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**THESIS**

**GOVERNMENT ACTIONS IN THE DEMISE OF THE  
THUGS [1829-1835] AND SIKH TERRORISTS [1980-1993]  
AND LESSONS FOR THE UNITED STATES**

by

John A. Coloe

September 2005

Thesis Advisor:

David C. Tucker

Second Reader:

Surinder Rana

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SIKH TERRORISTS [1980-1993] AND LESSONS FOR THE UNITED STATES**

John A. Coloe  
Deputy Assistant Chief of Operations, Fire Department City of New York  
B.A., Hofstra University, 1978

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**NAVAL POSTGRADUATE SCHOOL  
September 2005**

Author: John Coloe

Approved by: David C. Tucker  
Thesis Advisor

Surinder Rana  
Second Reader

Douglas Porch  
Chairman, National Security Affairs

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## **ABSTRACT**

Faced with the very substantial threat of terrorist attack, the United States must ask the question, What actions were taken by other states in the past to successfully combat terrorism? Knowledge of those steps may lead to a greater understanding of what actions are desirable, necessary, or simply unavoidable in its counterterrorism efforts. Having such understanding is needed to plan policies, strategies, and tactics that are effective and acceptable to citizens as well as to the international community. The history of the successful counterterrorism campaigns against the Thugs [1829-1835] and Sikh terrorists [1980-1993] show a number of commonalities in the actions taken by the governments in power at that time. In both cases, abridgement of civil liberties, as per present day standards in the United States, played a major role in the governments' campaigns. These two cases, as well as other historic cases, lead to the conclusion that following successful terrorist attacks, civil liberties will be curtailed. The United States must expect this curtailment and should take actions to ensure these actions are temporary, warranted, effective, and do not transgress more than necessary on the nation's fundamental moral values.

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## I. INTRODUCTION

Faced with the very substantial threat of terrorist attack, the United States government, as well as the governments of other liberal democracies, has an obligation to protect its citizens and neutralize those who menace them. Not all government actions to accomplish this goal will be unanimously welcomed by citizens. As Michael Ignatieff notes, “Citizens are bound to disagree about how far the government is entitled to go in any given emergency.”<sup>1</sup> Since 9/11, debate has arisen in this country over many of the provisions of the Patriot Act, indefinite detentions and treatment of prisoners at Guantanamo Bay, and the trial of prisoners by military tribunal, among other actions taken by the government. These debates provoke the question, what actions were taken by other states in the past to successfully combat terrorism? The fact that certain steps taken by other states contributed to a successful counterterrorism campaign may or may not justify those actions from a moral perspective; however, knowledge of those steps may lead to a greater understanding of what actions are desirable, necessary, or simply unavoidable. Having such understanding is needed to plan policies, strategies, and tactics that are effective and acceptable to citizens as well as to the international community.

This document reviews the histories of the successful counterterrorism efforts of two governments and attempts to draw lessons for the United States from their actions. In the belief that the lessons of history transcend the times in which the events occurred, the thesis investigates one group from the late twentieth century, the Sikh terrorists in Punjab, and one from the early nineteenth century, the Thugs in British colonial India. It examines the nature of these two groups, as well as the actions by their state adversaries to contribute to their defeat. The thesis emphasizes how measures to defeat terrorism affected civil liberties and human rights. It examines only one factor in the decline of terrorism – government response.<sup>2</sup> The causes of terrorism in these cases will not be examined in detail.

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<sup>1</sup> Michael Ignatieff, *The Lesser Evil* (Princeton: Princeton University Press, 2004), 3.

<sup>2</sup> Martha Crenshaw argues that the decline of terrorism is “related to the interplay of three factors: the government response to terrorism (which is not restricted to preemption or deterrence), the strategic choices of the terrorist organization, and its organizational resources.” Martha Crenshaw, “How Terrorism Declines,” *Terrorism and Political Violence* 3 (Spring 1991), 80.

When human rights and civil liberties are discussed here, they will be considered from an early twenty-first century, United States' perspective, since the purpose of the thesis is to draw lessons applicable to the United States. Obviously, such a perspective did not exist at the times and places of these events. Civil liberties are considered here to be those rights embodied in the first ten amendments to the United States Constitution, otherwise known as the Bill of Rights, and in particular freedom of speech, freedom of the press, freedom of assembly, free exercise of religion, the right to privacy and security of the home and personal property, protection from unreasonable searches and seizures which requires specific warrants based on probable cause, the right to due process of law, the right to a speedy and public trial by an impartial jury, the right to confront hostile witnesses and to call witnesses, the right to legal counsel, and protection from cruel and unusual punishments. There are also other, more basic rights that the United States acknowledges which are not included in the Bill of Rights. Although the United Nations' Universal Declaration of Human Rights<sup>3</sup> lists a number of rights in common with the U.S. Bill of Rights, an artificial distinction will be made here: Human rights will be defined as including the more basic of the rights listed in the UN articles and acknowledged by the United States but not specifically mentioned in the Bill of Rights, namely, the rights to life, liberty, and security, the right to recognition as a person before the law, the right not to be subject to torture, and the right to marry and found a family – a right whose significance will become apparent.<sup>4</sup>

There is no intent to either condone or condemn the actions taken by the governments in these histories. Both governments were faced with the monumental challenge of responding to direct threats to social order and safety from large organized groups of individuals deeply enmeshed within the very states they threatened. The

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<sup>3</sup> Office of the United Nations High Commissioner for Human Rights, *United Nations Universal Declaration of Human Rights* (1997), <http://www.unhcr.ch/udhr/lang/eng.htm>, accessed 19 July 2005.

<sup>4</sup> The United States, as part of the U.N. General Assembly, voted for the adoption of the Declaration on Human Rights on 10 December, 1948. John Keaton, "Human Rights Declaration Adopted by U.N. Assembly," *The New York Times*, 11 December, 1948, 1. Article 5 of the UN declaration states, "No one shall be subjected to torture or to cruel or degrading treatment or punishment." Amendment VIII to the U.S. Constitution states, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." To create an artificial and highly debatable distinction, physical torture will be considered a violation of human rights; other forms of cruel, excessive, or degrading punishment will be considered violations of civil liberties. The rationale being that yet another line is crossed when physical abuse of prisoners or suspects begins.

actions were deemed necessary by those charged with meeting the challenge. A moral critique will not be attempted here. However, since this thesis examines how civil liberties and human rights were affected by these counterterrorism campaigns, accusations and allegations of violations of the rights and liberties recognized in the present-day United States, if deemed credible, will be noted, as will any government actions that would be considered civil liberties or human rights violations if they took place in the United States today.

This thesis draws several lessons from these successful counterterrorism campaigns that may be important to the United States' own counterterrorism efforts. First, a number of tactics common to both efforts were used successfully in combating terrorism. These include targeting leaders of smaller groups when no unified hierarchal command structure exists, and the use of informants. Second, both governments curtailed civil liberties as part of their counterterrorism strategies. In both cases, those involved gave this move major credit for the success of their efforts against the terrorists. In conjunction with this, human rights violations can occur and at times may be considered to be a necessary tactic. Lastly, as a first step in planning for response to terrorist attack and considering the possible effect on civil liberties, the United States must accept that, historically, successful terrorist attacks lead to curtailment of civil liberties. By understanding that civil liberties will be curtailed following a successful attack, the U.S. can take steps to mitigate any possible damage to the ideals and morals of the nation.

This thesis consists of six chapters. Chapter I presents the thesis, describes the context in which civil liberties are considered, and briefly presents the lessons gleaned from these histories that may be applicable to the United States' counterterrorism efforts. Chapter II provides a brief introduction to the two successful counterterrorism campaigns examined and the terrorist groups involved. It describes the reasons for examining these particular events. Chapter III examines the history of the Thug campaign conducted by the colonial British in the early 1800s. Chapter IV examines the history of the counterterrorism efforts of the Indian government and the state of Punjab against Sikh terrorist groups in the 1980s and 1990s. Chapter V describes the common elements in the

successful Sikh and Thug campaigns. Chapter VI describes lessons derived from these two successful counterterrorism campaigns applicable to the United States' counterterrorism efforts.

## II. TWO SUCCESSFUL COUNTERTERRORISM CAMPAIGNS

This thesis examines counterterrorism campaigns that took place approximately one hundred and fifty years apart, the campaign against the Thugs [1829-1835] and the campaign against the Sikhs [1980-1993]. Their selection is based on the belief that many of the tactics and strategies in those campaigns, and particularly those regarding the curtailment of civil liberties, transcend the decades and are relevant to the United States' current counterterrorism efforts. The primary reason for focusing on these particular campaigns, however, is that both successfully defeated the terrorist groups, and the success in each case is credited primarily to state actions. The demise of every now-defunct terrorist group cannot be credited to the state. Crenshaw notes that “terrorism may be abandoned because it has accomplished its purpose,” “because its costs increase and/or its benefits decline,” or because of the “availability of new options.”<sup>5</sup> To examine the history of a successful terrorist group would not reveal which actions a modern-day government might find useful in combating terrorism.<sup>6</sup> To examine a terrorist group whose demise did not result primarily from government actions is outside the scope of this thesis.<sup>7</sup> Both counterterrorism campaigns examined here were successful, targeted efforts against groups that had operated with near impunity in their areas of influence.<sup>8</sup>

The National Memorial Institute for the Prevention of Terrorism (MIPT) Terrorism Knowledge Base defines a terrorist group as:

A collection of individuals belonging to an autonomous non-state or sub national revolutionary or anti-governmental movement who are dedicated to the use of violence to achieve their objectives. Such an entity is seen as having at least some structural and command and control apparatus that,

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<sup>5</sup>Martha Crenshaw, “Why Violence Is Rejected or Renounced: A Case Study of Oppositional Terrorism,” in *A Natural History of Peace*, ed. Thomas Gregor, (Nashville, Tennessee: Vanderbilt University Press, 1996), 259-268.

<sup>6</sup> The Irgun in British controlled Palestine in the late 1940s is an example.

<sup>7</sup> The Abu Nidal Organization, for example.

<sup>8</sup>While Crenshaw (“Why Violence Is Rejected” 259, 263) notes, “organizational and psychological interpretations of terrorist behavior imply that terrorism is rarely abandoned as long as the organization using it continues to exist,” she goes on to state that “governmental response may contribute to the internal costs of terrorism by provoking organizational disintegration, involving the breakdown of incentives that the leadership of an organization can offer followers and the dissolution of the psychological bonds that promote solidarity and help provide moral justification for terrorism. Government arrests or assaults may deprive an organization of key leaders who are irreplaceable.”

no matter how loose or flexible, nonetheless provides an overall organizational framework and general strategic direction. This definition is meant to include contemporary religion-motivated and apocalyptic groups and other movements that seek theological justification or divine sanction for their acts of violence.<sup>9</sup>

The Thugs were not a unified organization. They were a group of autonomous gangs united by a belief in a common deity and a means of worship that included human sacrifice. While the Thug gangs usually operated independently, when desired they could combine for a major operation. They were unlike many modern terrorist groups in their desire to keep their activities hidden. The Thugs had a major effect on commerce and travel in the area where they operated. The Sikh terrorists, while actually a number of different organizations, will be considered as one group. They are generally tied to the movement in the state of Punjab to gain independence from India, a movement which often included killing Hindu citizens or attempting to drive them from the region. As originally conceptualized, this independent state was to be fundamentalist Sikh in nature. Eventually many of these organizations fell prey to a common terrorist blunder and began targeting their natural support group – in this case, other Sikhs.<sup>10</sup> Over time, many of these groups degenerated into little more than criminal organizations, operating for power and profit. At the peak of their power, most of the state of Punjab was living under the constant threat of terrorism.

This thesis is about the Thugs and the Sikhs not because both operated on the Indian sub-continent. The modern federal government of India opposed and eventually defeated the Sikh terrorists, while the Thugs were eliminated by the British colonial government in India many years earlier. Although even totalitarian regimes can provide lessons on how to deal successfully with terrorists, the fact that the governments in both

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<sup>9</sup> National Memorial Institute for the Prevention of Terrorism, “MIPT Terrorism Knowledge Base Glossary,” <http://www.tkb.org/Glossary.jsp>, accessed 17 July 2005.

<sup>10</sup> Ignatieff notes, “Moreover, most terrorists attacks start from a racially, ethnically, or religiously motivated conviction that certain categories of human beings are not worthy of moral standing or consideration. To violate civilian immunity, therefore, is to assume that noble political ends, like the struggle against injustice, can justify treating human beings as a means. This way nihilism lies. If the civilians on the other side are legitimate targets, there is nothing to prevent your targeting your own side if they begin to inform on your struggle or resist your exactions. Once the principle of discriminating carefully in the use of violence is abandoned, it can be corrosive of the principles that supposedly guided the struggle for freedom in the first place.” Michael Ignatieff, *The Lesser Evil* (Princeton: Princeton University Press, 2004), 94.

of these cases attempted to ensure order using legal systems reasonably comparable to those in the United States makes their experiences more relevant.

In the early 1800s, the British East India Company controlled India with an appointed governor-general. Actual governance was overseen by the British Crown and British judges administered Hindu or Islamic law under British legal and judicial systems.<sup>11</sup> While there were local police in some areas during the anti-Thug campaign, the army, comprised mostly of Indian sepoy<sup>12</sup> with British officers and few regular British regiments, provided the security force used to suppress the Thugs.<sup>13</sup> The British attempted to instill in India a justice system similar to their own beginning with the Regulating Act of 1773, followed by the India Act of 1784 and the Charter Act of 1813. The rule of law was the British standard. This included the right to due process, fair trials with the right to counsel and to present witnesses, and the need for probable cause for the issuance of warrants. The similarities between the British justice system in India and the system in the United States are not of primary interest here. Rather, it is because the British compromised the values and rights they were espousing that their experience with the suppression of the Thugs is relevant to the current situation in the United States.

In modern India, the government that suppressed the Sikh terrorists is a federal republic with an executive branch, a judicial branch, and a bicameral legislature. It has twenty-eight states and seven union territories. Its legal system is based on English common law.<sup>14</sup> In structure, the similarity to the United States is apparent and, as with the British anti-Thug campaign, the fact that the Indian government found it necessary to compromise individual rights in their suppression of the terrorists is significant for the United States today.

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<sup>11</sup> George Bruce, *The Stranglers: The Cult of Thuggee and Its Overthrow in British India* (New York: Harcourt, Brace and World, 1968), 44; Martine van Woerkens, *The Strangled Traveler: Colonial Imaginings and the Thugs of India* (Chicago: University of Chicago Press, 2002), 45-47; U.S. Library of Congress, "Company Rule, 1757-1857," *A Country Study – India*, [http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+in0022\)](http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+in0022)), accessed 9 September, 2005.

<sup>12</sup> Native Indian soldiers serving under British command.

<sup>13</sup> Peter Marshall, "The British Presence in India in the 18<sup>th</sup> Century," *History: The British Empire*, [bbc.co.uk](http://www.bbc.co.uk/history/state/empire/east_india_01.shtml) (1 May 2001), [http://www.bbc.co.uk/history/state/empire/east\\_india\\_01.shtml](http://www.bbc.co.uk/history/state/empire/east_india_01.shtml), accessed 19 July 2005.

<sup>14</sup> United States Central Intelligence Agency, "India," *CIA World Fact Book* (Washington, D.C.: Central Intelligence Agency, 2004), accessed from <http://ejournals.ebsco.com>, accessed 14 July 2005.

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### III. BRITISH COLONIAL GOVERNMENT: ANTI-THUG CAMPAIGN – 1829 - 1835

The origin of the Thugs is unclear. They almost certainly existed in the thirteenth century and possibly as early as the seventh century.<sup>15</sup> Called *Phansigars* in much of India, the British termed them “Thugs,” from the Hindu word “thags,” meaning deceivers, another name given to this group.<sup>16</sup> It is estimated that they murdered between 500,000 and one million people in the last three centuries of their existence alone, a figure that far exceeds the number of deaths caused by any modern terrorist group. The group's longevity is a major reason for these high mortality figures.<sup>17</sup>

The Thugs were a hereditary group, with knowledge, beliefs, skills and traditions passed down from father to son (there is little mention of female Thugs).<sup>18</sup> Protected by local authorities with whom they shared their plunder, the Thugs spent most of the year as model citizens. They lived peacefully in their communities and never attempted to harm those around them. The fraternity of Thugs had a mutual interest in disposing of the plunder from their expeditions, so they seldom left traces of stolen goods. They never committed robbery without committing murder. The sacrifice to the Hindu goddess Kali was crucial. They made it a point that no one ever escape their attacks; they never left witnesses. Older children of their victims were killed with their parents. Very young boys were usually adopted by one of the Thugs, raised as his own, and eventually initiated into the fraternity. Young girls were often sold into prostitution.<sup>19</sup>

Typical groups ranged in size from ten to fifty members, but Thugs frequently worked in groups of one hundred or more, with smaller groups merging to deal with a large party of travelers. Their victims were nearly always travelers. The Thugs would appear as normal, inoffensive travelers themselves. They would fall in with a party of

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<sup>15</sup> David C. Rapoport, “Fear and Trembling: Terrorism in Three Religious Traditions,” *The American Political Science Review* 78, no. 3 (1984), 661.

<sup>16</sup> George Bruce, *The Stranglers: The Cult of Thuggee and Its Overthrow in British India* (New York: Harcourt, Brace and World, 1968), 11-14.

<sup>17</sup> Rapoport, “Fear and Trembling,” 662.

<sup>18</sup> W. G. Tinckom-Fernandez, “Oriental Origin of Thugs,” *The New York Times*, 18 November 1923, SM9; Rapoport, “Fear and Trembling,” 662; Bruce, *The Stranglers*, 21.

<sup>19</sup> Bruce, *The Stranglers*, 14.

travelers, often under the guise of providing mutual security against thieves and murderers by virtue of having greater numbers when the groups combined. Often, some members of the group would run ahead and wait for the others. They would frequently take days to win the confidence and often the friendship of their intended victims. At a chosen time and place, with the choice heavily influenced by omens, the Thugs would fall upon the travelers. At least two Thugs would kill each person, with one Thug holding the victim's hands or legs while another strangled him with a silk handkerchief called a "rumal," generally white or red in honor of Kali.<sup>20</sup> At times the death was deliberately prolonged for the Kali's enjoyment.<sup>21</sup>

This ritualistic killing, known as "thuggee," generally took place in an isolated area, preferably near a sandy place or jungle. No blood was spilled during the killing. A three or four foot hole was dug with a pickaxe, and the body was mutilated and placed face down in the hole. The body was mutilated so it would fit into the hole, and, more importantly, to increase its rate of decomposition. This prevented the build-up of gases that would inflate the corpse and, if released suddenly, could attract jackals that would dig it up. Occasionally, the body was simply dumped in a well. If the victim had a dog, it was also killed, to prevent the animal from leading others to its master's body.<sup>22</sup>

The plunder was divided according to strict guidelines: two shares to the group's leaders, one and one-half shares to those who actually committed the murder and to the person who cut the body, and one share to the other members of the gang. The plunder was usually carried home and sold below value, with a certain amount given to the priests of Kali. It was never sold near the murder site or any place where it could be recognized. Officials and landowners in the Thugs' home communities were evidently well paid off to ignore these practices.<sup>23</sup>

Sons of Thugs were gradually and carefully initiated into thuggee. Young boys were kept away from the Thug expeditions, but when they reached their early to mid-teens, they began to accompany their fathers. At first, they were shielded from the actual killing. Apparently, during the first few expeditions, some kind of psychological

<sup>20</sup> Bruce, *The Stranglers*, 53-71.

<sup>21</sup> Rapoport, "Fear and Trembling," 662.

<sup>22</sup> Bruce, *The Stranglers*, 13-20.

<sup>23</sup> Bruce, *ibid.*, 19, 63, 82.

preparation took place so that the youth would be ready to participate in future killings without remorse. By the third expedition, the youths were made aware of the full process. Their first duty would be as scouts; then they would aid in grave digging and body mutilation. Eventually they would become responsible for holding the victim. Those who were candidates to become “bhurtotes,” or stranglers, would seek out an older, experienced strangler in the gang and ask him to serve as guru. It was the guru’s responsibility to teach his student the art of the rimal and also to preside over the necessary religious rites.<sup>24</sup>

Thugs were an unusual mixture of Indian society. People from all regions, classes, and castes were involved. Individual gangs could be diverse, with both Muslims and Hindus working together.<sup>25</sup> A rationale for the seemingly incongruous association of Muslims with the Hindu goddess Kali can be found in this exchange between the British officer Captain William Sleeman and a convicted Muslim Thug:

“...we never murder unless the omens are favourable [sic]; we consider favourable [sic] omens as the mandates of the deity.”

“What deity?”

“Bhowanee (Kali).”

“But Bhowanee, you say, has no influence upon the welfare or otherwise of your soul hereafter?”

“None, we believe; but she influences our fates in this world and what she orders in this world, we believe that God will not punish in the next.”<sup>26</sup>

Apparently the Muslim Thugs believed that the worship of both the Hindu goddess and Allah was permissible, with Kali influencing the here and now and Allah, in control of the afterlife, permitting devotion to Kali while on earth. They either saw no conflict between their belief in Islam and following the rituals of Kali, or they were able to rationalize the killings (with resultant profits) for their own purposes.

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<sup>24</sup> Bruce, *The Stranglers*, 55.

<sup>25</sup> Harry Rosenberg, “Ameer Ali – Thug,” *Road to Peace* (2003), [http://www.roadtopeace.org/terrorism/Terrorists/ameer\\_ali.html](http://www.roadtopeace.org/terrorism/Terrorists/ameer_ali.html), accessed 14 May 2005; Parama Roy, *Indian Traffic: Identities in Question in Colonial and Postcolonial India* (Berkeley: University of California Press, 1998), 45; Tinckom-Fernandez SM9.

<sup>26</sup> Bruce, *The Stranglers*, 168.

Thugs maintained a certain hierarchy within their gangs, but the gangs themselves were autonomous, making their own decisions and planning their own operations. They operated without any headquarters, single leader or central command. The gangs were connected by a common secret language, traditions, rituals, and their worship of Kali. The gangs could operate independently or join up to attack a larger target. Swarming, as related to modern terrorism, “occurs when the dispersed nodes of a network of small (and perhaps some large) forces converge on a target from multiple directions...Once in motion, swarm networks must be able to coalesce rapidly and stealthily on a target, then disperse and re-disperse, immediately ready to recombine for a new pulse.”<sup>27</sup> This is an accurate description of how Thug gangs would cooperate to murder large parties of travelers. Thugs would use runners and their secret language to quickly and quietly arrange the combination and cooperation of several gangs. Once the victims were strangled, their bodies disposed of and the plunder divided, the gangs would once again fade away into the countryside, becoming as amorphous and ambiguous as any modern terrorist organization could hope to be. Different gangs of Thugs would sometimes act in concert to attack large parties of travelers, but the gangs held little loyalty toward other Thugs, a trait that the British used against them.

In the later years of their existence, some Thug gangs apparently became overly preoccupied with plunder. But for the most part, thuggee seemed to be a serious religious ritual to the gangs. Kali was a goddess of terror and destruction, and she demanded sacrifice. A prolonged death was important because the victim’s terror was an offering to Kali. It was forbidden to rob without committing murder first. Thugs looked down upon common thieves, considering themselves as serving a higher purpose. A gang’s actions were restricted by a strict set of rules.<sup>28</sup> Gangs would never set out without checking the omens through a priest of Kali.<sup>29</sup> Omens guided them throughout the expedition. The braying of a donkey, the howling of a wolf, the appearance of a hare, all had significance that could change with time and the direction from which the omen presented itself. The pickaxe was considered sacred, symbolic of Kali’s tooth and the sign of the Thugs. After

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<sup>27</sup> John Arquilla, David Ronfeldt, and Michele Zanini, “Networks, Netwar, and Information-Age Terrorism,” in *Countering the New Terrorism*, ed. Ian O. Lesser, et al., (RAND, 1999), 53.

<sup>28</sup> Rapoport, “Fear and Trembling,” 663.

<sup>29</sup> Bruce, *The Stranglers*, 62.

each killing, there was a ritual with “goor,” a sacred sugar.<sup>30</sup> Religion was certainly one of the major factors motivating the Thugs, competing with tradition, upbringing, social pressure, and possibly the strongest motivation, greed.

Martha Crenshaw’s organizational process theory includes the basic assumption that the fundamental purpose of any political organization is to maintain itself.<sup>31</sup> This could account for the longevity of the Thugs. The leaders of an organization especially have a personal interest in perpetuating the organization; they stand to lose status, and in some cases material rewards, by its failure. An organization’s survival depends on the rewards it provides for its members.<sup>32</sup> For religious organizations in particular, those rewards may be intangible and promised in the afterlife. The Thugs, however, were able to provide both financial and spiritual rewards to their members.

At times there is a fine line between terrorism for the sake of religious beliefs as opposed to political, ethno-nationalist, or, as in the case of the Thugs, criminal agendas. While mundane factors almost certainly affect any group and probably influence some individuals more than others, the perceived desires of a deity are the real inspiration for a religious terrorist organization. Admittedly, the Thugs did not meet many of the more commonly accepted modern definitions of a terrorist organization. They sought no political end or publicity and had no desire to provoke fear in a target population. In their case, the exact opposite was true – it was extremely important to this group that their activities remain secret in order to ensure a steady stream of sacrificial lambs. Rapoport, however, believes the Thugs *were* terrorists, and states,

As persons consciously committing atrocities, acts that go beyond the accepted norms and immunities that regulate violence, they were, according to one established definition, clearly terrorists. Their deceit, unusual weapon (a noose), and practice of dismembering corpses (thereby preventing cremation or proper burial) made Thug violence outrageous by Hindu standards, or, for that matter, by those of any other culture.<sup>33</sup>

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<sup>30</sup> Bruce, *The Stranglers*, 64, 135.

<sup>31</sup> Crenshaw, “Theories of Terrorism: Instrumental and Organizational Approaches,” in *Inside Terrorist Organizations*, ed. David C. Rapoport (New York: Columbia University Press, 1998), 19.

<sup>32</sup> *Ibid.*

<sup>33</sup> Rapoport, “Fear and Trembling,” 660.

These arguments aside, the Thugs' motives for enlisting, organization, and operations were similar enough to some modern terrorist groups that the strategies and tactics used against them are worth examining.

Consider a comparison of motivations for enlistment between the Thugs and a modern terrorist organization, Harkat-ul-Mujahideen (HUM), which is a member of the International Islamic Front for Jihad against the Jews and Crusaders formed by Osama bin Laden in 1998. Crenshaw lists the following motivations for joining an established terrorist organization: to belong to a group, to acquire social status and reputation, to find comradeship or excitement, or to gain material benefits. In some cases, the opportunity for excitement and action may be an overriding motive.<sup>34</sup> Both the Thugs and HUM relied on a period of psychological preparation to ensure the recruits were adequately indoctrinated; both preferred to bring young men into the organization during their early teens; both required a period of training and assessment before the new recruit became a full member; both inspired their recruits with the promise of spiritual reward and provided for their basic needs. After completing their apprenticeships, members of both groups were paid, and emotional satisfaction and status provided reasons for remaining part of the organization. Both groups also had high initiation costs (murder, other criminal acts), which is a strategy used by modern terrorist groups to discourage their members from defecting.<sup>35</sup>

Comparisons with al Qaeda are also apparent. Like al Qaeda nodes, each Thug gang was privately financed and maintained itself, but depended on outside sympathizers for support. As with any modern terrorist group, the actions of the Thugs were determined by their ideology. Ties between nodes were loose, but because of their common religious beliefs and goals, they could be pulled together when needed for an operation. The destruction of any node or any single individual would not greatly affect the Thugs as a whole. Religion was the legitimizing factor for both groups as conveyed by “holy men” who claimed to speak for their divinity. Violence is divinely sanctioned, in fact demanded by their religion – as they interpret it.

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<sup>34</sup> Crenshaw, “Theories of Terrorism,” 19-20.

<sup>35</sup> Crenshaw, *ibid.*, 23.

Thugs were able to keep the extent of their operations well hidden from the British for many years. The first mention of the Thug problem by the British was an 1810 notice from major General St. Leger warning sepoys<sup>36</sup> going on leave about the dangers of traveling the roads with large sums of money.<sup>37</sup> An essay by Dr. Richard Sherwood in 1816 described the practice of thuggee, but most British officials dismissed the idea of an extensive organization of ritual murderers.<sup>38</sup> It was not until Sleeman began his crusade against the Thugs that such a seemingly absurd idea could be accepted. During their rule of India, the English were mostly concerned with commercial interests.<sup>39</sup> They purposely dissociated themselves from Indian civilization and culture and had a policy of non-interference with religion.<sup>40</sup> Unless there was a noticeable increase in the crime rate, the government did not consider criminal activity by individuals to be of major concern. Collective criminal actions, however, were seen as directed against the authority of the state or having the effect of weakening that authority, and therefore had to be addressed.<sup>41</sup> Thuggee, as the British viewed it, was just such a collective criminal activity and its religious basis, while interesting, was insignificant.

Prior to Sleeman's efforts, convicting Thugs in local courts was extremely difficult. Physical evidence was almost always lacking. Bodies and loot vanished quickly after a killing. Muslim criminal law disallowed the testimony of informers, and because the Thugs were so ingrained into society and often protected by local officials, all charges were generally dismissed. Hindu law provided similar protection from prosecution. The British dealt with this by disposing of what remained of Muslim and Hindu criminal law in these cases. Over the objections of the judges who regarded legal procedures as paramount, they created laws making it a crime, punishable by life in

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<sup>36</sup> Native Indian soldiers serving under British command.

<sup>37</sup> "General Orders by Major General St. Leger, Commanding the Forces," 28 April 1810, in William H. Sleeman, *Ramaseeana*, (Calcutta: G.H. Huttman, Military Orphan Press, 1836) 15-17.

<sup>38</sup> Roy, *Indian Traffic*, 44.

<sup>39</sup> Roy, *ibid.*, 123-125.

<sup>40</sup> Bruce, *The Stranglers*, 3.

<sup>41</sup> Sandria B. Freitag, "Crime in the Social Order of Colonial North India," *Modern Asian Studies* 25, no. 2 (1991), 230.

prison, simply to be a Thug.<sup>42</sup> It was not necessary to have committed an act of thuggee, since being a Thug meant that thuggee was a religious obligation and therefore no Thug could be allowed to go free.<sup>43</sup> Special courts were formed with special magistrates for Thug trials. It was common practice to arrest the family of a Thug and hold them hostage until the Thug turned himself in for prosecution. Sleeman's direct superior, Curwen Smith, Governor-General's Agent in the Saugor and Narbada Territories, explained the rationale for this practice in a letter to Chief Secretary George Swinton. "They (Thug's families) [are] usually the only ties by whose misfortunes he can be affected. Thugs are generally hereditary; there could be no injustice therefore in chaining the lion's whelps until the lion himself is disposed of."<sup>44</sup> Some prisoners and their families were placed in compounds and forced into manual labor. Sons of Thugs were not permitted to marry to prevent breeding another generation of Thugs.<sup>45</sup> Branding of the convicted was common. Gang leaders were primary targets and subject to execution when caught.<sup>46</sup> Sleeman also targeted Thug supporters, including the banks they were using to launder the plunder.

Sleeman's major weapon in his war on Thugs was the use of the "approvers." Approvers were convicted Thugs who agreed to inform on other known Thugs to avoid being hung or exiled. Identification of a Thug by approvers, even if no other evidence

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<sup>42</sup> Bruce, *The Stranglers*, 44; Martine van Woerkens, *The Strangled Traveler: Colonial Imaginings and the Thugs of India* (Chicago: University of Chicago Press, 2002), 45-47; According to the 'thuggee' Act of 1836, "whoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of Thugs, either within or without the Territories of the East India Company, shall be punished with imprisonment for life, with hard labour [sic]." In "'Providential' Circumstances: The Thuggee Campaign of the 1830s and Legal Innovation," by Radhika Singha, in *Modern Asian Studies* 27, no. 1 (February 1993), 84.

<sup>43</sup> The instructions of the Supreme Government, conveyed to the President at Indore, circa 1829 state: "Under this view of the case, and adverting to the relative situation of the British Government as the paramount power, the Governor General in Council has no hesitation in authorizing and directing capital punishment to be inflicted on the leaders, and all the gang who shall be proved to have been employed as the stranglers. With regard to those who aided in decoying and enticing the victims to their fate, or to remove and conceal the bodies, they must be held to be accessories both before and after the fact; they are equally criminal as the principals, and deserving the same punishment of death: but his lordship in Council authorizes you to commute the sentence of capital punishment into transportation for life, with hard labour [sic], beyond seas, or confinement for a certain term of years, according to the circumstances of each particular case. Such of the prisoners as have acted merely as followers of the gang, employed in the performance of menial duties, such as syces [sic] or grass-cutters, and did not, as accomplices, share in the plunder; and boys, also, under fourteen years of age, of whom there are three or four amongst the prisoners; are to be kept in confinement for such periods as you may consider proper." In Edward Thornton, *Illustrations of the History and Practices of the Thugs* (London: W.H. Allen and Co., 1837), 381.

<sup>44</sup> Bruce, *The Stranglers*, 85.

<sup>45</sup> Roy, *Indian Traffic*, 61-62.

<sup>46</sup> Singha, *Providential*, 120

was presented made one automatically guilty until proven innocent. It was not necessary to prove that the accused had committed any specific crime. The accused did not have the benefit of counsel so approvers were never cross-examined. Appeals were not permitted.<sup>47</sup> Sleeman realized that since Thug membership was hereditary, by identifying Thug families he could pinpoint those individuals most likely engaged in thuggee. Using his approvers, he drew up Thug family trees, which were then given to his men so they could hunt down and arrest members of those suspect families. While approvers often refused to inform on members of their own gang, they could be pressured to inform on other gangs. By cleverly playing the approvers against each other, Sleeman was able to make major inroads into various Thug gangs. When members of one gang were arrested on information from an approver, they could be coerced into giving information on other gangs, including that of the original approver. Eventually, Sleeman captured a knowledgeable, high-level Thug, who provided detailed information on numerous other gangs.

The British adoption of repressive laws made it extremely easy to hold and convict Thugs, and extremely difficult for those accused to defend themselves. An unusually high percentage of those accused were convicted. Conviction of the innocent apparently did not concern of the British.<sup>48</sup> Sleeman's campaign began feebly in 1826 and did not gain momentum until the 1830's. By October of 1835, 1562 Thugs had been tried; 382 were executed, 909 transported for life (exiled), 77 imprisoned for life, 71 given limited imprisonment, 49 made approvers, 21 released on security, 11 escaped, 31 died in custody, and 21 were acquitted.<sup>49</sup> In the years 1832 and 1833, Curwen Smith tried 868 accused Thugs; forty others were tried by other British residents.<sup>50</sup> Of these 908 accused, only two were acquitted.<sup>51</sup> Rather than arousing concern, the high conviction rate was viewed as a validation of the campaign.<sup>52</sup>

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<sup>47</sup> Roy, *Indian Traffic*, 59.

<sup>48</sup> Roy, *ibid.*, 130-135.

<sup>49</sup> Bruce, *The Stranglers*, 187.

<sup>50</sup> A British resident was a British colonial official who lived and worked in a self-governing colony, acting as a political advisor to the local leader and an ambassador of the British government.

<sup>51</sup> Bruce, *The Stranglers*, 126-183.

<sup>52</sup> Roy, *Indian Traffic*, 59.

The British disregard of civil liberties was deliberate. In western nations of the nineteenth century, "... law was the social acknowledgment of the power of the individual. Western law was defined by the principles of liberty and protection of human life and respect of private property, and it claimed a universal moral dimension."<sup>53</sup> Those in charge of the anti-Thug campaign readily acknowledged that they were taking steps beyond what would ordinarily be considered acceptable. In arguing for a change in the law to allow conviction based on the testimony of approvers, Sleeman wrote,

...a departure from rules like these, however suitable to ordinary times and circumstances, and to a more advanced and rational system of society, becomes indispensably necessary; and as they have matured their system to deprive all governments of every other kind of direct evidence to their guilt but the testimony of their associates, it behoves [sic] all Governments (in India) ... to mature another by which their testimonies shall be rendered effectual for their conviction without endangering the safety of the innocent. This I hope, has now been done.<sup>54</sup>

Referring to the many months during which the accused were held awaiting trial, Sleeman noted,

It is no doubt better that ten guilty men should escape the punishment of death, and all the eternal consequences which may result from it, than that one innocent man should suffer that punishment; but it is not better that ten assassins by profession should escape, and be left freely and impudently to follow everywhere their murderous trade, than that one innocent man should suffer the inconvenience of temporary imprisonment.<sup>55</sup>

In a letter from Curwen Smith to Swinton defending the use of general warrants, which allowed the arrest of anyone pointed out by an approver even if not specifically named on a warrant, Smith stated,

I am aware that the use of general warrants is disapproved of generally by Government and is liable to great abuse, and to lead to serious oppression. It must however be recollected, and the fact deserves the highest consideration, that the hands of these miscreants are raised against mankind, in general, of all descriptions, sparing neither Hindoos [sic] nor Musulmans [sic] .... The liberty of the subject must bend to a temporary suspension as the lesser evil of the two, and therefore though the use of

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<sup>53</sup> van Woerkens, *The Strangled Traveler*, 92.

<sup>54</sup> Bruce, *The Stranglers*, 126.

<sup>55</sup> Bruce, *ibid.*, 124.

spies and general warrants, will doubtless, occasionally create great evils and much distress to individuals, it must be submitted to, as the least of the evils attending such a depraved state of society, as at present obtains ... in general throughout the whole continent of India.<sup>56</sup>

Defenders of the Thug campaign claimed they ensured justice by requiring independent accusations by several approvers, while acknowledging “some petty abuses,” such as extortion under the threat of being accused as a Thug, and imprisonment of innocent people.<sup>57</sup>

Not everyone approved of the new laws. Several British residents opposed the campaign on the grounds that it was an unfair process and could subject innocent people to punishment.<sup>58</sup> Lord Cavendish at Gwalior and Lord Lushington at Bharatpur complained of arrests based solely on the denunciations of approvers, as well as British interference in the internal affairs of reigning local kings. In a letter to the Governor General, Cavendish protested, “Their [accused Thugs] apprehension, detention and confinement, if innocent, must be considered a great evil. The Gwalior territory has had several visits for this purpose since my arrival and having been a magistrate in former days I know of the difficulty of preventing extortion and oppression.”<sup>59</sup>

Those in charge of the campaign, however, believed in its efficacy. Curwen Smith believed there was little chance of the innocent being punished through “such cautious proceedings,” claiming that “their innocence at the trial could hardly fail to be made manifest.”<sup>60</sup> George Bruce notes the flaw in this system:

Herein lay the possible defect of the system, for once arrested on the word of the approvers and taken to Saugor for trial, for which he could wait in grim conditions for months, it would seem that the chances of a suspect's release were small indeed. The system was geared mainly to make convictions rather than to examine impartially evidence both for and against the accused, according to the accepted axiom that a man is innocent until proved guilty.<sup>61</sup>

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<sup>56</sup> Letter from F. Curwen Smith to G. Swinton, letter no. 908 from 5 July 1830, OIOC, V 19061, p. 41, in van Woerkens, *The Strangled Traveler*, 45.

<sup>57</sup> *The Thugs or Phansigars of India* (Philadelphia: Carey and Hart, 1839), 70-71.

<sup>58</sup> Bruce, *The Stranglers*, 143-154.

<sup>59</sup> van Woerkens, *The Strangled Traveler*, 56-57; Bruce, *The Stranglers*, 151-152.

<sup>60</sup> Bruce, *The Stranglers*, 129.

<sup>61</sup> *Ibid.*

By 1836 thuggee had become something of a rarity. William Sleeman and the other figures behind the Thug campaign had achieved their goal of ending this menace, even if other dangers arose to take its place. It was not until the mid-1840s, however, that the British felt secure enough to proclaim an end to the practice of thuggee, although it appears that ritual killings as a facet of Kali worship, continued in some form into the next century.<sup>62</sup>

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<sup>62</sup> Bruce, *The Strangler*, 213; P.W. Wilson, "India at the Crossroads," a review of *The Making of Modern India* by Nicol MacNicol, in *The New York Times*, 8 February 1925, BR1.; Louise Maunsell-Field, "Cults of India," a review of *The Religions and Hidden Cults of India* by Lieutenant General Sir George MacMunn, in *The New York Times*, 5 June 1932, BR20.

#### IV. INDIA: SIKH COUNTERTERRORISM – 1980S-1990S

The Punjab is India's primary agricultural region with a majority Sikh population. Sikhs in the rest of India are a minority group in a largely Hindu nation. For several decades Sikhs in the Punjab believed the central government had failed to meet their needs, and that the government's failure was due at least in part to religious intolerance.<sup>63</sup> The government under Indira Gandhi appeared particularly unresponsive to the needs of the region. The Akali Dal emerged as the predominant Sikh political party and became progressively more uncooperative with Gandhi's government. During this time, a relatively small separatist movement began in the region, calling for an independent Sikh state to be known as Khalistan. Gandhi used her superior access to the media to characterize her opponents in the region as dangerous religious fanatics' intent on secession. In 1980 she declared "President's Rule" in the region, which dissolved the state's legislative assemblies and required new elections to get a supportive local government.<sup>64</sup> During 1984 Gandhi and her government again declared "President's Rule" in the Punjab, and sent in four army divisions.<sup>65</sup> The state was sealed off with approximately 70,000 troops, the state legislature was dissolved, martial law was declared, and complete press censorship was established.<sup>66</sup> Gandhi's determination to rid the region of opponents was such that, at the time of her assassination, virtually the entire Akali Dal leadership was in prison.<sup>67</sup>

Jarnail Singh Bhindranwale emerged in the late 1970s as a Sikh religious leader opposed to various fanatic Hindu organizations. Many of his followers were young, poor, unemployed Sikhs disillusioned with the central government. Bhindranwale fiercely opposed those Sikhs who disagreed with his extremist views. It was widely

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<sup>63</sup> Jaskaran Kaur, "A Judicial Blackout: Judicial Impunity for Disappearances in Punjab, India," *Harvard Human Rights Journal* 15 (Spring 2002), <http://www.law.harvard.edu/students/orgs/hrj/iss15/kaur.shtml>, accessed 15 May 2005.

<sup>64</sup> World Statesmen.org, *States of India Since 1947*, [http://www.worldstatesmen.org/India\\_states.html](http://www.worldstatesmen.org/India_states.html), accessed 9 September 2005.

<sup>65</sup> "1984 Attack on Golden Temple", *Sikh History* (2004), <http://www.sikh-history.com/sikhhist/events/attack841.html>, accessed 15 December 2004.

<sup>66</sup> Murray J. Leaf, "The Punjab Crisis," *Asian Survey* 25, no. 5 (May 1985): 494.

<sup>67</sup> Leaf, *ibid.*, 475-498.

rumored that Bhindranwale received indirect support from Indira Gandhi, who hoped to fragment the Akali Dal party and create tensions between Sikhs and Hindus so her regime could eventually install a cooperative local government.<sup>68</sup> The central government and newspapers blamed numerous terrorist attacks on Bhindranwale and his followers, including dozens (by some estimates, hundreds) of attacks in which terrorists on motorcycles would appear suddenly and fire machine guns into crowds. Bhindranwale was arrested in 1982, but released two days later. In the latter half of 1982, he moved into the Golden Temple complex in Amritsar and set up his headquarters.

By 1984, the Punjab region had experienced at least three years of widespread discontent. Peaceful Sikh protests were punctuated by episodes of violence. Sikh terrorists from various groups attempted to drive a wedge between Sikhs and Hindus, undermine the moderate local leadership, and bring power and support to the extremists.<sup>69</sup> In March of 1984, the Indian government banned the All-India Sikh Students Federation, which was believed to be behind much of the terrorist activity at the time. That same month the government charged Akali Dal President Harchand Singh Longowal with sedition, thereby driving Sikh moderates closer to the extremist factions and Jarnail Singh Bhindranwale.

While Bhindranwale's support grew, he continued to direct terrorist activity from the Golden Temple. Seeing support shift to the extremists, the Akali Dal demanded from the Indian government a constitutional amendment guaranteeing the separate religious identity of the Sikhs. Although the government showed some support for this amendment, the move was sabotaged by Sikh assassins who murdered several prominent Hindu politicians, purportedly on Bhindranwale's orders.<sup>70</sup> In response, the Indian government declared the Punjab region "deeply disturbed," and gave the police in Punjab the power to enter and search homes without a warrant, to arrest and hold suspects for up to six months without establishing a cause, and to imprison without trial for up to two years. The Akali Dal retaliated by calling for a blockade on grain moving out of the Punjab to begin on June 3. The government feared serious economic disruptions and

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<sup>68</sup> Leaf, "The Punjab Crisis," 484.

<sup>69</sup> Robert L. Hargrave, Jr., "India in 1984: Confrontation, Assassination, and Succession," *Asian Survey - A Survey of Asia in 1984*, Part II 25, no. 2 (February 1985): 132.

<sup>70</sup> *ibid.*

violence.<sup>71</sup> Sometime in the late spring of 1984, Bhindranwale and his group moved into the Akal Takht, the highest seat of Sikh authority located within the Golden Temple complex, an act that was not well-received by much of the Sikh community.<sup>72</sup>

By the end of May, it was common knowledge that the government planned to attack Bhindranwale's faction in the Golden Temple. Bhindranwale fortified the area and placed his defenses in the hands of Major General Shahbeg Singh, a former Indian Army officer. Operation Blue Star, as the Indian government operation was named, was planned as a commando action, with infantry support and tanks to be used as machine gun platforms to neutralize fire on advancing troops and to cover exits. Armored personnel carriers were to keep the complex's hostel and temple areas separated and move troop into areas of heavy fire.<sup>73</sup> Blue Star's prime objective was to drive Bhindranwale out of the temple complex. The operation was poorly planned, however, beginning with its timing, which coincided with a Sikh holy day that brought large crowds to the temple. The Indian army used artillery both outside and within the Golden Temple complex, and numerous civilian casualties resulted.

When the operation finally ended on the morning of June 6, the bodies of Bhindranwale and Major General Shahbeg Singh were found in the Akal Takht. The army also found what it believed was a weapons manufacturing unit. Survivors inside the Golden Temple complex were rounded up; according to Sikh witnesses, many were beaten and some executed. Rumors of mistreatment abounded. The Indian government claimed 576 were killed in the operation, including 83 troops. Sikh estimates went as high as 8000 killed (1000 to 1200 are the most commonly cited figures), including many unarmed men, women, and children.<sup>74</sup> Priceless marble steps were destroyed by tanks, the Sikh library at the Temple was destroyed by fire, and numerous buildings were severely damaged. Photographs apparently show Indian Army soldiers defiling the Golden Temple by walking around in shoes and leaving their heads uncovered, and some

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<sup>71</sup> Hargrave, "India in 1984," 132.

<sup>72</sup> "1984 Attack on Golden Temple."

<sup>73</sup> K.S. Brar, *Operation Blue Star: The True Story* (New Delhi: UBS, 1993) 62; "1984 Attack on Golden Temple."

<sup>74</sup> "1984 Attack on Golden Temple."

Sikh sources accuse them of drinking alcohol and smoking.<sup>75</sup> Forty other Sikh places of worship (gurdwaras) were attacked by the Indian Army at the same time as Operation Blue Star.<sup>76</sup>

Operation Blue Star was intended to put an end to Jarnail Singh Bhindranwale and his activities but instead increased his popularity. Many Sikhs suddenly viewed Bhindranwale, who had limited support during his lifetime, as a hero and martyr.<sup>77</sup> Sikhs saw the government's actions as validating what Bhindranwale had been preaching for years: the Indian government was hostile to the Sikh people. Always perceived as indifferent to the needs of the region, now the central government was thought by many Sikhs favor their destruction.

Politically, Operation Blue Star appeared to prove Indira Gandhi's ruthlessness in her attempt to silence opposition.<sup>78</sup> The separatist movement became increasingly popular among both the Sikhs of the Punjab and the Sikh Diasporas. Sikhs within the Indian Army mutinied.<sup>79</sup> In October 1984, Gandhi was assassinated by two Sikh members of her security guard.<sup>80</sup> Additionally, the Punjab region faced a leadership vacuum, compounding the problems. The Akali Dal leaders were all in prison and had been discredited. Moderate Sikhs blamed them for allowing Bhindranwale to turn the Golden Temple into a fortress, thereby leading to Operation Blue Star; extremists condemned them for "surrendering" to Indian authorities.<sup>81</sup> The stage was set for a decade of disorder in the region. Over the next few years, the fight for an independent state of Khalistan grew increasingly violent. Criminal elements took advantage of the

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<sup>75</sup> Search Sikhism, "Operation Blue Star: The Third Holocaust," <http://www.searchsikhism.com/gal6.html>, accessed 9 September 2005; Sikhionz.com, "Operation Bluestar," <http://www.sikhionz.com/operationbluestar.htm>, accessed 9 September, 2005; "1984 Attack on Golden Temple."

<sup>76</sup> "1984 Attack on Golden Temple."

<sup>77</sup> In "Jarnail Singh Bhindranwale: Top Five Bhindranwale Myths," (*The Sikh Times*, 6 June 2004), Puneet Sing Lamba reported: "However, on this day last year, Joginder Singh Vendanti, the jathedar of the Akal Takht, an approximate Sikh counterpart to the Vatican, formally declared Bhindranwale a 'martyr' and awarded his son, Ishar Singh, a siropa (robe of honor). The function was organized by the S.G.P.C., 'a sort of parliament of the Sikhs.'"

<sup>78</sup> Leaf, "The Punjab Crisis," 494.

<sup>79</sup> Hargrave, "India in 1984," 133.

<sup>80</sup> Anti-Sikh riots followed the assassination. Approximately 3000 Sikhs were murdered throughout India, many of them burned alive.

<sup>81</sup> Hargrave, "India in 1984," 134.

unstable situation and operated within the state under the guise of being insurgents. Terrorist activity increased dramatically. According to K.P.S. Gill, terrorists had killed 13 civilians in 1981, 13 in 1982, 75 in 1983, and 158 between January and May of 1984.<sup>82</sup> Between 1984 and 1993, more than 13,000 people were killed by violence related to the “insurgency.” More than 60% of these were Sikhs.<sup>83</sup>

Numerous terrorist groups were in operation, including the Khalistan Commando Force, International Sikh Youth Federation, Dal Khalsa, Bhinderanwala Tiger Force, the Babbar Khalsa, the Dashmesh Regiment, the Khalistan Armed Force, the Khalistan Guerilla Force, the Khalistan National Army, and the Khalistan Liberation Army. According to the *Asian Journal on International Terrorism and Conflicts*,

Underground organizations were so strong in Punjab during this phase that they were able to frame their own laws. During 1986-87, they brought out a list of 13 do’s and don’ts as a part of their ‘social reform movement’ aimed at reforming the Sikh masses. This included boycott of tobacco, liquor, meat and barber shops. Hundreds of barber shops were burned down or forcibly closed during the campaign. A dress code was announced for Sikh men, women and school-going children.<sup>84</sup>

In deliberate attempts to drive minority Hindus from the region and terrorize local Sikhs to comply with their wishes, these groups raped, bombed markets, restaurants, and residential areas, gunned down residents of Hindu neighborhoods, and massacred passengers on trains and buses (including fellow Sikhs who objected). They assassinated moderate Sikh leaders as well as journalists, civil servants, politicians and businessmen who opposed them, and kidnapped civilians for the purpose of extortion, often murdering

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<sup>82</sup> K.P.S. Gill, “Endgame in Punjab: 1988-1993” in *Faultlines* 1, <http://www.satp.org/satporgtp/publication/faultlines/volume1/Fault1-kpstext.htm>, accessed 12 December 2004.

<sup>83</sup> “Internal Affairs – India,” *Jane’s Sentinel Security Assessment – South Asia* (17 August 2005). [http://www4.janes.com.libproxy.nps.navy.mil/K2/doc.jsp?t=B&K2DocKey=/content1/janesdata/sent/sassu/indis070.htm@current&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5Dindia+%3CIN%3E+body%29%2C+%28%5B100%5D%28%5B100%5Dindia+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5Dindia+%3CIN%3E+body%29%29%29&Prod\\_Name=SASS&](http://www4.janes.com.libproxy.nps.navy.mil/K2/doc.jsp?t=B&K2DocKey=/content1/janesdata/sent/sassu/indis070.htm@current&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5Dindia+%3CIN%3E+body%29%2C+%28%5B100%5D%28%5B100%5Dindia+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5Dindia+%3CIN%3E+body%29%29%29&Prod_Name=SASS&). Accessed 10 September 2005. Other sources place the total number much higher. Gill claims 21,469 lives were lost between 1980 and 1993, with only 101 of those being prior to 1984. K.P.S. Gill, “Endgame in Punjab,” *Faultlines*.

<sup>84</sup> Vipul Mudgal, “Roots of Violence in Indian Punjab,” *AAKROSH - Asian Journal on International Terrorism and Conflicts* 2, no. 3 (April 2001), <http://www.stratmag.com/Aakrosh/ac20303.htm>, accessed 4 January 2005. As one of their articles of faith (Kakaar), Sikhs do not cut their hair, and cover it with a turban or scarf.

the victim afterward. In 1992, they began targeting the families of police, killing 133 family members that year, many of whom were children.<sup>85</sup>

The Indian government entered the 1990s with inconsistent and ill-conceived policies toward the terrorists. At first, the central government seemed to ignore the problem, hoping it would go away on its own. When it became apparent that this tactic would not work, they began negotiating with the militants. Terrorists, believing their tactics were bringing them success, stepped up their operations. Finally, the Indian government reacted with oppressive military tactics, further driving a wedge between the central government and Punjab, and enlisting more support for the terrorists.<sup>86</sup>

K.P.S. Gill, who received much of the credit for the eventual defeat of the Sikh terrorists, described the situation in Punjab in 1986 as follows:

The violence escalated continuously as both the political and the police leadership failed consistently to define an unambiguous response to terrorism. Indeed, there was no concerted and consistent bid to confront the problem squarely, no political strategy, and no clarification of the principles of administrative, judicial and executive response to the scourge. The police response, to the extent that it was mandated by the political executive, was itself muddled. Dictated by traditional notions of use of force in situations of civil strife, the dominant thinking emphasized the 'minimum use of force' against the unconstrained violence of the terrorists. This thinking persisted among many police officers at the senior-most level even after the introduction of the sophisticated Kalashnikov assault rifle [the AK-47] into the terrorist armory after May 1987. With the supply of Kalashnikovs to the terrorists, Pakistan had clearly increased the stakes of its covert war in India, and terrorism, at this point, entered a completely new and deadlier phase.<sup>87</sup>

Gill took over as Director General of Punjab Police in early 1988 and was placed in charge of the counter-terrorism efforts. He found himself in charge of a force that was "deeply divided and demoralized; ill-equipped, organizationally, materially, and

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<sup>85</sup> K.P.S. Gill, Punjab: *The Knights of Falsehood* (New Delhi: Har-Anand Publications, 1997), 76, 91-92, 100; Human Rights Watch, *India: Arms and Abuses in Indian Punjab and Kashmir* 6, no. 10 (September 1994), hrw.org, <http://www.hrw.org/campaigns/kashmir/1994/kashmir94-03.htm>, accessed 14 May 2005;

<sup>86</sup> William Scott Latimer, "What Can the United States Learn from India to Counter Terrorism?" (Thesis, Naval Postgraduate School, March 2004), 19-21.

<sup>87</sup> K.P.S. Gill, "Endgame in Punjab: 1988-93," in *Terror and Containment: Perspectives of India's Internal Security*, ed. K.P.S. Gill (New Delhi: Gyan, 2001), 33.

mentally, to confront the larger challenge of eradicating terrorism from the entire state.”<sup>88</sup> He saw a number of key problems that needed addressing before the police could tackle the terrorist problem:

- Inadequate manpower, training, weapons, transport, and communications at police stations, preventing them from reacting independently to terrorist actions
- Poor utilization of available police staff
- Divisions between various police and paramilitary forces resulting from cultural biases
- Infiltration of the police by terrorist sympathizers
- Inadequate intelligence gathering and analysis
- Absence of a coherent strategy of response to terrorist activity
- Lack of leadership

Gill reorganized the police, upgraded their weaponry, and changed leadership. He segregated those personnel believed to be compromised and ensured they were not assigned to anti-terrorism or other sensitive duties. He selectively upgraded police stations and established coordination and cooperation between all forces operating in the area. Under his command, intelligence gathering was expanded and “a continuous system of documentation and analysis and of dissemination of all received intelligence” was established. Finally, with this rejuvenated intelligence resource, he developed an aggressive strategy for dealing with the terrorists. According to Gill,

Each major strike by the terrorists was followed up with major counter-terrorist operations. The responsible group was targeted not only in the Punjab, but in their safe-houses all over the country. The detailed information available of their possible escape routes – including shelters with the extended families of each terrorist, extended families of terrorists who had been killed in the past, key sympathisers [sic] and harbourers [sic] – made it possible to mount surveillance and concerted pursuit

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<sup>88</sup> K.P.S. Gill, “Endgame,” in *Terror and Containment*, 33.

operations that, even where they did not result in immediate arrest, paralysed [sic] individual terrorists and prominent groups, reducing their capacity to act in future.<sup>89</sup>

Gill's strategy quickly began to show results. The surveillance and pursuit operations made it increasingly difficult for terrorists to operate, and while strikes against "soft" targets continued, both the number of civilian deaths and the areas where terrorists operated freely decreased noticeably in the following months.<sup>90</sup>

The terrorists' lack of leadership and cohesion, the oppressive laws they forced upon the populace, their unpredictable and indiscriminate violence, the increasingly visible criminal quality of their operations, and the continually mounting Sikh civilian death toll was whittling away at their support. In March 1989, joint police-paramilitary force operations began cordon and search combing operations in villages and farms, "yielding a steady stream of arrests and seizures of arms, ammunition and explosives, and mounting pressures on the extremists that they found . . . progressively harder to bear."<sup>91</sup> In mid-1989, a Village Defense Scheme was instituted that armed volunteers in vulnerable villages in the region so they could repel terrorist attacks.<sup>92</sup> Tactical plans were drawn up for each village, bunkers were built, and Special Police Officers were appointed and placed in charge of each village operation.<sup>93</sup> Like William Sleeman in his campaign against the Thugs 150 years earlier, Gill relied on captured terrorists turned informants, called "spotters," to identify terrorists.<sup>94</sup> Gill claims that within three

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<sup>89</sup> Gill, "Endgame," in *Terror and Containment*, 44-45. Gill credits his intelligence operations with providing information about the "networks of safe-houses, harbourers [sic] and sympathizers" as well as the "jurisdiction, membership, activities, strategies and networks of each of the major gangs operating in the state." It is assumed that this intelligence also led the government forces to believe that the insurgents/terrorists were turning to trusted family members for safety and support. See Gill "Endgame," in *Terror and Containment*, 37-46.

<sup>90</sup> Gill, "Endgame," in *Terror and Containment*, 37-46.

<sup>91</sup> Gill, *ibid.*, 47-48.

<sup>92</sup> Village Defense Committees formed under such schemes generally reflect the population of the region in their ethnic and religious makeup. Gill refers to forming such a committee in a village of "mixed population"; presumably Sikh and Hindu (see K.P.S. Gill, "Dubious Things Called Popular Support", *Freedom from Fear*, 2001, <http://www.satp.org/satporgtp/kpvgill/terrorism/dec01pio.htm>, accessed 15 May 2005). Sikhs make up approximately 60 percent of the population, and the region is not segregated by ethnicity. Therefore it is presumed that the Village Defense Scheme encompassed Sikh, Hindu, and mixed villages.

<sup>93</sup> Gill, "Endgame," in *Terror and Containment*, 50.

<sup>94</sup> Gill provides no information on the trustworthiness of these informants, and no reference to the use of informants could be found in the literature criticizing government counterterrorism operations in Punjab.

months, these operations made a substantial impact on a number of prominent terrorist groups' ability to hit "soft" targets.<sup>95</sup>

The central government developed a sense of direction. Besides supporting the Punjab police, encouraging cooperation between the police and military, and developing specialized counterterrorism training programs, all key steps in themselves, the government also adopted a non-negotiation strategy with the terrorists. Once it became obvious that the government could not be blackmailed into capitulation, the public realized that the violence was counterproductive.<sup>96</sup> Elections were scheduled for June 1991, but escalation of terrorist activity forced their cancellation. Recognizing the need to restore a constitutional government in the state, in November of that year the Indian government gave the police and military a mandate to restore order in preparation for new elections in February 1992.<sup>97</sup> A concerted effort was made to ensure cooperation and intelligence sharing between the two forces. Additionally, it is believed that K.P.S. Gill instituted a "catch and kill" <sup>98</sup> policy for suspected militants.<sup>99</sup> When elections were held in 1992 under the threat from terrorists to kill anyone who participated, there was only a 22 percent turnout, but the tide had begun to turn and the elections did go off as planned.<sup>100</sup> Less than a year later village elections saw an 82 percent turnout.<sup>101</sup>

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<sup>95</sup> Gill, "Endgame," in *Terror and Containment*, 48.

<sup>96</sup> Latimer, *What Can the United States Learn*, 26-27.

<sup>97</sup> Gill, "Endgame," *Faultlines*.

<sup>98</sup> Catch and kill - suspected terrorists are picked up are shot dead rather than arrested and taken to court. The Armed Forces (Punjab and Chandigarh) Special Powers Act, in force at that time, empowered the security forces to enter and search any premises, to arrest any person without warrant, to destroy any place on the suspicion of being a "terrorist hideout" and to shoot to kill a suspected terrorist with immunity from prosecution. Ram Narayan Kumar, "Human Rights in Punjab: Constitutional Guarantees and Institutional Practice," Committee for Information and Initiative on Punjab, <http://www.punjabjustice.org/articles/html/IJPS1.htm> , accessed 14 May 2005; Gurharpal Singh, "The Punjab Crisis Since 1984: A Reassessment" in *Subnational Movements in South Asia*, ed. Subrata K. Mitra and R. Alison Lewis. (Boulder, Colorado: Westview Press, 1996), 113.

<sup>99</sup> Human Rights Watch and Physicians for Human Rights, *Dead Silence: The Legacy of Abuses in Punjab*. (New York: Human Rights Watch, 1994), 11.; Ram Narayan Kumar and Cynthia Mahmood, "Disappearances in Punjab and the Impunity of the Indian State - A Report on Current Human Rights Efforts," 1 October 1998, <http://www.panthkhalsa.org/humanrights/index.php>, accessed 31 May 2005.

<sup>100</sup> Not everyone considered the 1992 elections as a positive event – at least initially. In "The Punjab Crisis Since 1984: A Reassessment," published in 1996, Gurharpal Singh, using a quote from India Today (15 March 1992) notes, "While most of the electorate stayed away, the Congress-I 'won the battle for the state legislature but lost the war for Sikh hearts.'" G. Singh, "The Punjab Crisis," 115.

<sup>101</sup> "Peace at Last in Punjab," *The Economist* (22 May 1993), 45.

Following the 1992 election, the Indian government began reducing the military presence in the area, leaving counterterrorism efforts mostly in the hands of the police. With terrorist attacks again escalating, and no longer able to rely on a large military force, Gill responded by formulating three “strategies.” The first was “immediate identification of the perpetrators of the latest outrage, and the application of the fullest force to secure their arrest or elimination.” The second was to concentrate on the terrorist leaders. Third, he had senior officers oversee operations at night, when the terrorists were most likely to strike. Already reeling from previous government operations, the remaining terrorist organizations could not recover from these initiatives. When offered amnesty for surrendering, 537 terrorists turned themselves in during 1992, and another 379 surrendered in 1993. By 1994, terrorist activity had virtually ceased.<sup>102</sup>

What have not ceased are allegations of serious human rights abuses by the Indian government and specifically the Punjab police during this time.<sup>103</sup> While the veracity of any given claim of abuse may be questioned, the sheer volume of accusations and evidence lends credibility to the allegations.<sup>104</sup> According to Human Rights Watch/Asia and Physicians for Human Rights, most of those killed in the decade of violence were executed by police. Killings by police in staged encounters were so common that “encounter killing” became a euphemism for extrajudicial execution.<sup>105</sup>

Extrajudicial executions of these suspected militants and sympathizers were carried out as part of deliberate policy conceived by senior police and civil administration officials and implemented by the Punjab police. In their efforts to find and kill the militants, the Punjab police conducted massive search operations, frequently arresting persons who may merely have lived in an area known to be frequented by militant groups or who have belonged to an organization suspected of supporting the militants. In some cases, the police recruited special agents to identify the victims and carry out the killings. Although there was little effort to disguise the nature of these executions, police reports generally claimed the victim was

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<sup>102</sup> Gill, “Endgame,” in *Terror and Containment*, 77-81.

<sup>103</sup> The emphasis of this paper is on government actions during their fight against terrorism. In no way does this diminish the horrendous crimes against humanity perpetrated by the terrorists. Sikh terrorists were guilty of targeted and indiscriminate murder, rape, torture, extortion, illicit drug activities, smuggling, intimidation, theft and numerous other crimes.

<sup>104</sup> While not admitting to all of the specific abuses alleged by human rights organizations, the Supreme Court of India acknowledged “that there had been flagrant violations of human rights on a mass scale in Punjab.” Mudgal, “Roots of Violence.”

<sup>105</sup> Human Rights Watch, *Dead Silence*, 1.

killed in an “encounter” or, occasionally, that he committed suicide to avoid capture. In violation of Indian law, the police usually performed perfunctory post mortems and cremated the bodies in secret.<sup>106</sup>

According to several analysts and human rights organizations, as well as numerous pro-Sikh web sites, torture by police was commonplace; family members were frequently tortured in order to ascertain suspects' whereabouts.<sup>107</sup> Beatings (often on the soles of the feet), electric shock, suspension by the feet or hands (sometimes while tied behind the back), stretching the legs apart, and crushing the leg muscles with heavy wooden rollers were common methods. Hundreds of Sikh men simply disappeared after falling into police custody. Gill's Operation Rakshak II, the offensive following the 1992 elections, had as its goal the elimination, not merely arrest, of the militant Sikh leadership. Gill also offered a bounty to police for killing known militants – a practice that encouraged extrajudicial executions and disappearances.<sup>108</sup> Additionally, Punjab police supported several undercover organizations, essentially armed vigilante groups that operated outside the authority of the state.<sup>109</sup> While the Indian constitution allows for certain restrictions on the press, Human Rights Watch considers the threats, seizures, arrests and harassment of the press by government authorities in Punjab to be violations of Article 19 of the International Covenant on Civil and Political Rights.<sup>110</sup>

The Indian central government provided the legal foundation for much of what transpired at police hands. Beginning in October of 1983 and continuing through May of 1985, at least eight new laws were passed to deal with the deteriorating situation in the Punjab. These laws gave both the courts and security forces special powers in cases of

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<sup>106</sup> Human Rights Watch, *Dead Silence*, 4. According to Mudgal, Punjab police used several vigilante organizations to assist them. Police denied supporting these organizations until one group killed two police officers. A high-ranking police official subsequently disclosed their activities. Mudgal, “Roots of Violence.”

<sup>107</sup> Amnesty International, Physicians for Human Rights, Human Rights Watch, *Harvard Human Rights Journal*; Cynthia Keppley Mahmood, “Terrorism, Myth, and the Power of Ethnographic Praxis,” *Journal of Contemporary Ethnography* 30, no. 5, (October 2001), 528.

<sup>108</sup> Human Rights Watch, *Dead Silence*, 2-4

<sup>109</sup> Mudgal, “Roots of Violence.”

<sup>110</sup> Human Rights Watch, *Punjab in Crisis* (New York: Human Rights Watch, 1991), 167. As per Status of Ratifications of the Principal International Human Rights Treaties, India became a party to this covenant in 1979. Office of the United Nations High Commissioner for Human Rights, *Status of Ratifications of the Principal International Human Rights Treaties* (9 June 2004), <http://www.unhchr.ch/pdf/report.pdf>, accessed 7 June 2005.

terrorism and other forms of public disorder. According to Human Rights Watch, the laws effectively disregarded the civil liberties of the Sikh population, particularly in regards to fair treatment and the right to a fair trial.<sup>111</sup> Besides numerous unwarranted arrests, the army and police felt free to harass and torture the Sikh population to gain information on purported extremists.<sup>112</sup> The National Security Act of 1980 (amended in 1984 and 1987) authorized detention of suspected terrorists in Punjab for two years without trial. The Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983 allowed security forces to search premises and arrest people without a warrant and gave them the power to shoot to kill a suspected terrorist with immunity from prosecution.<sup>113</sup> More laws were passed as the situation deteriorated. The Terrorist and Disruptive Activities Act (TADA) of 1987 authorized detention of persons in a “disturbed area” based on suspicion alone. Bail was prohibited to detainees even if not charged after 90 days, and detainees were presumed guilty until proven innocent. In ten years (1985 – 1995) 17,529 TADA cases were registered by police in Punjab but only one person was convicted.<sup>114</sup> In 1988, the Indian Parliament dissolved the Punjab State Assembly and passed the Fifty-ninth Amendment to the Indian Constitution, “authorizing the extension of President’s rule beyond one year, and suspending due process guarantees for rights relating to life and liberty and to freedom of speech.”<sup>115</sup>

Gill reacts strongly to any allegation of human right abuses and calls the activities of the organizations that investigated such abuses, “a massive and well coordinated campaign by another group of terrorist front-organizations masquerading as human rights activists.”

‘Fact finding committees’ comprising sympathizers or pro-militant politicians were set up after each police operation. At a time when an average of over 200 people were being killed in a month by the terrorists, these ‘human rights’ activists pretended that every action by the security forces was unjustified. Every terrorist was killed in a ‘false encounter’

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<sup>111</sup> Human Rights Watch, *Dead Silence*, 5-7

<sup>112</sup> Human Rights Watch, *Punjab in Crisis*, 5-6.

<sup>113</sup> Amnesty International described this as a “license to torture and kill with impunity.” Amnesty International, *India: Torture, Rape and Deaths in Custody* (London: Amnesty International, 1992), 60.

<sup>114</sup> Joginder Singh, *Without Fear or Favour: An Autobiography* (New Delhi: Kaveri Books 1998), 295; Kaur, “A Judicial Blackout.”

<sup>115</sup> Kumar and Mahmood, *Disappearances in Punjab*; Kaur, “A Judicial Blackout.”

(there as no such thing as a ‘genuine encounter’ in their lexicon, the words ‘false’ and ‘encounter’ went together by definition). Every arrest victimized the innocent. Every action by the security forces was an ‘excess, an ‘atrocities’. The countryside was rife with stories of these alleged ‘police atrocities’; but in every case, they were ‘known’ to have happened in ‘a village nearby,’ to have been witnessed by a person invariably other than the narrator; they transpired in an indeterminate area of the mind that could not be identified on any map of Punjab, but which existed, at once, everywhere and nowhere. ... The disruption these tactics caused was far greater than anything the terrorists had, or could have, achieved in the past.<sup>116</sup>

Contrary to Gill's claims, however, Human Rights Watch is able to provide names, places, dates and times, and often first -person accounts of torture, abuse, killings and disappearances.<sup>117</sup> Even if Gill is correct that there is some conspiracy to discredit the police and the government, there is enough evidence that security forces went beyond the bounds of normal police actions.

The government of Punjab, in response to the Punjab and Haryana High Court's interest in the disappearances, suspected extrajudicial executions and human rights violations in general, agreed in 1998 that human rights abuses during the period of conflict could be investigated by the Punjab Human Rights Commission (created in 1997) provided that the Indian Protection of Human Rights Act was amended to allow pursuit of cases more than a year old. The government of India refused this on the grounds that the amount of litigation would overwhelm the Punjab Human Rights Commission and the National Human Rights Commission.<sup>118</sup>

For its part, the Indian central government has appeared to brush off claims of human rights and civil liberties abuses in Punjab. In 1994, in the publication *Dead Silence*, Human Rights Watch/Asia and Physicians for Human Rights wrote,

Throughout the conflict, the government gave widespread publicity to abuses by Sikh militants, and many of the human rights violations described in the report stemmed from deliberate efforts to exact retribution. But there is no indication that the government at the state or

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<sup>116</sup> Gill, “Endgame,” *Faultlines*.

<sup>117</sup> Human Rights Watch, *Dead Silence*, 16-90.

<sup>118</sup> Amnesty International, “India: Break the cycle of impunity and torture in Punjab,” *Amnesty International*, 20 January 2003, <http://web.amnesty.org/library/Index/ENGASA200022003?open&of=ENG-IND>, accessed 21 May 2005.

federal level since then has made any effort to investigate the abuses committed by its own agents or to prosecute the perpetrators, even though the identity of the latter is well documented. On the contrary, the deliberate use of torture and execution as counterinsurgency tactics was not merely tolerated but actively encouraged by senior government officials. ... For the most part, the government of India has responded to criticism about systematic human rights abuses by the Punjab police not by denying the charges, but by countering that the Sikh militants have themselves been responsible for abuses. In fact, senior police and civil authorities in the state and in the central government have acknowledged that the practice of “encounter” killings and other abuses has been widespread, but they have attempted to justify the abuse as the only practical means available for fighting terrorism. To our knowledge, no member of the Punjab police has been subject to criminal prosecution in any case of torture, murder or disappearance.<sup>119</sup>

The Indian National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act (PHRA) in 1993. The NHRC can investigate alleged abuses, but can only make recommendations; it has no enforcement power. Additionally, the PHRA restricts the NHRC from investigating abuses by members of the armed forces and, as noted earlier, abuses must have taken place within one year of filing. In December 1996, the Indian Supreme Court ordered the NHRC to investigate alleged disappearances in Punjab. Subsequently, however, the Court placed restrictions on the NHRC’s investigations, and the NHRC itself limited its investigation to illegal cremations at three crematoria in the Amritsar district, disregarding the forced disappearances and extrajudicial executions that may have led to the cremations. After four years of debate and investigations, the NHRC agreed to the Punjab government’s offer of \$2000 compensation to each of eighteen families with no admission of wrongdoing or prosecution of officials. The families rejected the offer and have petitioned the NHRC to expand its inquiry. The commission agreed to expand the investigation of illegal cremations only, but will not investigate disappearances.<sup>120</sup> As

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<sup>119</sup> Human Rights Watch, *Dead Silence*, 1-5.

<sup>120</sup> Kaur, “A Judicial Blackout.”

of 2005, the Indian government has yet to satisfactorily investigate or hold hundreds of police and security officers accountable for the abuses that took place during the period of Sikh insurgency and terrorism.<sup>121</sup>

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<sup>121</sup> United States Department of State, Bureau of Democracy, Human Rights, and Labor, *India: Country Reports on Human Rights Practices – 2004* (28 February 2005), <http://www.state.gov/g/drl/rls/hrrpt/2004/41740.htm>, accessed 5 June 2005.

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## V. COMMONALITY IN COUNTERTERRORISM INITIATIVES

This chapter will identify the counterterrorism measures that were common to both the Thug and Sikh campaigns. Many of the measures described in this chapter are considered normal counterterrorism tactics. There is no attempt to evaluate these measures as acceptable or unacceptable under present day American social standards. Chapter VI will discuss how the actions taken during these campaigns affected human rights and civil liberties.

Although a century and a half separates the Thug campaign from the Sikh campaign, they share a number of similar, if not identical, characteristics. Besides the fact that they took place in the same region of the world, one interesting factor these cases had in common was that a single individual received most of the credit for the successful outcome of each, and that much of the available detail about each operation can be traced to the writings of those single individuals. Whether complimentary or critical, virtually all information on the Thug campaign refers to the records of William Sleeman. Similarly, most of the more specific information on the strategy and tactics of the Indian security forces battling the terrorists in the Punjab can be traced to the writings of K.P.S. Gill. This has not presented a problem since, for the most part, critics and supporters do not disagree about the essential steps that were taken. Rather, the critics argue that the steps were unnecessarily draconian. Both Sleeman and Gill are quite unapologetic for their actions, believing those actions to be necessary for the greater good. Regardless of whether the British had ulterior motives for the Thug campaign, as both Van Woerkens and Roy claim, or whether the Punjab police were guilty of torture and murder, both of these operations successfully ended what was essentially a reign of terror.<sup>122</sup>

The similarities between the Thug and Sikh campaigns can be divided into two general categories: legal/judicial and strategic/tactical.

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<sup>122</sup> Martine van Woerkens, *The Strangled Traveler: Colonial Imaginings and the Thugs of India* (Chicago: University of Chicago Press, 2002); Parama Roy, *Indian Traffic: Identities in Question in Colonial and Postcolonial India* (Berkeley: University of California Press, 1998). Both authors propose that the British used the Thug problem as an excuse to expand their influence in the region.

## A. LEGAL/JUDICIAL

An initial concern prior to the beginning of each operation was the inadequacy of the judicial system. Both Sleeman, in the early stages of the anti-Thug campaign, and Gill, when he assumed control of counterterrorism operations in Punjab, complained that under the existing laws, judges were releasing Thugs or Sikh terrorists based on lack of evidence.<sup>123</sup> While their complaints were directed primarily against the judges, in actuality it was the legal system that caused the release of the accused. Regarding pre-Thug campaign conditions, Bruce writes:

The judges regarded legal procedure as of supreme importance and were united in opposing changes to make it less liable to be rigged. Sleeman later wrote of these legal obstacles: “For some years we had been trying men accused of Thuggee, but they had almost invariably escaped. It had been difficult, to a degree perhaps not readily appreciable by English lawyers...to convict men upon clear judicial evidence of acts of Thuggee.”<sup>124</sup>

The British took judicial power over the Thug trials away from the local judges and placed it in the hands of special commissioners.<sup>125</sup> The Punjab police and Indian security forces made full use of various antiterrorism laws and, if the human rights organizations are to be believed, at times did not bother with trials at all, dealing with the problem by extra-judicial executions.

Both the British in the 1830s and the Indian government in the 1980s amended their laws to allow detention without trial for extended periods. For the British, there were two reasons for these extended detentions. First, it was more efficient to arrest as many in a gang as possible before summoning “witnesses” to testify. Witnesses, of course, were the approvers who were busy traveling with the military, pointing out Thugs. Second, it was practical to hold approvers without trial as long as they could be of use in the campaign. In an 1830 report, Curwen Smith acknowledged that “a number of persons [had been] confined in different jails under charge of Thuggee, ever since

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<sup>123</sup> George Bruce, *The Stranglers: The Cult of Thuggee and Its Overthrow in British India* (New York: Harcourt, Brace and World, 1968), 42; Vipul Mudgal, “Roots of Violence in Indian Punjab,” *AAKROSH - Asian Journal on International Terrorism and Conflicts* 2, no. 3 (April 2001), <http://www.stratmag.com/Aakrosh/ac20303.htm>, accessed 4 January 2005.

<sup>124</sup> Bruce, *The Stranglers*, 44-45. Sleeman was using the word “escaped” to refer to the acquittal of the men in question.

<sup>125</sup> Bruce, *ibid.*, 86.

1823 A.D. without having had any regular trial.”<sup>126</sup> It was advantageous for the Indian government in Punjab to keep accused terrorists out of the judicial system as long as local judges lived in fear of terrorist retribution. Additionally, antiterrorist laws allowed security forces to use broad criteria to sweep up suspected terrorists and supporters; those unjustly detained could be released after police had time to ponder the evidence. The National Security Act (NSA) allowed for administrative detention without due process. The Terrorist and Disruptive Activities Act (TADA) also allowed for detention without due process, but specified criminal charges. At times the laws were used sequentially: A person would be held for two years under the NSA, and then for several more years under TADA.<sup>127</sup>

Eventually, in both cases, the security forces essentially got what they desired to neutralize the terrorists. While recognizing the potential danger to civil liberties, the British authorized the use of spies and general warrants in the Thug campaign. Anyone identified by an approver as a Thug could be arrested based on that denunciation alone. As noted earlier, during the time of Sikh terrorist activity, India passed the Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983, among other laws, which allowed security forces to search premises and arrest people without a warrant and gave them the power to shoot to kill suspected terrorists with immunity from prosecution.

## **B. STRATEGIC/TACTICAL**

An initial step in both campaigns was an attempt to build up the size of the security forces. Sleeman requested dedicated staff and troops from the British governor general, but it took several years before he felt his requests were adequately met. Gill’s situation was different. India had a large military presence in the area to combat terrorism, but its methods were erratic, inefficient and not coordinated with local police. The local police had been decimated by murders and low morale. Gill acted quickly to rebuild the force, as well as to coordinate efforts.

In addition, many of the more useful tactics employed by the security forces in each of these cases were nearly identical. For instance, in each case the families of the terrorists were used against them. The British literally held the family of a suspected

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<sup>126</sup> van Woerkens, *The Strangled Traveler*, 70.

<sup>127</sup> Human Rights Watch, *Punjab in Crisis* (New York: Human Rights Watch, 1991), 149, quoting Director General of Police Julio Ribeiro.

Thug hostage until the Thug turned himself in to authorities. Even after the Thug was in custody, his family could be imprisoned in a compound to prevent his children from re-infecting society. Punjab security forces' targeting of families was less blatant. Terrorists' families were placed under surveillance and were likely subject to some form of intimidation. There are allegations that security forces used physical violence against terrorists' associates and family members to obtain information on the whereabouts of suspects. If the human rights organizations are to be believed, family members were tortured in attempts to discover the terrorists' location. Similar tactics, with resultant similar accusations, were used to pressure the supporters of Sikh terrorists in Punjab.<sup>128</sup> In early nineteenth century India, the British acknowledged, but did not condone, the frequent use of torture by police to extract confessions.<sup>129</sup> Punjabi police, while conducting their search operations, arrested members of organizations believed to be supporting the terrorists.<sup>130</sup>

Both security forces targeted terrorist leaders. Thugs operated in numerous groups or gangs, so while there was no overall hierarchical Thug organization or leader in control, each gang had its own leaders who were singled out by the British through the approvers.<sup>131</sup> Additionally, the death sentence was mandatory for gang leaders who did not become approvers.<sup>132</sup> The Punjab security forces faced a similar situation after Bindranwale's death in 1984. Numerous terrorist organizations operated mostly independently, each with its own leadership. Gill and the Punjab police made special efforts to eliminate these leaders.<sup>133</sup>

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<sup>128</sup> It is generally acknowledged that much of the Sikh terrorists' logistical support and training came from factions in Pakistan, outside the operational limits of the Punjab police. In his book *Strangers of the Mist*, Sanjay Hazarika observes, "Over the years, the ISI had stirred the Punjab insurrection, arming and training Sikh extremists, until a ruthless police official named Kanwar Pal Singh Gill crushed them with an iron hand." Sanjoy Hazarika, *Strangers of the Mist: Tales of War and Peace from India's Northeast* (New Delhi: Penguin Books, 2003), 170.

<sup>129</sup> Anupama Rao, "Problems of Violence, States of Terror: Torture in Colonial India," *Interventions* 3 (2001), 191.

<sup>130</sup> Human Rights Watch, *Dead Silence*, 4.

<sup>131</sup> van Woerkens, *The Strangled Traveler*, 51.

<sup>132</sup> van Woerkens, *ibid.*, 47.

<sup>133</sup> Ved Marwah, "India", *Combating Terrorism: Strategies of Ten Countries*, ed. Yonah Alexander (Ann Arbor: University of Michigan Press, 2002), 327.

Former terrorists turned informers were a key weapon. Sleeman credits the use of approvers with much of the success of the anti-Thug campaign. In fact, the testimony of the approvers was often the only evidence on which accused Thugs were convicted. While Gill does not give his spotters as much credit, he does acknowledge their contribution to the security forces' intelligence gathering and the success of numerous operations.<sup>134</sup>

The allegations of torture and abuse during counterterrorism efforts in the Punjab have been previously noted. Stories and depositions from arrested Thugs during that campaign also indicate that violence was sometimes used freely. The 1835 deposition of arrested Thug Sahib Khan of Kabrin tells how his brother committed suicide by jumping down a well to escape the beatings administered by the security forces interrogating him.<sup>135</sup>

Paid vigilantes or bounty hunters were used to assist security forces in apprehending or killing accused terrorists. Bounty hunters who distinguished themselves might also receive additional rewards, and in special cases honorary distinctions and titles.<sup>136</sup> Punjab police quietly used several undercover organizations to assist them.<sup>137</sup> Initially, the police either denied their existence or claimed they were independent vigilante groups operating without their permission. When Dalbir Singh, a former employee of the state police and the leader of one of the organizations, killed two senior police officers, a police inspector general blew the whistle on the collaboration between the police and the vigilantes.<sup>138</sup> Security forces or informers were offered bounties. The British offered rewards to their approvers; Punjab police paid police officers a bounty for capturing or killing terrorists.

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<sup>134</sup> K.P.S. Gill, "Endgame in Punjab," in *Terror and Containment Perspectives of India's Internal Security*, ed. K.P.S. Gill (New Delhi: Gyan, 2001), 44-48.

<sup>135</sup> Edward Thornton, *Illustrations of the History and Practices of the Thugs* (London: W.H. Allen and Co., 1837), 248.

<sup>136</sup> van Woerkens, *The Strangled Traveler*, 50-51.

<sup>137</sup> Garharpal Singh notes the "employment of irregular hit squads intended to infiltrate and liquidate terrorist groups." Gurharpal Singh, "The Punjab Crisis Since 1984: A Reassessment" in *Subnational Movements in South Asia*, ed. Subrata K. Mitra and R. Alison Lewis. (Boulder, Colorado: Westview Press, 1996), 113.

<sup>138</sup> Mudgal, "Roots of Violence."

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## VI. LESSONS FOR THE UNITED STATES

There are a number of lessons from the history of the Thug and Sikh terrorist campaigns that should interest to the United States and other liberal democracies. One example is the successful targeting of leaders in groups that lack a unified hierarchical command structure. The use of informants, a tactic popular for many years with law enforcement against street gangs and organized crime, is another example of a method that can be (and presumably is) applied against al Qaeda and other groups,. The focus here, however, is on civil liberties and what the United States can expect in that regard, considering the history of these two terrorist groups.

Targeted curtailment of civil liberties was important to both the Thug and Sikh campaigns. The Thug campaign was different from the norm in that changes in the law were not instituted immediately following one particular attack or series of attacks. The legal changes came quickly on the heels of official *recognition* of the threat. This distinction makes sense considering the Thugs' commitment to anonymity and secrecy in their operations. Once the British became fully aware of the extent of the Thug operations and realized the threat they posed to safe travel in India, the curtailment of civil liberties quickly followed, as it generally does when states feel threatened.<sup>139</sup> In this particular case, the changes to the law and judicial system were apparently quite successful. In Sleeman's view, the success of the Thug campaign can be credited largely to the modifications to the judicial system, second only to the use of informers. As noted previously, in India during the period of the Sikh terrorists, numerous antiterrorism laws were passed in response to the terrorist activities of Jarnail Singh Bhindranwale and his extremist successors. In this case, the curtailment of civil liberties was only one factor in the success of the Punjab security forces, albeit an important one. As Vipul Mudgal

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<sup>139</sup> Michael Ignatieff, *The Lesser Evil* (Princeton: Princeton University Press, 2004), 71-81, 108; Laura K. Donohue, "Civil Liberties, Terrorism, and Liberal Democracy: Lessons from the United Kingdom," BCSIA Discussion Paper 2000-05, ESDP Discussion Paper ESDP- 2000-01, John F. Kennedy School of Government, Harvard University, August 2000, 1-5.

notes, “Many analysts believe that the Indian state’s victory over terrorism [in] Punjab would not have been a reality without ‘unconventional’ methods.”<sup>140</sup>

Beyond the curtailment of civil liberties during the Sikh terrorism period, Indian security officials' alleged abuses of human rights present a different issue. First, there is question about how much torture and how many extra-judicial executions took place, if any. Like the death toll at the Golden Temple during Operation Blue Star, where one group claims fatalities in the hundreds and the other, fatalities in the thousands, the truth probably lies somewhere between the human rights groups' allegations and the government's denials. With terrorists deliberately targeting the families of police officers and court officials, who consequently lived in fear and inconsistently sentenced or released suspects, it would be surprising if no executions took place, as the very survival of the police and their families may have depended upon neutralizing their adversaries. And while most sources consider human rights to be generally inviolate, there are often exceptions<sup>141</sup>. Ignatieff notes that even suspects under detention, although disarmed and physically restrained, may pose a grievous danger to a large number of citizens based on their knowledge of future planned attacks. Such circumstances have compelled many democracies to commit torture for the sake of their people's security and safety.<sup>142</sup> Civil liberties advocate Alan Dershowitz has stated,

The simple cost-benefit analysis for employing such non-lethal torture seems overwhelming: it is surely better to inflict non-lethal pain on one guilty terrorist who is illegally withholding information needed to prevent an act of terrorism than to permit a large number of innocent victims to die. Pain is a lesser and more remediable harm than death; and the lives of a thousand innocent people should be valued more than the bodily integrity of one guilty person.<sup>143</sup>

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<sup>140</sup> Vipul Mudgal, “Roots of Violence in Indian Punjab,” *AAKROSH - Asian Journal on International Terrorism and Conflicts* 2, no. 3 (April 2001), <http://www.stratmag.com/Aakrosh/ac20303.htm>, accessed 4 January 2005.

<sup>141</sup> Article 2 of The United Nations Convention Against Torture states, “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture.” Office of the United Nations High Commissioner for Human Rights, *The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* (1984), [http://www.unhchr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhchr.ch/html/menu3/b/h_cat39.htm), accessed 10 July 2005.

<sup>142</sup> Ignatieff, *The Lesser Evil*, 138.

<sup>143</sup> Alan M. Dershowitz, *Why Terrorism Works: Understanding the Threat, Responding to the Challenge*, (New Haven: Yale University Press, 2002), 143-144.

However, those like Dershowitz and Ignatieff, who acknowledge that when there is a conflict with human rights, the balance tips toward public safety and security, also advocate transparency and accountability if such steps are taken.<sup>144</sup> And Ignatieff notes,

Torture might break apart a network of terrorist cells, but it would also engender hatred and resentment among the survivors of the torture and further increase their support among disaffected populations. ... Extreme measures, like torture, preventive detention, and arbitrary arrest, typically win the battle but lose the larger war.<sup>145</sup>

Indeed, criticizing the Indian government's methods and fearing the future, Gurharpal Singh in 1996 wrote, "...the elimination of Sikh militants has neither 'pacified' Punjab nor ensured that the Punjab problem will be adequately dealt with in the medium term."<sup>146</sup> As evidenced by the number of documents and web sites alleging state abuses both during this period and after, resentment caused by these practices still runs high.

However, as well-known Indian author and political commentator Arun Shourie notes,

No judge, no human rights organization that today gives lectures about the conduct of the Police in Punjab had set out how the Police was to prosecute the war when the entire judicial system had literally evaporated: magistrates were in mortal dread of terrorists, witnesses – even those who had seen those dearest to them being gunned down in front of their eyes – would not testify, they could not come forth to give witness without risking their lives.<sup>147</sup>

Contrary to the predictions of the early critics and the warnings of most analysts, the Indian government has restored relative normalcy to the area, just as the British created safe travel and trade conditions in the 1800s by using similar tactics to eliminate the Thugs. In neither case was the terrorist activity completely or immediately eliminated; Sikh terrorists' attacks have continued into this century but are very rare, and

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<sup>144</sup> Peter J. Pham, "Law, Human Rights, Realism and the 'War on Terror,'" *Human Rights and Human Welfare*, 4 (2004), 100.

<sup>145</sup> Ignatieff, *The Lesser Evil*, 20.

<sup>146</sup> Gurharpal Singh, "The Punjab Crisis Since 1984: A Reassessment," in *Subnational Movements in South Asia*, ed. Subrata K. Mitra and R. Alison Lewis. (Boulder, Colorado: Westview Press, 1996), 116.

<sup>147</sup> Arun Shourie, "Responding to Terrorism", in *The Global Threat of Terror: Ideological, Material and Political Linkages*, ed. K.P.S. Gill and Ajai Sahni (New Delhi: Bulwark Books, 2002), 19.

some form of Kali-inspired human sacrifice is thought to have continued for decades after the British claimed success against the Thugs.<sup>148</sup> Yet peaceful conditions did return to these areas following state actions. This is not to suggest that indefinite detention without charges, targeted executions, and torture should be considered the sole causes of either group's demise. The cunning use of informants, the ability to convict based solely on the testimony of these same informants, and the general population's lack of support for the Thugs was also key factors in their defeat. The primary factors in the defeat of the Sikh terrorists were social, political and economic development, efforts to close religious and ethnic divisions, well-equipped and disciplined urban counterterrorism actions, and control over counterterrorism efforts by local security forces rather than the military.<sup>149</sup> However, repressive tactics were used to some extent in both cases, and they contributed to the success of the counterterrorism efforts.

Not every terrorist attack evokes a response from the state to the extent that laws are changed and special tactics used by security forces. In cases of isolated attacks, frequently the state response is to allow law enforcement to handle the situation as it would a normal crime. But when the state believes itself to be fundamentally threatened by the terrorists, or the terrorists have managed to create an atmosphere of fear in the public, one can expect the state to take special steps. In both cases examined in this thesis, the governments in question felt threatened. The colonial British realized that trade and the expansion of their influence and control were seriously threatened by the gangs of murderers operating freely along the roads of India. The Thugs were a potential menace to all Indian travelers and commerce. Only by ridding the country of such criminals could the British create the type of colony they envisioned. During the period of Sikh terrorism, the state of Punjab had deteriorated into near chaos. Sikhs as well as Hindus were victimized by numerous terrorist groups, some little more than organized gangs of common criminals operating under the guise of insurgents. Drastic action was needed to restore the region to some semblance of normalcy.

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<sup>148</sup> Rahul Bedi, "Trouble in Punjab," *Jane's Intelligence Review – Asia* 7, no. 11 (1 November 1995); William Scott Latimer, "What Can the United States Learn from India to Counter Terrorism?" (Thesis, Naval Postgraduate School, March 2004), 27; P.W. Wilson, "India at the Crossroads," a review of *The Making of Modern India* by Nicol MacNicol, in *The New York Times*, 8 February 1925, BR1.; Louise Maunsell-Field, "Cults of India," a review of *The Religions and Hidden Cults of India* by Lieutenant General Sir George MacMunn, in *The New York Times*, 5 June 1932, BR20..

<sup>149</sup> Latimer, *What Can the United States Learn*, 30-31.

The conflict between security and civil liberties has existed for as long as civilization. Early nomads traded their free existence for the security of agriculture and eventually cities. According to Gibbon, the imperial Romans believed, “The urgent consideration of the public safety may undoubtedly authorize the violation of every positive law.”<sup>150</sup> In *The Lesser Evil*, Michael Ignatieff maintains that,

necessity may require us to take actions in defense of democracy which will stray from democracy’s own foundational commitments to dignity. While we cannot avoid this, the best way to minimize harms is to maintain a clear distinction in our minds between what necessity can justify and what the morality of dignity can justify, and never to allow the justifications of necessity – risk, threat, imminent danger – to dissolve the morally problematic character of necessary measures.<sup>151</sup>

Ignatieff’s position takes the middle ground between the pragmatic view that rights exist to protect the citizen and therefore liberties “depend on the survival of government and must be subordinate to its preservation,” and the moral view that rights exist to express the intrinsic worth and dignity of individuals, and such worth and dignity is not situational.<sup>152</sup> While acknowledging that liberal democracies may have to take actions considered objectionable under normal circumstances, he lists four conditions necessary before such steps are taken.

So if we resort to the lesser evil, we should do so, first, in full awareness that evil is involved. Second, we should act under a demonstrable state of necessity. Third, we should chose evil means only as a last resort, having tried everything else. Finally, we must satisfy a fourth obligation: we must justify our actions publicly to our fellow citizens and submit to their judgment as to their correctness.<sup>153</sup>

Ignatieff’s preconditions are important, but probably not applicable in a practical sense immediately after a terrorist attack. Historically, as evidenced by the two cases described here, when a state is threatened by terrorists, or the citizens become fearful due to terrorist attacks, civil liberties *will* be curtailed. This curtailment, generated after a perfunctory examination and debate, can be expected to occur following successful

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<sup>150</sup> Edward Gibbon, *The Decline and Fall of the Roman Empire* (1776), 2.26.

<sup>151</sup> Ignatieff, *The Lesser Evil*, 8.

<sup>152</sup> Ignatieff, *ibid.*, 4-5.

<sup>153</sup> Ignatieff, *ibid.*, 19.

terrorist attacks. It is almost a reflex reaction to events by the government. Eventually, a time comes when the state can pause and review the procedures that have been implemented and how laws have been amended. At that point the state can decide if those conditions as listed have been met and take steps to ensure the state's actions appropriately reflect the state's standards. To refrain from curtailing civil liberties, however, would indicate a level of composure and discipline that is not historically evident. In addition to the two cases cited here, Spain, Germany, Italy, Great Britain, and Canada have all curtailed civil liberties when those states felt threatened.<sup>154</sup> Just one week after the July 7, 2005 terrorist bombings in London, the British government announced plans for legislation that, while not equivalent to indefinite detention, would abridge freedom of speech.<sup>155</sup>

The reasons for this consistent if somewhat knee-jerk reaction are varied. First, measures such as holding suspects for indefinite periods without trial appear to work, at least initially. This particular measure has been used repeatedly by states combating terrorism. Often, what would be required as evidence of guilt is not readily available, yet security forces may be confident that certain persons are dangerous. Taking these persons into custody along with known or suspected associates is believed to safeguard the state from attack. That innocent parties are frequently detained along with terrorists is considered an unfortunate but unavoidable side effect. In "Civil Liberties, Terrorism, and Liberal Democracy: Lessons from the United Kingdom," Laura K. Donohue notes how, each time a new law was passed curtailing civil liberties in response to terrorist

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<sup>154</sup> Ignatieff, *The Lesser Evil*, 71-81, 108; Donohue, "Civil Liberties."

<sup>155</sup> *Times Online*, 15 July 2005 reports: "She [Home Office minister Hazel Blears] also confirmed plans to introduce a new offence of 'acts preparatory to terrorism' and another to criminalize those inciting terrorism indirectly. ... Today Ms Blears confirmed that the offence of indirect incitement to commit terrorism would have a wide-ranging effect, applying to both public and private statements. 'It would apply where people would seek to glorify terrorist activity, perhaps, for example, it's saying "it's a marvellous [sic] thing that this has happened, these people are martyrs.'" Not a direct incitement to go out and do so but it could be construed by people hearing that as an endorsement of terrorism. ... In some cases the tone of your endorsement might take it into glorification.'" Jenny Booth, "Blears Outlines Tough New Anti-terror Laws", *Times Online*, 15 July 2005, <http://www.timesonline.co.uk/article/0,,22989-1695682,00.html>, accessed 17 July 2005.

activity associated with Northern Ireland, such activity decreased dramatically.<sup>156</sup> She credits much of the reduction in violence to information obtained from persons who had been detained. Although fewer than 15 percent of the 27,000 arrested between 1974 and 1996 under the Prevention of Terrorism Act were actually charged with a crime, some of those detained provided information that could not have been obtained without the antiterrorism laws that permitted such detentions.<sup>157</sup>

For political and appointed leaders, amending current laws to allow fewer restrictions on security forces at the expense of the rights of the people or a select group of people performs two functions. First, it is a bold statement that can be made immediately, showing their decisiveness and intolerance of terrorist activities. Second, it is the political safe-road. As Ignatieff notes,

One reason why we balance threat and response poorly is that the political costs of under reaction are always going to be higher than the costs of overreaction. Political leaders who fail to take adequate precautions after an initial attack will pay heavily after a second one, while those who pile on additional measures and still fail to deter the next attack may be able to survive by claiming that they did the best they could. Since no one can know in advance what strategy is best calibrated to deter an attack, the political leader who hits hard – with security roundups and preventive detentions – is making a safer bet, in relation to his own political future, than one who adopts the precautionary strategy of “first do no harm.”<sup>158</sup>

Yet another reason for states to curtail civil liberties, as Ignatieff notes, is that in democratic societies, after a terrorist attack citizens often feel that the openness and freedoms of their society have been abused. They begin to view some of the institutional freedoms that make that society what it is as weaknesses, unsuitable for dangerous times. This is part of the damage done by terrorists – causing a people to see their freedoms as a

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<sup>156</sup> “Declining levels of violence in Northern Ireland and Great Britain immediately followed the introduction of the 1922 SPA, 1973 EPA, 1939 PVA and 1974 PTA. In Northern Ireland a high of 80 murders and 58 attempted murders in April 1922 plummeted to one murder and 11 attempted murders by September of that year. These figures continued to fall throughout the balance of 1922 and into 1923. Similarly, immediately following the introduction of the 1973 EPA, the number of deaths and injuries in the Province decreased: from a high of 467 deaths in 1972 to 250 in 1973 and 216 in 1974. Injuries also dropped: from 4,876 in 1972 to 2,651 in 1973 and 2,398 in 1974. As already noted, within a year of the introduction of the 1939 PVA the IRA’s mainland campaign had ceased. When violence rose again in the 1970s in Great Britain, immediately following the introduction of the 1974 PTA a similar drop in the number of deaths related to political violence ensued.” Donohue, “Civil Liberties,” 6-7.

<sup>157</sup> Donohue, “Civil Liberties,” 7

<sup>158</sup> Ignatieff, *The Lesser Evil*, 58.

weakness rather than a strength. Curtailing the civil liberties of a minority often results. The majority is unlikely to feel the effects of this, and often mistakenly believe that the affected minority, if they are not terrorists, have nothing to fear. "[M]ost citizens are interested simply in stopping terror in its tracks. Hence, a majority of citizens is likely to believe that risk trumps rights, while only a civil libertarian minority is ever likely to believe that rights should trump risks."<sup>159</sup>

Curtailment of civil liberties is also closely related to a second guaranteed result of successful terrorist attacks – fear. A climate of fear within the citizenry will provide a major impetus for curtailment of civil liberties. When a society is threatened, a hierarchy of rights begins to emerge and those rights and liberties deemed most important must be defended while those considered less essential are subject to abridgement.<sup>160</sup> Donohue argues that antiterrorism legislation in Britain did not establish the right to life and property as the most important rights of the citizen. Since loss of life or property damage are much more likely to occur from traffic accidents and other events than they are from terrorist attack, and since there was no proposal to suspend rights with anti-accident legislation, in effect the antiterrorism legislation “established that the most important right that a citizen bore was the right not to be afraid [of terrorist attack].”<sup>161</sup> Donohue notes, “The right not to be afraid deserves particular attention here in the possible introduction and operation of emergency legislation in other states, because it is this entitlement that justified the suspension of 'lesser' rights and the retention of emergency law.”<sup>162</sup>

Understanding the causes of the curtailment of civil liberties following terrorist attacks can help mitigate some of the effects of those actions. Abridgement of civil liberties is potentially damaging to a democratic society, and while Ignatieff states that “robust measures do not prevent rights’ returning in times of safety,” Donohue notes that emergency antiterrorist legislation can become entrenched in a nation, with few willing to advocate its repeal.<sup>163</sup> Therefore, the government of the United States must approach

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<sup>159</sup> Ignatieff, *The Lesser Evil*, 58-59.

<sup>160</sup> Donohue, “Civil Liberties,” 36.

<sup>161</sup> Donohue, *ibid.*, 37.

<sup>162</sup> Donohue, *ibid.*, 39.

<sup>163</sup> Ignatieff, *The Lesser Evil*, 6; Donohue, “Civil Liberties.”

antiterrorist legislation following a terrorist attack with an awareness of the history of such events. Debate over the potential harm or benefit of curtailing civil liberties is important, but will not likely change the fact that, in the wake of a successful terrorist attack, civil liberties will be curtailed. Knowing this, the state must factor in the accountability and transparency that Dershowitz calls for in his advocacy of extreme measures, and “sunsets” - preferably time limits of no more than two years - must be included in any legislation. This will allow a period to examine the results of the legislation and continue the debate without the heightened emotion that exists immediately following an attack. It may be that the laws curtailing civil liberties have been efficacious and should be extended, as now appears likely for much of the USA. Patriot Act or that even further restriction is deemed necessary. On the other hand, if it is apparent that society and personal dignity are being damaged unnecessarily, the legislation or parts of it can be allowed to “sunset.” Knowing that abridgement of civil liberties can be expected to follow closely on a successful terrorist attack is the first step in ensuring that such actions are warranted, effective, and do not transgress more than necessary on the nation's fundamental moral values.

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