretary of the Shiromani Gurdwara Parbandhak Committee (SGPC) which administers the Gurdwaras and Sikhism in the Punjab, and the Chief Information Officer of the Golden Temple in late 1996 or early 1997 [note future references to “Sikh leadership.”] This interview was conducted in the

Golden Temple in Amritsar. Brack asked what if someone fled India during the early 1990's? Would that person have reason to fear returning now? Could someone on the run hide within an existing community of Sikhs in a city or region outside the Punjab? The reply was that only the highest profile fugitives, numbering a handful, would have reason to fear, or be pursued outside the Punjab. What if deported from Canada? The Sikh leadership said there was no risk; however, they continued, it is not surprising that a leader of a violent terrorist group recently deported to India was incarcerated, and the authorities know not to let anything happen to him as it would be unlikely others would be so removed. The Sikh leaders stated they hoped that Canada would not give refugee status to false claimants, and were astonished and upset when told how many were applying for and receiving refugee status in Canada. They said the Punjab was generating very few refugees these days, and that the situation was calm and normal, and had been so for some time. (DIRB-IND26409.E, 21 February 1997, p. 7-11)

The Sikh leadership interviewed by Brack perceived the 1995 kidnaping of Mr. Kharla of the Human Rights Wing of the Shoromani Akali Dal [Mr. Badal's party, now Punjab Chief Minister] as an isolated event. They believe that the police have been charged in this incident, and that similar incidents are not taking place. They see the charging of senior police officials connected to the abuses of the early 1990's as a watershed to improving human rights. While human rights violations continued in the Punjab, they were infrequent and on a small scale. The Sikh Leadership thought it would be very difficult for someone to be killed by the authorities today. A person could be arrested but they would be released after questioning and could return to normal lives.... "High profile" militants, or the "highest profile" militants, which number a handful, would have reason to fear return to India, or might be pursued outside India. (DIRB-IND26409.E, 21 February 1997, p. 5-7) Also, Mr. Lawrence Brooks, of the Canadian Intelligence Service, states that there are only a few high profile militant suspects left, with virtually none remaining in the Punjab. (DIRB-IND26376.EX, 17 February 1997, p. 11)

According to Brack, the Canadian High Commission in New Delhi regularly monitors the airport for arrivals of individuals deported from Canada, numbering 8 or 10 in the last few years. Indian authorities have not pursued any of them except Sarabit Singh Bhatti, an official of the Khalistan Commando Force. (DIRB-IND26376.EX, 17 February 1997, p. 12)

Ravi Nair of the South Asia Human Rights Centre in New Delhi, defines a "high profile" individual as someone suspected by the authorities of anti-state activities.

However, family members of such a person, or someone who was forced to provide shelter for militants during the height of the insurgency, would not now be considered a high profile suspect; those without a high profile have much less to fear from police, and have much better access to judicial recourse. Simply holding a pro-Khalistani opinion, according to Nair, would not make an individual a high profile suspect; one would have to engage in anti-state acts. According to Brack, many high profile suspects wanted by the police would be excluded from refugee status because of their past actions. (DIRB-IND26376.EX, 17 February 1997, p. 11)

Dr. Jasdev Singh Rai of the Sikh Human Rights Group in England emphasized the corrupt motives behind the arrests taking place in the Punjab, and states that being involved with a political or militant group at a low level would not normally place an individual at risk. He stated that extortion and corruption is the motivation for many police arrests, and is a way of life for Punjabi police; this is tacitly approved throughout the government as a way of doing business. The guise or excuse of politics [as a motive for arresting a person] may be used to make an arrest as police were given great latitude; to a degree this persists. An individual picked up in the past might still be at risk. Also, police may use pick-up lists to arrest someone for extortion. The number of police detentions is now measurable and small even by the standards of two or three years ago. Most cases could be documented. Dr. Rai also stated that his group and others are providing attorneys to assist in a number of these cases. If individuals can make contact with the outside, they would now have a reasonable chance of having their case heard through the legal system, he believes. Those detained for extortion would not be registered by the police. Those who the police wanted to eliminate would not be registered.

Dr. Rai also states that the Indian Civil Service is corrupt; until two years ago, the price for a senior Punjabi police post was \$100,000. The “free market” mechanism is working to ensure selections to these posts. Lists or “history sheeters” would be used to capture individuals to extort with the effect of furthering police corruption. Additionally, the size of the Punjab police force remains substantial, the largest in India after Kashmir, at about 73,000. “This does not indicate a scaling back.”(Rai, telecon 6 May 1997)

The State Department DRL reports that individuals previously involved in the militancy are returning to India or are emerging from underground. “The Bittu case [the return of the former leader of the AISS- Bittu faction] has encouraged many others formerly involved with the militancy to believe they can return to normal life in Punjab, perhaps after a relatively brief period of incarceration.” (20 May 1997 State

Department DRL Profile, addendum)

University of Maine anthropologist Cynthia Mahmood states that low level members of the SSF (or AISSF) or “non-key” people are unlikely to be at risk, personal situations between individual police and that individual, and the purely criminal interests of the police notwithstanding. There are thousands and thousands of low level SSF members; it’s the key people that are the real issue [that is, if they go back would something happen to them?] To find out if one is indeed such an important figure, Mahmood states, one would have to conduct research in the Sikh community, otherwise there will be no sure way of knowing. One would have to interview the applicant in a way that allowed one to find out how much that person knew about that organization. (Mahmood Transcript, 28 June 1995 p. 39-40)

Being prominent in the AISSF Manjit and Akali Dal Mann may be risky, but harassment of the rank and file is not recently known. Mahmood believes many uninvolved Sikhs claimed to be AISSF Manjit or Akali Dal Mann, and that Sikhs who were in fact militants also claimed such status. A high ranking individual in either of these organizations today should be able to demonstrate this status through documentation as both are now legal in India. Mahmood also states that “...the category currently at risk of persecution has basically been narrowed to militants and close affiliates of militants. Where at one time virtually every Amritdhari Sikh could have been considered to be at risk of persecution, this is apparently not the case today - with some key exceptions mentioned later....It is well known that there is a list of militants maintained by the police, and that this list is circulated throughout India. A militant or affiliate of militants would in my opinion have a well founded fear of persecution whether returning to Punjab or to any other state in India.” The exceptions mentioned later were the March 1997 abduction and execution of Kashmir Singh, Publicity Secretary of the Akali Dal (Mann) and scholar and human rights activist Ram Narayan Kumar, an Austrian, arrested in Delhi. (Mahmood fax to INS- RIC of 5 May 1997, # 1,10,12) Mahmood also mentioned that Mann activists are on the periphery, only marginally of interest [to the authorities]. These activists are not being picked up, to her knowledge. Similarly AISSF members are no longer of great interest. They are not violent now. Also, human rights groups have storefront offices in the Punjab and are able to function better now. (Mahmood telecon 1 May 1997)

Mahmood also stated that the primary militant groups still operating are the Babbar Khalsa and the KCF Panjwar and their members are nearly entirely living outside of India. Their membership has dropped off yet “scores” remain active. If one can ascertain that such a person was on a list from the early 90's, that person may have

reason to fear. (Mahmood fax to INS-RIC of 5 May 1997, p. 1, #2,# 13) The State Department sees the lists as currently maintained by the police being intended to identify militants almost always with links to terrorist activities, and not for those who may have been picked up in the past. The more judicious use of these lists started in 1991 - 1992. (Telecon, State Department INR, 8 May 1997)

Paul Wallace of the University of Missouri believes that some incidents are still occurring in the Punjab which result in increased police pressure. "My educated guess is that some risk remains [for militants]." Wallace cites the Times of India describing how the new Director General of Police, P.C. Dogra, had, in the wake of a March, 1997 bomb blast, ordered security beefed up in view of renewed attempts by the militants to terrorize people. Police were removing militant recruitment posters offering Rs. 1,000 a day. (Wallace, fax to INS RIC, 3 May 1997)

The All India Radio Network reported, however, that Dogra had ruled out terrorism in this instance, attributing it to mercenaries. Dogra said "a red alert has been sounded all over the state and an intensive operation launched to nab the culprits." Chief Minister Badal is reported stating, "law and order will be maintained at all costs." (All India Radio, 14 March 1997)

Wallace thinks that responses to situations like these indicate that the police may apply heavy pressure which can physically endanger suspects. The new Akali Dal Government, Wallace believes, "may or may not be able or want to ameliorate police methods. Law and order is a high level concern of the Akalis, and even more so of its coalition partner, the BJP.... Diaspora Sikhs who have been associated with the militants in the past or with one of the Sikh Student Federation Groups would be viewed with suspicion by the police upon return. They very likely would be picked up and severely questioned by the police following an incident such as the bombing of March 14. How severe is an open question as I don't have any recent information." The Akali Dal (Mann) and Manjit Singh Sikh Student Federation have both participated in elections as legal political parties. They have little support, and their supporters would be evaluated by the local Superintendents of Police; i.e., membership could indicate sympathy towards or participation with a militant group. That certainly has waned since 1992 and local politicians can provide a further buffer [against unlawful arrest]. (Wallace, fax to INS RIC, 3 May 1997)

During a May, 1997 panel of Indian human rights workers active in the Punjab held at the Canadian DIRB, Jaspal Singh Dhillon, a representative of the Human Rights and

Democracy Forum said that “in 1996 there were seven or eight cases of disappearances in Punjab, with one victim being Muslim and the rest Sikh.” A panelist, Mr. Ranjan Lakhanpal, advocate (or attorney) in the Punjab and Haryana High Court, who handles cases for the Akali Dal (Mann) also stated that “people laying charges against police are commonly threatened and often their families are, too.... The majority of [his] clients have been pressured by police to withdraw charges....People are still very fearful of Punjab police.” Dhillon described that “with the relative calming of the political situation in the Punjab, increasingly Sikhs are bringing their cases to human rights lawyers to be taken up in court, rather than to human rights groups for investigation.” Lakhanpal stated that “there are not nearly enough lawyers taking human rights cases in Punjab, to provide adequate legal services given the number of abuses committed in the last several years.” (DIRB-IND27112.EX, 4 June 1997, p.2-3, 6)

Ravi Nair states that the Indian government has become increasingly confident about a reduced Sikh militant threat, and has allowed larger numbers of Sikh pilgrims to attend the Pakistan events. (DIRB-IND26376.EX, 17 February 1997, p. 4)

The Sikh Militancy

India Today reports that “while most of the major [militant groups] have been wiped out, the ones remaining are in total disarray.” The magazine reports that “a groundswell against the militancy in the countryside and unrelenting police pressure have nullified attempts from abroad to revive it in recent months.” K.P.S. Gil, former Punjab police chief states that “neutralizing the threat of potential militants based abroad is still an unaccomplished task.” Last year [1996] 86 militants were arrested and three killed in encounters including those from the Khalistan Commando Force, Babar Khalsa and the International Sikh Youth Federation. The magazine reports that 300 militants, including 26 hard core ones, are still at large in Punjab. The biggest threat is from Pakistan-instigated violence. (India Today, 28 February 1997, p. 56-61)

A panel gathered by the Canadian Immigration Board in January 1997 (individual sources including Nair, Mann, Brooks and Brack cited throughout) generally agree that the Sikh militancy in Punjab has been virtually eliminated, and that all or almost all remaining militant leaders appear to have left the state and country. Brooks described how wanted militants, as described in recent media reports and named in recent Interpol alerts, are all veterans. He also described how the few remaining Sikh militants are working near Lahore [Pakistan]. (DIRB-IND26376.EX, 17 February 1997, p. 3; see for list of militant groups)

Mahmood states that currently existing groups which embrace Sikh violence are: the Khalistan Commando Force Zaffarwal, Khalistan Commando Force Panjwar, Khalistan Liberation Force, Babbar Khalsa, Bhindranwale Tiger Force of Khalistan Sangha, and Sikh Students Federation - Bittu. Members of the Dam Mami Taksal may also be participants in violent activities but the institution is not committed to armed conflict. The Babbar Khalsa International is a wider group than the Babbar Khalsa militants per se, and encompasses many who have no personal involvement in violence. The International Sikh Youth Federation (ISYF) is organizationally the overseas arm of the Sikh Student Federation; in the US the related group is named the Sikh Youth of America (SYA). Both ISYF Canada and SYA are openly Khalistani organizations, with some members involved in militant activities. They were involved in such activities, however, not as members of those groups, but as members of some other group such as the LKF, KCF, Babbar Khsala, etc. - - one could be a member of more than one group. Many ISYF Canada and SYA remain uninvolved in violence; these are radical but not necessarily “terrorist” organizations. A claimant [from one of these groups] can be assumed to be a Khalistani, but not assumed to be violent.

(Mahmood, 27 September 1996 response to State Department report)

Militant violence has not been reported since the August 1995 Beant Singh assassination, itself an isolated incident attributed to the Babbar Khalsa, one of the few militant groups still operating, according to Brooks, and circumstances strongly suggest that recent bombings in Delhi were the work of Kashmiri terrorists and not Sikhs, as the media suggests. The virtually uncontrolled violence of the past decade has been reduced to sporadic incidents carried out at the direction of a rapidly diminishing leadership in Lahore, Pakistan. However, there are indications the movement remains viable. Recent arrests of well known militants associated with the secessionist forces, while demoralizing to the militants, were of little tactical value as those arrested had been underground. (DIRB-IND26376.EX, 17 February 1997, p. 3, and DIRB-IND26476.E, 5 March 1997)

Nair, Brack and Mahmood agree that much activity ascribed to militants in the late 1980's and '90's was the work of common criminals, unrelated to the militancy. Many of the so-called militant groups were armed bandits, and the Indian Government exaggerated the militant threat to justify its own policies. Mahmood also suggests that the pendulum seems to have swung the other way; since the government would like to claim the militancy has been eradicated, "terrorist" acts are conceived as "crimes." (DIRB-IND26376.EX, 17 February 1997, p. 5; Mahmood fax to INS RIC 5 May 1997, # 2)

Brooks states that while the AISSF and the SSF (Sikh Student Federation) maintain public offices in Amritsar, the absence of a violent political agenda and the virtually non-existent ties to "terrorist" elements limit any security interest in their current activity. The last time the Sikh Student Federation was associated with violence was in the early 1990's; while factionalized, the group confined its activities to the political mainstream. Brooks also states that according to press accounts, two men in the Punjab preparing to receive arms shipments allegedly were in the possession of several kilograms of heroin when arrested, leading the "ethnic media" to criticism and speculating on the extent to which certain Sikh militant groups and leaders may be using drug money for personal profit and to finance their operations. (DIRB-IND26476.E, 5 March 1997) Nair said there is a nexus between the illegal arms and drug trades, and police sometimes plant illegal drugs on suspects, taking advantage of stringent conditions offered under a narcotics act. (DIRB-IND26376.EX, 17 February 1997, p. 5)

Gurinder Singh Mann, Professor of Religion at Columbia University, states that Bhai Manjit Singh of the Sikh Student Federation joined the Badal group in January 1997 [Badal elected as Punjab Chief Minister, February 1997] expanding Badal's hold over Sikh politics. The only serious ideological challenge comes from Simranjit Singh Mann who has consistently argued for Sikh sovereignty. (DIRB-IND26409.E, 21 February 1997)

Wallace reported that improved security reduced terrorism, starting in 1992-93, and by 1995 terrorist numbers had dropped. [Indian] State intelligence reported just 211 terrorists in operation. But small bands remained...Restarting the political process also contributed significantly to the reduction in terrorist activities. (Wallace, Encyclopedia of World Terrorism, 1997, p. 481)

Brooks states that future militant operations will be highly focussed, targeting high-ranking officials, and not likely to affect ordinary individuals. (DIRB-IND26376.EX, 17 February 1997)

The Punjab Police and the Judiciary

Mann states that the Punjab police are thoroughly demoralized with the inquiries of the High Court and the Supreme Court, as senior officers are being indicted for illegal doing.

(DIRB-IND26409.E 21 February 1997) This was highlighted with the suicide in May, 1997 of a top Punjab police officer, reportedly because of 43 criminal cases brought against him for killing Sikh guerrillas. An AFP article describes how twenty-three policemen jailed for alleged human rights abuses went on a hunger strike saying they were being hounded for their fight against the Sikh militancy. The "suicide sparked protests among India's police services with top officials demanding an impartial investigation into charges of rights violations against 140 Punjabi police personnel. The Indian Home Minister...said that police officials who campaigned against armed separatism in India will not be victimized. There is always legal recourse [for victims] there should be no fear."(AFP, 29 May 1997)

The June 9, 1997 India Today reported on the "mounting frustration of more than 2,000 police personnel in the state who are being hauled up for the extra-judicial

methods they employed in fighting terrorism. In 1995, 585 petitions were filed in different courts. The number has now doubled. The Punjab Police is also facing 85 CBI [Central Bureau of Investigation] and 91 Judicial probes. Thirty policemen are in jail, around 100 are out on bail and 140, including seven SPS [Superintendent of Police], are facing prosecution. And with the CBI, on the Supreme Court's order, investigating cases involving partially identified or unidentified bodies, mass cremations and disappearances from police custody, the future looks bleak. 'No less than one-sixth of the 70,000-strong force may find itself in the dock,' admits a senior police officer.... A police official says, 'Those who fought terrorism are now being looked down upon by their own seniors as criminals' 'With the change in perceptions, yesterday's successes against terrorism are today dubbed as excesses' laments a senior police officer." The article also describes how, given the current political climate, "The civil liberties lobby is as active as never before. 'We are pushing the victims of police excesses to the court for compensation and justice,' says Inderjit Singh Jaijee....In the past two years alone, the state Government has had to shell out as much as Rs 80 lakh as compensation in 18 cases." Excesses continue and individuals are less hesitant to report them: "...in the past three months itself, there have been 723 complaints of high-handedness against the police, 15 per cent of them related to corruption." (India Today, 9 June 1997, p. 30-31)

A June 16, 1997 India Today article discusses how the "judiciary appears to be in an assertive mood....Encouraged by the response from the apex court and the Punjab and Haryana High Court the number of writ petitions against the police are on the increase.... The number has increased sharply since the Supreme Court..." in 1995 ordered compensation for J.S. Khalaria's wife, the widow of the disappeared civil-rights activist. (She complains, however, that the investigation ordered by the court is going slowly.) "In what is now being described as 'Punjab Part Two', where civil-rights activists clearly have the upper hand, the police are reaching a breaking point" the magazine states, quoting a police superintendent facing trial. This has created a difficult political atmosphere for the new government, which is described in the durable change section of this query response. (India Today, 16 June 1997, p. 23)

The same India Today article reports on how current investigations of the police are being conducted under authority granted by the previous government, but Badal's government will soon have to grant it. "When that happens, the BJP (Badal's coalition partner) won't be the chief minister's only worry. A large section of the police force is sullen, frustrated and incensed at the total unconcern being shown by the state." To date the government has "distanced" itself, politically, from the problem. The article says, quoting a senior police official, "The government is ignoring the level

of demoralization that has set in.” The magazine also reports that “...Both the police and the human-rights lobby are preparing for a no-holds barred battle.” The article describes how some officers see the possibility of being “prejudged” by a judiciary which allegedly nurtures anti-police bias. There is also reported to be resentment over the Supreme Court’s use of the word “genocide” when describing the cremation of unidentified bodies, uncovered by human rights worker J.S. Khalra. (India Today, 16 June 1997, p.20)

During the May 1997 DIRB panel, the panelists reported that, as above, since 1995 there have been a number of cases brought against Punjabi police officers for alleged human rights violations and that Sikhs have come forward in increasing numbers to press claims against authorities. Lakhanpal, the advocate, stated that by May 1997 he had filed some 1,200 writs of habeas corpus against Punjab police; Justice (retired) Ajit Aingh Bains, now Chairman of the Punjab Human Rights Organization in Chandigarh, said that about 30 Punjab police officers are now in jail for human rights violations. Their cases are ongoing and none have been convicted to date. Inderjeet Singh Jaijee, Convener of the Chandigarh Movement Against State Repression, said that despite faith in the judicial process by some people, he is skeptical about the outcome of most cases since the government is providing very senior lawyers to defend them and is still posting many officers to areas in which they are alleged to have committed abuses. Jaijee believes that the present sense of peace in the Punjab, which has descended with the defeat of the militants, has not been solidified with a sense of justice. “Not a single person has been taken to task.” Bains, however, suggested that police officers currently on trial for serious offences would eventually be convicted. (DIRB-IND27112.EX, 4 June 1997, p. 4,5,7)

As early as June, 1994, India Today described police and judicial reforms. The magazine reports on how “a crusade led by the chief justice is reining in the police, bringing quick relief to victims and making the judiciary more sensitive and assertive about human rights issues.” The article quotes the President of the Indian Supreme Court Bar Association stating that judges have become “more activist and accessible” and that the Chief Justice has “sent a clear signal to the executives and the police that the Supreme Court will no longer be a silent spectator to these abuses.” The article describes changes in procedure, such as “the police will now have to let an arrested person contact a friend or relative.” This action was taken as a result of the large number of arbitrary arrests, and increased custodial abuses. (India Today, 15 June 1994, p. 22-25)

The Human Rights Watch 1997 World Report does not report human rights abuses in

the Punjab; rather, the report discusses the August sentencing of 85 men to jail for their role in the 1984 anti-Sikh riots, and the Government's naming of nine police officials thought responsible for the 1995 abduction of human rights lawyer Jaswant Singh Khaira in Punjab, to face trial. The report also discusses how the government has found prima facie evidence that the Punjab police had secretly disposed of "disappeared" bodies between 1990 and 1995. (Human Rights Watch, 1997 World Report, p. 159-163) A March 1996 Amnesty International report, among others, also describes "the wide scope for the abuse of power within the confines of police stations in India." (Amnesty International and India, March 1996, p.15). The only possible reference to 1995 abuses by the Punjab police in the Punjab in the 1996 Amnesty International Report (covering 1995) was that "dozens of political detainees disappeared during the year. Most were young men suspected of having links with armed opposition groups, many solely because they lived in areas where armed groups were active. Few 'disappearances' were clarified." The Punjab was not specifically mentioned except for the case of Jaswant Singh Kharla; the report continues that army and paramilitary forces in Kashmir are reportedly responsible for scores of disappearances. (Amnesty International Report 1996, p. 174)

Nair states that while it was understood in the late 1980's and early '90's that police violations were permissible, now there is an understanding, especially within the Home Ministry and the Supreme Court, that the Punjab police have to be brought back under control. Consequently, according to Nair, there has been a sudden revival of many writs against Punjab police officers... and investigations of human rights violations. Brack stated that these recent actions have sent a strong signal that the climate of impunity for the Punjab police is coming to an end, and that this new atmosphere will strongly inhibit the average Punjab police officer from taking extrajudicial actions, even if under instructions from senior officers. While violations may occasionally take place, the likelihood of future disappearances at the hands of the police is very low. (DIRB-IND26376.EX, 17 February 1997 p. 6-7)

The State Department DRL reports that as of late February 1997, volunteer lawyers from the Human Rights Democracy Forum in India had brought cases against 188 policemen. "Scrutiny by the courts, human rights NGOs and the National Human Rights Commission and the demonstrable likelihood of being prosecuted for abuses are serving as effective deterrents against abuses by the Punjab Police." Additionally, "individual Sikhs may be mistreated from time to time but no more than are other Indians. Custodial abuse and other police abuses remain a significant problem...while throughout India lower-level police officers -- ill-educated, ill-trained and ill paid -- are from time to time guilty of abuses, these abuses are not condoned by the government and those guilty are likely to be prosecuted and punished if the abuses become known." (State Department DRL Profile addendum, 20 May 1997)

The 1996 State Department Country Report on Human Rights for India reports the following in relation to the Punjab:

In Punjab the pattern of disappearances prevalent in the early 1990's appears to be at an end. Hundreds of police and security officials have not been held accountable for serious human rights abuses committed during the counterinsurgency of 1984-94. However, steps have been taken against a few such violators. In January the Supreme Court ordered the Central Bureau of Investigation (CBI) to prosecute 27 Punjab policemen in connection with the alleged encounter killing of 4 suspected militants in Gurdaspur in January 1994. The Court stated that, on the basis of a CBI report, there appeared to be prima facie cases against some police in the abduction and illegal confinement and against all 27 for conspiracy to murder.

The Supreme Court, acting on a report of the CBI ordered by the Court, in July directed the Punjab state government to permit prosecution of a superintendent of police and eight other policemen for the September 5, 1995 abduction of human rights activist Jaswant Singh Khalra. The Court also ordered that compensation be paid to Khalra's wife.

Khalra had been investigating reports that police in the Tarn Taran district had secretly disposed of bodies of suspected militants believed to have been abducted and extrajudicially executed. In connection with its report on Khalra's abduction, the CBI reported that 984 unidentified bodies were cremated by Punjab police in the Tarn Taran district. Supreme Court justices, reportedly expressing horror and shock at this report, ordered that the CBI continue its investigation and that the state government turn over relevant information. Although the CBI report has not been made public, a magazine reported that CBI confirmed that 1,683 unclaimed bodies were cremated by police in the Tarn Taran district alone between 1984 and 1995. Of these, 698 were identified but not claimed by relatives. Of the 985 unidentified bodies: 407 were reportedly killed by border security forces while trying to cross into India from Pakistan, many of whom were probably militants; 291 were subsequently identified; 84 died by drowning, in road accidents or by suicide; and 70 reportedly died in clashes between militant factions. Implicitly 133 were unidentified militants killed in the interior of the district. Police reportedly filed "first information reports" (FIR)

accounting for each of the bodies. These numbers testify to the extent of the bloodshed during those years and, given the pattern of police abuses prevalent during the period, credibly include many killed in extrajudicial executions. (Country Report for 1996, p. 1438-9).

The State Department's 1995 Country Report on Human Rights Practices, reporting on 1995 events, noted that there was "visible progress in correcting patterns of abuse by the police. The assassination of Punjab Chief Minister...resulted in neither a widespread crackdown nor a breakdown of order. The National Human Rights Commission continues to play a useful role in addressing patterns of abuse, as well as specific abuses, and is consolidating an attitudinal shift towards acknowledgment of human rights problems as it seeks to create a 'human rights culture' through educational programs.... Killings of Sikh militants by police and in armed encounters appear to be virtually at an end. During the first 8 months of [1995], only two persons were killed in police encounters....Attention was focused on past abuses in Punjab by press reports that hundreds of bodies, many allegedly those of persons who died in unacknowledged police custody, were cremated as "unclaimed" during 1991-1993 or discovered at the bottom of recently drained canals. Numerous alleged criminals continue to be killed in encounters with police. Police personnel were wounded in a number of these encounters, however, and such incidents do not appear to reflect a pattern of extrajudicial execution.... In Punjab, the pattern of disappearances prevalent a few years ago appears to be much diminished. Although there is no reason to believe that missing or faulty arrest records are less a problem in Punjab than in the rest of India, there were only a few reports of disappearances or unacknowledged arrests associated with suspected militant activity.... There are credible reports that police throughout India often do not file required arrest reports. As a result, there are hundreds of unsolved disappearances in which relatives claim an individual was taken into police custody and never heard from again. Police usually deny these claims, countering that there are no records of arrest. (Country Report for 1995, p. 1310- 1312) The Country Report for 1994 describes how "in Punjab, instances of terrorist violence virtually disappeared, and the number of Sikh militants killed diminished considerably from 1993. The National Human Rights Commission ... [I]n April...concurred with a widespread public perception that the Punjabi militancy was at an end and that police excesses could no longer be explained as a response to an emergency." (Country Report for 1994, p. 1220)

Nair and Mann state that the climate of impunity for the police is deeply ingrained and will take a long time to change; Nair said that the current signals being sent to the Punjab police regarding impunity are not always straightforward. Mann, Brack and Nair agreed that police still have the power to bring people to the police station and abuse them; torture is endemic to the police throughout India. But Nair states that

there are examples of a general trend in India towards addressing systemic problems with the police. (DIRB-IND26376.EX, 17 February 1997, p. 8) During the May DIRB panel, panelists were in general agreement that the human rights situation has improved in Punjab since the very violent years between 1984 and 1995. However they also stressed that there remained a general fear of Punjab police, many of whom remain on duty in districts where they have been accused of human rights violations. (DIRB-INS27112.EX, 4 June 1997 p.2)

Lists of habitual offenders -- history sheeters -- are kept throughout India according to Nair and Brack. Every police station will have a list of local suspects so that when there is a major security disruption...typically the police will pull in everyone on the list. Nair states that being on the habitual offenders' list does not mean one will be hotly pursued, but the list does imply a threat. History sheeters can become known to authorities after they relocate to other parts of India, and while the Indian security network remains loose, it can become effective when the police want it to be. Nair also states that in Punjab there is now judicial access to anyone wishing to push a case forward, and many are doing this as judicial access has improved, despite the Punjab police's ability to manipulate the judicial system by, for example, continuing to charge people under the now defunct TADA. According to Nair, TADA cases were over 67,000, and are now less than 5,000 [total cases], an unknown number being Sikhs. (DIRB-IND26376.EX 17 February 1997, p. 9-10)

The Canadian DIRB reports that the president of the Canadian head office of the World Sikh Organization in Ottawa stated in a 5 November 1996 letter sent to the DIRB that "...warrants for arrest, under any variety of special security laws like the Terrorist and Disruptive Activities (TADA) Act, are rarely issued," that "prosecution of those individuals arrested under the TADA laws during its decade of enforcement, will continue under the Act, regardless of its lapse in May 1995," and that "the guidelines for the prosecution of suspects in India are sufficiently loose to justify the use of TADA for those suspected of the commission of any crime during the decade of TADA's application." The author of the facsimile supported his statements with documentation [to the DIRB] which includes news articles and reports from human rights organizations on the application of TADA's provisions since May 1995 and on human rights violations committed by the police since May 1995. (DIRB-IND25625.E, 9 December 1996)

Calling into question police motives for their arrests and abuses, and similar to questions raised by the 1994 State Department Country Report noted above, Human

Rights Watch commented in their 1994 World Report (on the events of 1993) that “the brutal police crackdown in Punjab appeared to have brought an end to the ten-year old conflict there but at the cost of massive police abuses....The campaign succeeded in eliminating most of the major militant groups, and by early 1993, the government claimed normalcy had returned to the state. Police abuses continued, however, and there was no effort to account for hundreds of disappearances and summary killings.” (Human Rights Watch World Report 1994, p. 162)

For a historical perspective, see the Canadian DIRB paper, “India: Punjab Human Rights Update” (January 1994). This document also describes questions about police motives for their actions during 1993 despite the reduced militant threat. “While some sources claimed the show of force by police had restored the ‘balance of terror’ (India Today 15 Apr. 1993a, 39), others later reported that the most pressing problem in the Punjab is continuing police use of terror despite the reduced militant threat.” (The New York Times 26 Oct. 1993; The San Francisco Chronicle 12 July 1993) (DIRB India: Punjab Human Rights Update, January 1994, section: 2.1: February 1992 Elections and the Aftermath)

Internal Relocation

Mahmood believes that an individual who has been threatened by a militant might be able to relocate in India; the extraction of aid itself might have been opportunism; it was never likely that a militant would track someone across state borders. (Mahmood fax to INS RIC, 5 May 1997, #3)

The State Department reports that the current watch lists are used for tracking terrorists; those picked up for prior, less serious offenses, unless they were today also wanted for terrorism, are not likely to be on a list. (Telecon, State Department INR, 8 May 1997)

Brack states that Sikhs with fears in Punjab who could not afford to come to Canada have been able to settle with reasonable safety in other parts of India. (DIRB-IND26376.EX, 17 February 1997, p. 14) Brack also believes that the Indian authorities have not pursued people out of the Punjab for many years, and even then it was only after the highest profile fugitives, and happened extremely rarely. Individuals on the run could, in almost all cases, live quite comfortably elsewhere. (DIRB-IND26409.E, 21 February 1997)

Mann states that fear remains among Sikhs that outside Punjab, violent anti-Sikh feelings can rise up any day, and because Sikhs are so visible, they can be an easy target. (DIRB-IND26376.EX, 17 February 1997, p. 14)

Nair states that recently there has been a movement of some Sikhs out of Punjab and back to different parts of India with some confidence. However, a Sikh who is wanted and on a Police list, or fears the state in some way, would not now be able to relocate undetected; Punjab police in the past commonly traveled outside Punjab and extrajudicially executed militants. Still, ordinary Sikhs with no specific fear of the state could safely settle in large urban areas....and have freedom of movement within India except in the five troubled north-eastern states where permits are required for travel. (DIRB-IND26376.EX, 17 February 1997, p. 14)

Durable Change

The 20 May 1997 Addendum to the DRL Profile on India states that the State Assembly elections in Punjab in early February are seen as a return to normalcy. The elections were largely free and fair with heavy turnout at 65% and resulted in a decisive victory for the moderate Sikh Akali Dal (Badal) party, in alliance with the Hindu-Nationalist BJP. The Sikh extremist Simranjit Singh Mann party (leader of the Akali Dal [Amritsar]) was defeated. The results marked a clear repudiation of Sikh extremism and violence, and the Akali - BJP alliance suggests a healing of the rift between the Sikh and Hindu communities. (State Department DRL Profile Addendum, 20 May 1997)

Brooks states that “by most accounts there have been significant changes in the Punjab over the past several years. While the degree of change and the exact nature of the forces which brought it about may be subject to debate, I am in agreement with those who hold that the Punjab has turned the corner in domestic violence.” “Despite the Beant Singh incident and a number of other, unrelated developments...the overall media coverage supports the position that the violent phase of the Sikh successionist movement has lost whatever momentum it once had.” (DIRB-IND26476.E, 5 March 1997, p. 7)

Brack notes that the Sikh leaders say that the Shiromani Akali Dal’s ability to now work with the BJP on such a traditionally divisive front as an election campaign says much about the state of current Hindu-Sikh relations in the Punjab, and the overall future of the Punjab. However, Mann states that the Punjab situation remains politically volatile, “and Badal’s course fraught with uncertainties...none of the issues which resulted in the crisis have been resolved; with the victory of the Akali-BJP alliance, we are at square one; this coalition did not succeed before... At the moment Badal is in control...I see only a shaky peace on the horizon.” (DIRB-IND26409.E, 21 February 1997) Additionally, Singh, Mann and Nair state that the root problems in the state have not been addressed; there remains a strong desire within Sikh society, according to Mann, for political supremacy, and communal tensions in India remain high. Mann and Nair think the present situation may not evolve peacefully. (DIRB-IND26376.EX, 17 February 1997, p. 15)

Dhillon, from the Human Rights and Democracy Forum, stated that his group separated from the Akali Dal in October, 1996 because it felt the party’s leadership “was not serious about human rights issues.” All four participants in the DIRB May 1997 panel expressed disappointment that the new Akali Dal-led government in Punjab, elected in February, 1997 has not been able to bring about greater

improvement in human rights observances. One panelist cited control from the Centre [Federal Government] as a reason why the new Badal government has avoided taking significant steps, despite its having been elected to “fight state repression.” (DIRB-IND27112.EX, 4 June 1997, p. 3-4)

Dr. Rai concludes that due to past history, Badal, Chief Minister of Punjab of the recently elected Akali Dal, would not disapprove the use of extrajudicial executions as a method of containing future Sikh militancy; he approved as much during his tenure as Chief Minister under Governor S.S. Ray, who famed himself initially by crushing the Naxalite movement in West Bengal (which originated in Naxalbari, West Bengal, in 1965) and was later brought to Chandigarh during the height of Sikh militancy. Also, the new Chief Minister Badal is wary of Khalistan groups and Dr. Rai feels he may be seen by Khalistanis as negotiating away concessions in the future as his primary commercial interests and other ties lie outside the Punjab. (Rai telecon, 6 May 1997)

Mahmood is confident that human rights in Punjab have improved in recent years. Policies are in place to curb abuses and prosecution of human rights abuses are proceeding through the judicial system. However, she states, there are two problems with overstating the level of normalcy in Punjab today. “The first is that despite attention paid to human rights at the Centre, police and security forces remain out of control at the grassroots level. The situation is chaotic, and in that chaos abuses continue to occur...” Mahmood cites continuing TADA bookings and bounties being paid for police officers killing terrorists. “There is no doubt that these bounties, and TADA prosecutions, have decreased substantially; the point is however that at the local level the control from above is seriously imperfect and risks remain. The change in the human rights picture is not, in my opinion, fundamental. It is like altering the icing on a cake.” Her second point is that the relative quiet may not be durable and she believes that the grievances that prompted the Khalistan movement are still there. “Changes in police behavior, and reduction in militancy are not durable.” Mahmood states that overt support for Khalistan has slipped dramatically; people are anxious to get back to business. “Most of the sovereignty rhetoric comes from outside Punjab. As I stated in my recent book, I think the movement is likely to flare up again. There is a lot of tension in Punjab despite the apparent calm.” (Mahmood, fax to INS RIC of 5 May 1997, p. 1, #5)

India Today reports that for the new government, law and order are a high priority. “Both partners are determined that terrorism must stay interred. [The new government] will be put to the test on sensitive issues like judicial scrutiny of human

rights violations by the police.... At stake is not only the morale of the police -- which is facing more than 1,000 court cases, but also the Akali Dal's relation with its coalition partner -- the BJP condones the police conduct during the anti-militancy drive. 'Not defending the police officers facing court cases will mean emboldening militants' says an MLA from Amritsar.... While the Akali Dal has promised to set up a human rights commission, the agreement set up by the two parties is silent on this issue." (India Today, 28 February 1997, p. 57-58) (With more recent information, the Sikh Human Rights Group in London says the new Chief Minister has agreed to set up a regional human rights commission. [Ahluwalia telecon, 1 May 1997])

The June 16th India Today article reports on how "the differences between the coalition partners [in the current Badal government] have a potential of widening" when Badal must authorize the central government to investigate the police force in the Punjab. "The intensity of the charges and counter-charges is certain to vitiate the atmosphere in the Punjab. A close aide of Badal feels that although 'terrorism may not revive yet, communalism definitely will, since the fight is leading to a dangerous divide along community lines.'" "These developments seem ominous. 'At one point,' says Gil, [the former head of Punjab police] 'I imagined that terrorism in Punjab was over. Now I believe that there is no way we can stop terrorism from returning to Punjab.'" The article describes this comment as "polemical exaggeration" yet continues to hope he is, in fact, wrong. (India Today, 16 June 1997, p. 23)

The 1996 State Department Country Report for India states:

In Punjab serious abuses of the early 1990's were acknowledged and condemned by the Supreme Court. Visits by international human rights groups, as well as continuing International Committee of the Red Cross (ICRC) prison visits in Kashmir, demonstrated increased transparency on human rights problems. The National Human Rights Commission (NHRC) continued to enlarge its useful role in addressing patterns of abuse, as well as specific abuses. The NHRC helped foster human rights education among the police and security forces, and advanced its program of human rights education in the schools. (Country Report for 1996, p. 1436)

Fraudulent Asylum Applicants and Migration from the Punjab

The Canadian High Commission in New Delhi and the INS and State Department in New Delhi find high levels of fraud in relation to interviews of dependents of Sikh asylees. Canadian Immigration describes how, when interviewing the immediate relatives of those granted asylum in Canada, "...staff discontinued even asking about the circumstances under which their relative was granted asylum as almost everyone interviewed said the same thing; namely that their family member had never suffered persecution, and had left for Canada to find work....Virtually no one interviewed made a credible case that their husband or father has been persecuted, and indeed almost none even tried to make such a case...." This despite the risk that fabricating a story can lead to the possibility of having their spouse removed from Canada. "In fact, almost all [of the 50 dependents of asylees interviewed over the past few weeks -- December 1996] were surprised, if not flabbergasted, by the suggestion that their husband might have had political problems, and many became quite indignant and insisted that the only reason their spouse went to Canada was economic betterment. This despite the fact that the majority [of asylees] would have left India in the early 1990's, during the worst period of violence in the Punjab. (DIRB-IND26409.E, 21 February 1997, p.9-11)

The U.S. experience is similar, with American Embassy New Delhi cables as early as April 1992 stating that "our consular experience in dealing with Sikh visa cases leads us to conclude that almost all asylum seekers are in fact economic refugees. Our colleagues in other western missions here share this conclusion.... Approximately 90 percent of our fraudulent visa cases involve Sikhs. Other western missions report" the same. (American Embassy cable, 6 April 1992) In April, 1994 the INS Officer in Charge in New Delhi reported that "INS ... has undertaken to investigate [asylum approvals]. To date, all cases investigated have been completely/ entirely without any substance of persecution... [lacking] the faintest glimmer of a persecutory situation...all documents have been fraudulently obtained...INS New Delhi has investigated dozens of similar [asylum] cases and all of them were completely fraudulent." The cable was sent "in an attempt to disturb the aura which seemingly surrounds the asylum seekers from India as evidenced by the number of approvals...in the hope to dissuade the magnetic effect that asylum entry offers to the opportunistic farmer.... (American Embassy/INS cable 15 April 1994)

A May 1994 cable was sent in "effort to thwart the rampant abuse of the asylum category through grants of asylum to citizens of India where bribes and fraudulent documents are endemic to the normal way of doing business." The cable continues to describe interviews with dependents of granted asylees (the claims being Akali Dal Mann, rallies, arrests, beatings, bribes, release, terrorists visited home, police re-arrest, etc.). Similar to the Canadian experience, the consular officers "consistently failed to find any relationship between the claim and what was related in the meetings, down to

the name given on the applications.... The same story is repeated time and time again, the disturbing thing is that it works. One approved asylum applicant stated: the only scheme available to stay in the U.S. is the political asylum scheme.” The cable continues with a description of the Belgian Embassy’s efforts to dissuade abusive Sikh claimants with a public relations campaign. Less than one in a thousand Indian claims [in Belgium] are granted. “The number of asylum approvals in the U.S. was a source of shock and consternation to the Belgians.” (American Embassy cable, 18 May 1994)

More recently, the INS-OIC in India has found that, with regards to the Sikh asylum cases it receives, “almost all of the cases investigated have proven to be fraudulent. Those few cases (about 5%) which have not proven fraud remained suspect.” (American Embassy cable, 8 November 1996) The American Embassy also reports that despite the Punjab’s status as the most affluent state in India, the propensity of followers of the Sikh faith to emigrate is pronounced; they make up 50% of Immigrant Visa [IV] cases despite being a relatively small proportion of the consular district’s area (less than 10% of the population in the region are Sikhs.) The Embassy reports that emigration from the Punjab shows no signs of lessening. For those unable to benefit from a genuine visa petition, maleficent applicants remain a common strategy. “As evidenced by our most recent field investigation, on this trip fifty percent of suspected cases involved fraud sufficient to return the petition to the INS for revocation.” (American Embassy Cable, 16 October 1996)

The American Embassy believes that part of the reason for this may be demographics. Sikhs from the central Punjab, the region generating a majority of Sikh migrants, experience greater population density than in other parts of the state resulting in pressure for land; this leads to a greater propensity for Punjabis from this region to emigrate. The U.S. Embassy in New Delhi notes in the October 1996 cable how a random sampling of IV cases confirms that Jalandher area cases constitute two-thirds of all IV cases from the Punjab. The Embassy notes that interviews with Punjabis indicate that pressures to keep family land holdings intact among farmers are a primary cause of emigration. Rural Punjabis prefer to send “surplus” siblings abroad, rather than split family plots. The cable also notes that “tensions between militant Sikhs and the GOI [Government of India] persist and may contribute to the desire of some Punjabis to immigrate. (American Embassy cable 16 October 1996) Also, based on an overall reading of the cables noted under Sources, below, there appears to be an inverse link between the level of unrest in the Punjab and migration from there to North America; as the situation has improved in the Punjab, migration out of India seems to have increased; the same can be said for the number of Indian, and specifically Sikh, applications for asylum. The rise in asylum applicants appears to mirror the rise in IV applications, regardless of the political situation in the Punjab.

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