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## **ACKNOWLEDGMENTS**

This report was written by Patricia Gossman, research associate for Asia Watch, on the basis of research undertaken during a fact-finding mission to Punjab and New Delhi, India, by Gossman and James A. Goldston, an attorney, in November and December 1990. It was edited by April Bernard, Aryeh Neier, executive director of Human Rights Watch, and Goldston. Mary McCoy assisted with the production of this manuscript.

We are grateful to those in Punjab and New Delhi, who assisted us in our work, particularly the residents of Punjab who overcame fear and terror to provide us with information. We are especially grateful to our colleagues in the human rights community in India, without whose advice and assistance this report would not have been possible. The conclusions we have drawn are the responsibility of Asia Watch alone.

## FREQUENTLY USED TERMS

### Acronyms

AISSF - All India Sikh Students Federation  
ASI - Assistant Subinspector  
BJP - Bharatiya Janata Party  
BSF - Border Security Force  
CIA - Central Interrogation Agency  
CPI - Communist Party of India  
CRPF - Central Reserve Police Force  
DGP - Director General of Police  
DIG - Deputy Inspector General  
FIR - First Information Report  
MP - Member of Parliament  
NSA - National Security Act  
PHRO - Punjab Human Rights Organisation  
SGPC - Shiromani Gurdwara Prabandhak Committee  
SI - Subinspector  
SHO - Station House Officer  
SP - Superintendent of Police  
SSP - Senior Superintendent of Police  
TADA - Terrorist and Disruptive Activities Act

### Glossary

Akali Dal - Sikh political party  
bhog - Sikh memorial service  
Dalit - literally "the oppressed;" refers to "untouchables" or other low-caste or tribal groups  
gurdwara - Sikh temple  
Harijan - literally "children of God," "untouchables," those at the bottom of the Hindu caste system  
kach - breeches worn under outer clothes, one of the five identifying marks of a Sikh.  
kangha - comb, one of one of the five identifying marks of a Sikh.

kara - silver bracelet, one of the five identifying marks of a Sikh.  
kesh - uncut hair and beard, one of the five identifying marks of a Sikh.  
kirpan - dagger, one of the five identifying marks of Sikh.  
panchayat - village council  
panth - Sikh community of believers  
sarpanch - village headman



## I. INTRODUCTION

For more than a decade the state of Punjab in northern India has been in the grip of one of the bloodiest conflicts in India's post-independence history. The origins of the conflict lie in a power struggle between political leaders who represent the state's majority Sikh<sup>1</sup> population and central government politicians eager to maintain control over the resources of one of the country's most prosperous states.

In the early 1980s, a movement by Sikh leaders for greater autonomy turned violent when some militant Sikhs embarked on a campaign of terror, murdering elected officials, civil servants, and Hindu and Sikh civilians. Nineteen-eighty-four marked a turning point in the conflict. In June of that year, the Indian army stormed the Golden Temple in Amritsar, the Sikhs' holiest shrine, which had been turned into an armed fortress by the militants. Thousands were killed, most of them civilians. Outraged by the assault, some separatist Sikhs demanded an independent state of Khalistan.<sup>2</sup> On October 31, 1984, Sikh bodyguards assassinated Prime Minister Indira Gandhi, and in the aftermath of her death, mobs slaughtered thousands of Sikhs in New Delhi and other cities across northern India. The connivance of local officials in the massacres and the failure of the authorities to prosecute the killers alienated many ordinary Sikhs who had not previously supported the separatist cause.

Since then, the security forces have adopted increasingly brutal methods to stem the insurgency, including arbitrary arrests, torture, prolonged detention without

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<sup>1</sup> Sikhs represent a small but significant religious minority in India, comprising about 2 percent of the country's 844 million people. In Punjab, they make up approximately 60 percent of the population. See James Clad, "Terrorism's Toll," *Far Eastern Economic Review*, October 11, 1990, p. 34. They are not a homogeneous community, however, and divisions among them have contributed to the conflict. For more on the origins of Sikhism, see chapter 2.

<sup>2</sup> Khalistan means "land of the pure."

trial, disappearances and summary killings of civilians and suspected militants. Government troops have also violated the laws of war which prohibit attacks on civilians.

At the same time, violence by militant organizations has escalated. Nine major organizations and perhaps a dozen or more smaller groups, acting independently of and sometimes at cross-purposes with one another, have targeted civil servants, journalists and Hindu and Sikh civilians. While the major groups are organized into guerrilla forces with an identifiable command structure, others operate as criminal gangs who find in the political crisis a lucrative business in extortion and arms smuggling. Some of the militants have also flagrantly violated the laws of war prohibiting violence against civilians, including indiscriminate attacks on civilians.

Efforts by Sikh political leaders and central government officials to negotiate a political settlement have had little success. The stalemate has been due in part to the central government's failure to follow through with promised reforms and measures to meet Sikh demands. Moreover, since 1984 the security forces have been granted increased powers to crush the militants, and officials have turned a blind eye to reports of abuse. As a result, while the original demands of Sikh politicians centered on issues of regional autonomy, these concerns have grown in response to the government's repressive policy and now include demands for the release of persons detained without charge, investigations into institutionalized human rights abuses and prosecutions of those responsible for the killings of Sikhs in 1984.

For its part, the Sikh political leadership, torn by internal rivalries, has been unwilling to distance itself publicly from the militants. The reasons for this reluctance are clear: Sikh leaders who have negotiated with the government have either lost political power or have been assassinated. By taking up genuine grievances that Sikh politicians had failed to address, and enforcing their will through terror, the militants have all but eliminated any moderate political rivals for power.

Violence in the state by all parties reached unprecedented levels in late 1990. By year's end some 4,000 persons were reported to have been killed, and at least half were civilians.<sup>3</sup> An Asia Watch delegation visited Punjab and New Delhi

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<sup>3</sup> There are no consistent figures for the number of persons killed, nor is there any way to determine how many of those killed were civilians. In an article published in *India Today*, journalist Shekhar Gupta cites government figures of



in November and December 1990. The team traveled throughout large parts of the state -- including the particularly violent border districts of Amritsar and Gurdaspur -- interviewing lawyers, journalists, human rights activists, farmers, traders and other Punjabis. Asia Watch also interviewed many Hindu families who had fled to relief camps in New Delhi. Subsequently, Asia Watch asked the government of India to respond to a number of questions concerning human rights conditions in Punjab. By the time this report went to print, no response had been received. The findings of the Asia Watch mission are contained in this report, along with recommendations to the government of India and the militant groups operating in Punjab.

In this report, Asia Watch has documented 29 extrajudicial executions in which the security forces falsely claimed that the victims were killed in "encounters." In addition, in this report Asia Watch has documented 12 disappearances committed by the security forces, 32 cases of torture by the security forces, and the deaths of seven persons in indiscriminate killings by the security forces.

Asia Watch has also identified 45 police officers and other security personnel whom eyewitnesses have named as participating or supervising torture or who were responsible for the detention of persons who were subsequently killed in "encounters" or disappeared. A list of those named appears in the appendix.

Asia Watch directly investigated 38 extrajudicial executions of civilians by militant groups. Details on an additional 32 assassinations and indiscriminate killings by armed groups in which at least 221 civilians were killed are included in this report.

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3,560 killed between January 1 and November 12, 1990, of which 1,896 were civilians, 1,199 militants and 465 security personnel. See Shekhar Gupta, "Dangerous Upsurge," *India Today*, December 31, 1990, p. 29. In its annual report of country human rights practices, the U.S. State Department cites compiled press statistics of 4,987 killings, of which 3,261 were civilians, 1,194 militants, 467 security personnel and 65 persons illegally crossing the border into Pakistan. See U.S. Department of State, *Country Reports on Human Rights Practices for 1990*, p. 1426.

These cases are illustrative. There were far more violent abuses in each of these categories than it was possible for Asia Watch to document.

This report is the third which Asia Watch has published on human rights in India.<sup>4</sup> Many of the recommendations we have made previously also apply to Punjab; these include instituting independent investigations into reports of human rights violations, prosecuting security personnel responsible for abuses, amending or repealing security legislation that suspends safeguards against abuses, and abiding by international humanitarian law governing internal armed conflict.

Such measures are not likely to be taken, however, until the civil authorities in Punjab and the administration in New Delhi demonstrate the will and the ability to exert control over the security forces. Their failure to do so until now and to address widespread corruption in the police has encouraged rampant abuses, which in turn have provoked further violence by the militants and criminal violence by other armed groups.

### **Summary of Conclusions**

Government forces operating in Punjab have systematically violated international human rights law as well as the laws of war governing internal armed conflict. Members of the Punjab police, the federal paramilitary troops of the Central Reserve Police Force and the Border Security Force and, to a lesser extent, the Indian army have engaged in widespread summary executions of civilians and suspected militants. Many of these executions involve persons who were first detained in police custody and then subsequently reported by the authorities as having been killed in an encounter with the security forces.

The Asia Watch delegation investigated extrajudicial killings by government forces that occurred primarily in 1989 and 1990. The frequency with which these killings were reported to take place and the consistency of the eyewitness testimony indicate that they are not aberrations but rather the product of a deliberate policy known to high-ranking security personnel and members of the civil administrations in Punjab and New Delhi. Moreover, there is credible evidence to indicate that, in some cases, the police have actually recruited and trained extrajudicial forces to carry out many of these killings. Security legislation

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<sup>4</sup> The other two are *Prison Conditions in India* (March 1991), and *Kashmir Under Siege* (May 1991).

has increased the likelihood of such abuses by authorizing the security forces to shoot to kill and by protecting them from prosecution for human rights violations.

As with encounter killings, in every disappearance case Asia Watch investigated the victim was first detained in the custody of the police or the paramilitary forces, although that detention was subsequently denied by the authorities.

Throughout Punjab, torture is practiced systematically in police stations, in prisons and in the detention camps used by the paramilitary forces. In virtually every case Asia Watch investigated, persons taken into custody were tortured. Methods of torture include:

- pulling the victim's legs far apart so as to cause great pain and internal pelvic injury;
- rotating a heavy wooden or metal roller over the victim's thighs. Policemen frequently sit or stand on the roller to increase the weight. In some cases, the roller is placed behind the victim's knees and the legs forced back over it, crushing them against the roller;
- electric shock, applied to the victim's genitals, head, ears and legs;
- prolonged beatings with canes and leather straps;
- tying the victim's hands behind the back and suspending him or her from the ceiling by the arms;
- rape, threats of rape or molestation.

Torture is practiced to force detainees to sign confessions or to reveal information about alleged militants and as summary punishment for detainees believed to support the separatist cause. Family members are frequently detained and tortured to reveal the whereabouts of relatives sought by the police. Security legislation now in effect in Punjab has suspended prior safeguards against torture, including the requirement that all detainees be seen by a judicial authority within 24 hours of arrest. These laws also permit incommunicado detention and the use of confessions obtained under duress; such provisions serve to increase the use of torture.

During house-to-house searches, the security forces routinely assault and threaten civilians. In some cases, virtually all the male residents of entire villages have been subjected to beatings and other forms of assault.

Although the Indian government has not made public the number of persons detained in Punjab and in prisons outside the state, estimates range into the thousands. Many of those detained appear to have been arrested only because they are young Sikh men, and are therefore suspected militant sympathizers. Others are detained because their relatives are suspected of militant activity or because they reside in areas perceived to be militant strongholds.

Family members are frequently arrested in lieu of persons wanted by the police and are held as virtual hostages until the person sought is produced. Short-term detention is also used punitively. Former detainees and the family members of detainees have described being subjected to frequent short-term arrests as a form of harassment.

Many detainees are routinely held in unacknowledged detention in police stations and at federal police camps throughout the state. In many cases, no grounds for arrest are provided. Detainees are frequently moved among various police stations, apparently in order to obstruct efforts to locate the detainees and produce them in court. Family members frequently are thwarted in their efforts to discover the whereabouts of detainees. In addition, police routinely defy court orders. As a result, habeas corpus petitions, although widely understood and used, do not provide a remedy for illegal detentions. The detainees themselves rarely have access to lawyers, and some have been denied medical care. Lawyers who have attempted to represent detainees have also been harassed by the security forces.

The government has harassed the local Punjabi press, in some cases shutting down newspapers which publish press statements released by the militant groups. In other cases, local political leaders and human rights activists have been detained for the peaceful expression of political views.

To our knowledge, no member of the security forces in Punjab has been convicted of any human rights violation committed in the state. Even in well-publicized cases, the most severe punishments for abuses that have been reported have been dismissals or suspensions. Indeed, the government's failure to prosecute the perpetrators of the killings of the Sikhs in 1984 provides the most graphic example of the unwillingness of the authorities to hold members of the security forces accountable for grave human rights abuses.

While the conflict in Punjab constitutes an extreme threat to civil order, in the past ten years the response to that threat has been influenced more by short-

sighted political expediency than by a commitment on the part of the authorities to abide by the rule of law. Central government politicians under the Congress (I), National Front and Janata Dal (S) administrations<sup>5</sup> have given blanket authority to the police and paramilitary forces in Punjab to act outside the law. As a result, these forces have engaged in gross and systematic human rights abuses in the name of fighting "terrorism." The corruption endemic to the Indian police system has also played its part. Police have routinely detained, tortured and killed persons in pursuit of bribery and extortion. By failing to prosecute members of its security forces responsible for such abuses, or even to acknowledge that such abuses have taken place, the Indian government has effectively condoned these practices.

Of the array of Sikh separatist groups operating in Punjab, only a few have the organizational structure of guerrilla organizations and are thus obligated to abide by international humanitarian law. These militant organizations, which are fighting to establish an independent state, have flagrantly violated that law by killing, kidnapping and assaulting civilians. Other armed groups which have murdered and assaulted civilians and have engaged in extortion and kidnapping have committed crimes under Indian law.<sup>6</sup>

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<sup>5</sup> The Congress (I) Party was in power from 1980-1984 under Prime Minister Indira Gandhi and from 1984-1989 under Prime Minister Rajiv Gandhi. The Janata Dal came to power under Prime Minister V.P. Singh following the victory of the National Front (a coalition of opposition parties) in the 1989 elections. That government fell in November 1990 and was replaced by a breakaway Janata Dal government under Prime Minister Chandra Shekhar, which fell in March 1991. The May-June 1991 elections returned the Congress (I) to power in a minority government under Prime Minister Narasimha Rao.

<sup>6</sup> The conduct of insurgent forces is governed not by human rights treaties (to which only states may be parties), but by international humanitarian law, which applies during armed

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conflicts. Despite their separate fields of application, human rights and international humanitarian law share the common purpose of securing for all persons a minimum standard of treatment. For example, both human rights and humanitarian law conventions absolutely prohibit summary executions, torture and other inhuman treatment. *See* also chapter 3. The applicability of international humanitarian law does not negate the right of the Indian government to prosecute and punish violations of its own criminal laws so long as this is done in compliance with internationally-recognized standards of due process of law.

Asia Watch gathered direct testimony about many such attacks that have taken place since late 1989. In some cases, the attacks are designed to drive out the minority Hindu population; militants have engaged in indiscriminate attacks in predominantly Hindu neighborhoods and have selectively murdered Hindu civilians. Some of these attacks have been accompanied by threats to Hindus to leave Punjab.<sup>7</sup>

Other militant attacks appear to have been designed to cause extensive civilian casualties, and the victims have included both Sikh and Hindu civilians. Some militant groups have fired automatic weapons into residential and commercial areas and have derailed trains and exploded bombs in markets, restaurants, buses, residences and government buildings, killing and wounding civilians. In one of the most brutal of such attacks, on June 15, 1991, militant groups opened fire with automatic weapons into two passenger trains near Ludhiana, Punjab, killing at least 75 passengers.<sup>8</sup> Other attacks have occurred outside Punjab in neighboring states and in New Delhi.

Militant groups frequently execute suspected police informers and members or supporters of rival factions, often after torturing them. Some groups have also kidnapped civilians for ransom or to obtain the release of detained colleagues and in some cases have subsequently murdered their victims.

Militant organizations have also issued death threats and have assassinated Sikhs who have not supported the separatist cause or who have resisted the efforts of some militant groups to impose a fundamentalist Sikh ideology. A number of militant groups have also issued threats against business owners, academics and others they perceive as violating Sikh fundamentalist values. Journalists have been a particular target of this campaign. Militant organizations have issued press statements warning journalists to adhere to a strict code of conduct in reporting the news. Failure to abide by the militants' dictates is punishable by death. Militants have assassinated members of the press, including the director of the state radio

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<sup>7</sup> These threats have resulted in periodic migrations of Hindu residents from the state, particularly since 1986. *See* also discussion beginning on p. 179. Many Sikh families have also left the state or have fled the villages for refuge in the cities.

<sup>8</sup> No group claimed responsibility for the attack. For more on the incident, *see* discussion beginning on p. 194.

station in December 1990, and scores of reporters and others associated with newspapers opposed to the militants. Newspaper offices have also been attacked.

Militant groups have assassinated civil servants, elected officials and politicians and have kidnapped and murdered their family members. In the first half of 1991, militant groups assassinated more than 24 political candidates<sup>9</sup> campaigning for the state and national assemblies and issued widespread threats to voters. On June 21 the Election Commission cancelled the vote, tentatively rescheduling the election for September. By the time this report went to press it appeared increasingly unlikely that the vote would be held.

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By mid-1991, Punjab's death toll for the first half of the year had already surpassed 2,000. It is impossible to say how many of that number are civilians, but there is no doubt that civilians, caught between the security forces and the militants, continue to count as the most frequent victims of the violence. As the violence continues to escalate, however, there has grown with it a disturbing tolerance for lawlessness by the state as a means of fighting the militant threat. As this report went to press, a new government had been elected in India under the administration of Prime Minister Narasimha Rao. In the concluding chapter to this report, we have included recommendations of measures his government, Sikh politicians and the militant leaders must take if they are to break the cycle of violence and restore the rule of law to Punjab.

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<sup>9</sup> Some of the candidates included members of militant organizations killed by rival militants or armed gangs associated with other parties. *See* also the discussion beginning on p.199.



## II. HISTORICAL BACKGROUND

The Sikh religion was founded in India by Guru Nanak (1469-1539), a mystic poet who rejected both Islam and Hinduism, yet drew on elements of both to construct a monotheistic religion that teaches escape from rebirth through devotion and discipline. Sikhism arose at the time of the height of power of the Mughal Empire in India (1526-1757). Wary of the growing power of the Sikhs, the Mughals took brutal steps to suppress them, executing their leaders and creating a tradition of militancy and martyrdom that resonates in contemporary Sikh politics.<sup>10</sup>

A short-lived Sikh empire was destroyed in 1849 after two wars with the forces of the British East India Company. The British army was so impressed with the fighting skills of the Sikhs, however, that they subsequently inducted hundreds of Sikh soldiers to serve with the British forces in India. After India gained independence in 1947, Sikhs continued to figure prominently in the military.<sup>11</sup>

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<sup>10</sup> For more on the history of the Sikhs in Punjab, *see* generally, Robin Jeffrey, *What's Happening to India?* (New York: Holmes and Meier, 1986); Kuldip Nayar and Khushwant Singh, *Tragedy of Punjab* (Delhi: Vision Books, 1984); Mark Tully and Satish Jacob, *Amritsar: Mrs. Gandhi's Last Battle* (London: Jonathan Cape Ltd., 1985).

<sup>11</sup> The recruitment of Sikhs grew after the "Indian Mutiny" of 1857, when Hindu and Muslim soldiers rebelled against their British officers in several cities in North India. In the uprising, Sikh soldiers remained loyal to the British forces and were rewarded with prominent positions in the military. Although Sikhs comprised only 2 percent of the population, they made up some 20 percent of the imperial army. That special status was threatened in 1980 when the Congress (I) government introduced state quotas which reduced the Sikh presence in the army from 15 percent to 6 percent. *See* Lloyd Rudolph, "India and the Punjab: A Fragile Peace," *The Asia Society Asian Agenda Report* (Lanham, MD:

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University Press of America, 1986), pp. 33-53, p. 40.

Sikhs played a leading role in the independence struggle, and the experience fostered efforts within the community to promote Sikh identity and culture. During that time, a committee known as the Shiromani Gurdwara Prabandhak Committee (SGPC) was formed to oversee the management of the Sikhs' most important temple, the Golden Temple in Amritsar, and other historical *gurdwaras* ("temples") in Punjab. This coincided with a successful campaign by a Sikh political party, the Akali Dal,<sup>12</sup> to take back control of the gurdwaras from non-orthodox Sikhs supported by the British. Ever since, the SGPC has played a critical role in Sikh politics.<sup>13</sup>

The partition of British India that created the independent nations of Pakistan and India in August 1947 drew a line through Punjab and through the Sikh population. When the resultant civil conflicts and migrations ended, the Sikhs were

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<sup>12</sup> The party drew most of its support from Jat Sikhs, a powerful agrarian caste. In theory Sikhism does not recognize caste, but in practice caste identities are still meaningful and divisive. Not all Sikhs are Jats, and the Congress (I) party has traditionally drawn support from other Sikh communities in Punjab. As Lloyd Rudolph notes, "Sikh power in Punjab is problematic in part because Sikhs are a bare majority, in part because Sikhs, divided as they are by interest, class and ideology, cannot easily be represented by one party.... One consequence of these considerations has been that the Congress Party has won more Sikh votes than the Akali Dal party in most of Punjab's elections." Ibid, pp. 49-50.

<sup>13</sup> "[The SGPC] developed into a kind of Sikh parliament, with control over temples in the Punjab and their huge annual incomes." Tully and Jacob, p. 31.

concentrated in India in east Punjab, where they made up 35 percent of the population.<sup>14</sup>

In 1953, India's central government appointed a commission which redrew the boundaries of all the states, with the exception of Punjab, along linguistic lines. In response, Sikh leaders mobilized for a Punjabi language-majority state which would have included most Sikhs.<sup>15</sup> Fearing that a Punjabi state might lead to a separatist Sikh movement, the central government opposed the demand. In response, Sikh politicians launched a civil disobedience campaign that led to the arrest of thousands by the end of 1955. Continuing civil disobedience campaigns precipitated the arrest of over 50,000 Sikhs between 1960 and 1961.

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<sup>14</sup> Jeffrey, p. 32.

<sup>15</sup> Most, but not all, Sikhs speak Punjabi. Many Hindus also speak Punjabi, as well as Hindi. Because the Indian constitution discourages demands by minority groups on the basis of religion, language issues have been used to assert ethnic group interests. A campaign by Hindu Punjabi leaders, including Lala Jagat Narain, the editor of the *Hind Samochar* newspaper chain, to persuade Hindus in the state to record their language as Hindi -- and not Punjabi -- during the census embittered Punjabi Sikhs. Many Sikhs also considered the government's refusal to reorganize Punjab along linguistic lines discriminatory toward Punjab, and Sikhs in particular.

In 1966 Prime Minister Indira Gandhi agreed to divide Punjab along linguistic lines into the states of Punjab and Haryana.<sup>16</sup> Chandigarh<sup>17</sup> was to serve both Punjab and Haryana as a joint capital under central government protection and administrative control. But after further negotiations, Prime Minister Gandhi acceded to Sikh demands to award Chandigarh to Punjab, although the transfer was never implemented. In October 1978, the Akali Dal adopted 12 resolutions which came to be known collectively as the Anandpur Sahib Resolution. In addition to propagation of the Sikh faith, the resolution called for "creation of such an environment where Sikh sentiment can find its full expression" and demanded the transfer of Chandigarh and other neighboring "Punjabi speaking areas" to Punjab.<sup>18</sup>

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<sup>16</sup> However, the division left several Punjabi-speaking areas out of Punjab. Their inclusion in the state became one of the demands of the Akali Dal.

<sup>17</sup> The new capital designed by French architect Le Corbusier in 1953.

<sup>18</sup> The resolution was drafted by a working party of the Akali Dal in 1973; the 1978 conference formally endorsed a package of principles which came to be known as the Anandpur Sahib Resolution. According to it, Punjab was to have direct control over all departments of government, restricting central intervention only to defense, foreign affairs, communications, currency and railways. Rival factions within the Sikh community promoted different interpretations of the implications of the resolution, varying from the extremists' seeing in it a call for a separate Sikh nation of Khalistan, to the moderates, who sought greater state autonomy for Punjab within India's federal union. *See* Jeffrey, pp. 158-159; Tully and Jacob, pp. 50-51.

When Prime Minister Gandhi declared a state of emergency on June 26, 1975 -- suspending fundamental rights, imposing press censorship and arresting hundreds of opposition party leaders -- Sikhs were among her most outspoken critics.<sup>19</sup> Thousands of Akali Dal members were imprisoned during the two years of the Emergency. When the government ended the Emergency and called for a general election in 1977, the united opposition, the Janata Dal, won by an overwhelming majority. In the state elections in Punjab, the Congress Party<sup>20</sup> was defeated, and an Akali Dal-Janata Dal administration came to power.

Factional rivalries within the opposition alliance and its failure to restore credibility to the central government were sufficient to impel Indian voters to reelect Indira Gandhi by a wide margin in 1980. Her government then dismissed nine state legislatures, including the legislature in Punjab. Local state elections were held in May 1980, and the Congress Party was returned to power in Punjab by a narrow majority.

In the aftermath of local elections, extremist Sikhs grew bolder, openly courting confrontation with authorities. On September 9, 1981, Lala Jagat Narain, the leading Hindu journalist and publisher, was assassinated near the city of Ludhiana in Punjab.<sup>21</sup> The followers of Sant Bhindranwale, a fundamentalist preacher who had been courted by Congress (I) leaders hoping to use him to discredit Sikh opposition party leaders of the Akali Dal, were suspected. On September 20, Bhindranwale, who had eluded police since the murder, made a dramatic surrender before a crowd of 200,000 supporters and politicians. His arrest precipitated riots; 25 days later, he was released.

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<sup>19</sup> "Agitational politics are endemic in Punjab, used by the leading non-Congress party there, the Akali Dal, to mobilize support when it is out of power. It is especially significant to note in this context that the *only* sustained agitational movement against the Emergency regime was carried out by the Akali Dal during those years." Paul R. Brass, "Punjab Crisis and Unity of India," *India's Democracy: An Analysis of Changing State-Society Relations*, Atul Kohli, ed., (Princeton: Princeton University Press, 1988), pp. 169-213, p. 176. (author's emphasis).

<sup>20</sup> The Indian National Congress has dominated Indian politics since its founding in 1885, providing the organization and leadership behind India's independence movement. Since 1969, the party has suffered a number of schisms; however, the Congress Party (I), for Indira Gandhi, dominated all rival parties. The Congress Party (and the Congress Party (I) after 1969) has won every election since independence except two. After Indira Gandhi's assassination, the party was led by her son, Rajiv Gandhi, who was prime minister from 1984-1989. His assassination on May 21, 1991, ended the Nehru-Gandhi family's control of the party, leaving no clear successor.

<sup>21</sup> See footnote 14, 15.

With the events of September 1981 came a marked increase in random attacks on civilians in markets and other public places. Bhindranwale's followers hijacked an Indian Airlines plane and assassinated Hindu and moderate Sikh politicians and policemen. Bhindranwale's few weeks in jail only increased his popularity; by the year's end he was the unchallenged leader of the Sikh extremists and arguably the most powerful leader in Punjab.

The years between Bhindranwale's arrest in 1981 and the Indian army's assault on the Golden Temple in Amritsar in June of 1984 were marked by protracted negotiations between the Gandhi government and the Sikh Akali Dal leadership. After 1982, the Akali Dal demanded the implementation of the Anandpur Sahib resolution, including more autonomy for the state, the promised transfer of the capital city Chandigarh and other Punjabi-speaking areas to Punjab, a Sikh code of personal law,<sup>22</sup> quotas for Sikhs in the military, and the deletion of language in the Indian constitution which brackets Sikhs with Hindus.<sup>23</sup>

Control over local river waters represents the key to prosperity for the farmers of Punjab, and the Akali demands also included a more equitable share of the water from local rivers -- a demand that was bitterly opposed in the neighboring state of Haryana.<sup>24</sup> In April 1982, Prime Minister Gandhi announced construction of a canal to provide more of this water to the states of Haryana and Rajasthan. In response, the Akali Dal launched another civil disobedience campaign, hoping to enlist the support of Hindu farmers in Punjab in their efforts.<sup>25</sup> Sikh extremists, however, took another tack. On April 26, two severed cows' heads<sup>26</sup> were placed in a Hindu temple in Amritsar, provoking riots in several cities. The Dal Khalsa, or "army of the pure",<sup>27</sup> was believed responsible.<sup>28</sup>

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<sup>22</sup> The Indian constitution recognizes separate legal codes governing family law for Muslims, Hindus and Christians.

<sup>23</sup> Sikhs claim that this treatment wrongly implies that they are a sect of Hinduism. *See* Jeffrey, p. 158.

<sup>24</sup> Punjab's abundant water supply contributed to the success of "Green Revolution" farming methods which introduced new high-yielding hybrid seeds on a large scale in the state. As a result, Punjab became India's most prosperous agricultural state.

<sup>25</sup> Jeffrey, p. 161.

<sup>26</sup> Since the cow is sacred to Hindus, the act was a sacrilege, designed to provoke a riot.

<sup>27</sup> The name of the Sikh army founded in the 1730s to fight the Mughals.

<sup>28</sup> *See* Jeffrey, p. 162. According to Asia Watch sources, the shadowy group was believed to have the backing of Congress (I) Home Minister Zail Singh.

On May 1, 1982, the government of India broke off talks with the Akali Dal and banned several Sikh organizations, including the Dal Khalsa. Members of the banned organizations retreated to the Golden Temple complex, essentially a small walled city. By May 1982, it had become Bhindranwale's headquarters, housing his armed followers and an arsenal of sophisticated weapons.

On August 4, 1982, the Akali Dal launched another civil disobedience campaign, resulting in over 36,000 arrests in 88 days.<sup>29</sup> Most of those arrested were released within a few days or weeks, but at least 2,500 Sikhs were held in preventive detention under the National Security Act.<sup>30</sup> They were not released until after the conclusion of the Asian Games, held in Delhi from November 19 to December 4, 1982. Fearing disruption of the games, security forces in Haryana used roadblocks and searched cars and trains to prevent thousands of Sikhs from traveling to New Delhi.

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<sup>29</sup> Amnesty International, *Report 1983*, (London: Amnesty International, 1984), p. 195.

<sup>30</sup> For more on the act and other security legislation, *see* discussion beginning on p. 148.



Talks between the Gandhi government and the Akali Dal resumed in late 1982 but ended in stalemate. The Gandhi government's concern for Congress Party victories in state elections that spring, and the continuing power struggle between the Akali Dal leaders and Bhindranwale's followers in Punjab undermined the negotiations. In addition, the failure of the civil disobedience campaigns to achieve a breakthrough prompted some politicians to align with the militants and justify the resort to violence. Attacks on policemen and civilians escalated. President's rule<sup>31</sup> was imposed on Punjab on October 6, 1983, after a bus was ambushed and six Hindu passengers murdered. Increasingly, Sikh men were reported to have been executed in staged encounters<sup>32</sup> with security forces, setting in place the cycle of violence that has dominated political life in Punjab ever since.<sup>33</sup>

In early 1984, the National Security Act was amended to permit detention without trial for up to two years for acts committed in Punjab or Chandigarh considered "prejudicial to the defense or security of the state." Hundreds of Sikhs were detained in the first months of 1984, including Akali Dal leaders arrested for burning copies of the Indian Constitution. On May 27, 1984, the Akali Dal announced plans to launch another civil disobedience campaign to begin on June 3, 1984. The president of the Akali Dal, Harchand Singh Longowal, threatened to halt

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<sup>31</sup> President's rule, or as it is commonly known, direct rule, is provided for under Article 356 of the Indian constitution. Under this article, the central government is empowered to dismiss an elected state legislature if the governor, a federal appointee, advises that "governance of the state cannot be carried out in accordance with the provisions of the constitution." The arbitrary manner in which president's rule has been invoked in Punjab and other states has led critics to observe that it has become a tool for purely partisan purposes. See Lloyd Rudolph and Susanne Rudolph, *In Pursuit of Lakshmi: The Political Economy of the Indian State* (Chicago: University of Chicago Press, 1987), pp. 101-102. Before the 1991 general elections, five states were under president's rule: Punjab, Tamil Nadu, Jammu and Kashmir, Assam and Haryana.

<sup>32</sup> An "encounter killing" is the term used by police to imply that the victim was killed in a violent confrontation between government forces and armed combatants. In a great many cases, such encounters have been staged or have simply not occurred, and the term "encounter killing" has become synonymous with summary executions. For more on the practice, see discussion beginning on p. 38.

<sup>33</sup> As Lloyd Rudolph has observed, "What brought the country to overt civil war ... was Mrs. Gandhi's increasing propensity to speak as if being a terrorist and being a Sikh were one and the same. She coupled this propensity with another, avoiding agreements with moderate Akali Dal leaders.... By [doing so] she strengthened Bhindranwale's hand, allowing him to capture the community's agenda and tactics. The politics of violence -- of terrorism, assassination and repressive state violence -- was allowed to replace the politics of electoral competition and policy bargaining." Rudolph, p. 42.

the sale of grain to the government's central reserves -- an act designed to threaten the government with higher food prices.

On June 2, Prime Minister Gandhi announced over state-run All-India Radio that the army had been called into Punjab and that a curfew had been imposed on the entire state. Train service to Punjab was halted, foreign journalists were deported and domestic journalists were prohibited from reporting on the army action. The army, together with the Central Reserve Police Force, surrounded the Golden Temple complex. The army's full assault, code-named Operation Bluestar, began in the early hours of June 4 and ended on June 6.<sup>34</sup>

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<sup>34</sup> Although the army was not called out until June 2, firing broke out between the Central Reserve Police and Bhindranwale's forces on June 1. *See* Tully and Jacob, p. 144.

Because the area was closed to reporters and outside observers, it is difficult to assess civilian and military casualties in the battle. June 3 was a holy day for Sikhs, and thousands of pilgrims were housed along with temple employees within the Golden Temple complex. The government's *White Paper on the Punjab Agitation* gave official figures as 493 "civilians/terrorists" killed and 86 wounded, and 83 troops killed and 249 wounded.<sup>35</sup> On October 27, the Indian press quoted official sources that put the total number killed (troops, militants and civilians) at about 1,000.<sup>36</sup> Unofficial sources have estimated that the civilian casualties alone were much higher.<sup>37</sup>

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<sup>35</sup> Citizens for Democracy, *Report to the Nation: Oppression in Punjab* (New Delhi: Citizens for Democracy, 1985), p. 65.

<sup>36</sup> Amnesty International, *Report 1985* (London: Amnesty International, 1986), p. 210.

<sup>37</sup> The fact that the bodies of those killed were cremated en masse by the army and police casts doubt on the government's figures. According to Tully and Jacob, more than 3,000 people were inside the temple when Operation Blue Star began, among them roughly 950 pilgrims, 380 priests and other temple employees and their families, 1,700 Akali Dal supporters, 500 followers of Bhindranwale and 150 members of other armed groups. "According to eye-witnesses about 250 people surrendered in the temple complex and 500 in the hostel complex after the two battles were over. The White Paper says that 493 people were killed and eighty-six injured. These figures leave at least 1,600 people unaccounted for. It would obviously be wrong to assume that they were killed in the battle,

The army apparently did not offer those inside the opportunity to surrender.<sup>38</sup> A number of men captured by the army were summarily executed, and post-mortem examinations revealed that some had their hands tied behind their backs before they were shot.<sup>39</sup> In one incident described by an eye-witness,

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but there must be a big question mark over the official figures of civilian casualties in the operation, a figure which is appallingly high anyhow for an operation conducted by an army against its own people." Tully and Jacob, p. 184-5.

<sup>38</sup> See Tully and Jacob, p. 151.

<sup>39</sup> Brahma Chellaney, a correspondent for the Associated Press, managed to stay in Amritsar after the rest of the foreign press and Indian journalists working for the foreign press had been deported from the city under police escort. He interviewed a doctor who conducted some of the post mortem examinations. See Kuldip Nayar and Khushwant Singh, *Tragedy of Punjab* (Delhi: Vision Books, 1984), pp. 165-166. See also, Tully and Jacob, pp. 170-172. Documents from two post mortem reports are included as appendices to the Citizens' for Democracy report, pp. 113-114.

[The detainees] were taken into a courtyard. The men were separated from the women.... When we were sitting there the army released 150 people from the basement. They were asked why they had not come out earlier. They said the door had been locked from the outside. They were asked to hold up their hands and then they were shot after fifteen minutes.<sup>40</sup>

Over 6,000 persons were detained following the assault, 800 of whom were released by June 27.<sup>41</sup> For the next two months the army conducted large-scale combing operations throughout the state, resulting in thousands of arrests.

On October 31, 1984, Prime Minister Indira Gandhi was assassinated in New Delhi by two Sikh bodyguards. In the days that followed, anti-Sikh rioting paralyzed New Delhi, ultimately claiming at least 3,000 lives; unofficial estimates were higher.<sup>42</sup> Sikh men were beaten, stabbed, and doused with kerosene and burned to death by mobs. In some neighborhoods, children were also killed, and women were raped. At least 50,000 people were displaced, and tens of thousands of Sikh homes and businesses burned to the ground.<sup>43</sup> Sikhs were also attacked in other cities across northern India.

Shortly after the riots, a fact-finding team organized by two Indian human rights organizations, the People's Union for Democratic Rights (PUDR) and the People's Union for Civil Liberties (PUCL), published a report on its investigation into the cause of the Delhi riots, *Who Are the Guilty?* The investigators concluded that the violence was the result of a "well-organised plan marked by acts of both deliberate commissions and omissions by important politicians of the Congress Party at the top and by authorities in the administration."<sup>44</sup> Eyewitnesses confirmed that

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<sup>40</sup> Interview with Ranbir Kaur, an eyewitness to the assault, in Tully and Jacob, p. 171.

<sup>41</sup> Amnesty International *Report 1985*, p. 210.

<sup>42</sup> People's Union for Civil Liberties and People's Union for Democratic Rights, *Who Are the Guilty?* (New Delhi, 1984), p. 21.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid, p. 1.

well-known Congress (I) leaders and workers ... led and directed the arsonists and that local cadres of the Congress (I) identified the Sikh houses and shops.... In the areas that were most affected ... the mobs were led by local Congress (I) politicians and hoodlums of that locality.<sup>45</sup>

Despite numerous credible eye-witness accounts that identified many of those involved in the violence, including police and politicians,<sup>46</sup> in the months following the killings, the government sought no prosecutions or indictments of any persons, including officials, accused in any case of murder, rape or arson.

A citizen's commission, led by former Chief Justice S. M. Sikri, appealed to the government to appoint an impartial tribunal to investigate the riots and identify those responsible. It was not until April 1985, however, that the government of India appointed Justice Ranganath Misra to head an inquiry. When the Misra Commission Report was released two years later, it recommended no criminal prosecution of any individual, and it cleared all high-level officials of directing the riots. In its findings, the commission did acknowledge that many of the victims testifying before it had received threats from local police. While the commission noted that there had been "widespread lapses" on the part of the police, it concluded that "the allegations before the commission about the conduct of the police are more of indifference and negligence during the riots than of any wrongful overt act." An additional committee established on the recommendation of the Misra Commission to examine whether registered cases had been properly investigated was declared null and void by the Delhi High Court in response to a petition by a Congress (I) member of Parliament who argued that no commission could be established outside the Commission of Inquiry Act. The efforts of a second committee to examine the role of the police in the killings were obstructed by government officials.<sup>47</sup>

In April 1987, the PUDR and the PUCL published a joint critique of the Misra Report, entitled *Justice Denied*. The authors noted:

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<sup>45</sup> Ibid, pp. 2-3.

<sup>46</sup> These are listed in an annexure to *Who Are the Guilty?* pp. 38-45.

<sup>47</sup> Harinder Baweja, "Blind Alley," *India Today*, January 31, 1990, p. 28.

The victims who volunteered to depose before the Commission found that in doing so they were faced with a renewed threat to their security arising from its peculiar procedures. It is significant that while the PUDR-PUCL report *Who Are The Guilty?* gave the names of the accused, but did not disclose the names of the victims who made the allegations, the Commission does the reverse. It is those who are held to be guilty who are anonymous while those who made the allegations are not only named but even their addresses have been published. And yet the number who courageously deposed before the Commission is significant. In Delhi alone they numbered more than 600. Having been failed by the Commission, where will they go now?<sup>48</sup>

In the national elections held in December 1984, the Congress Party won by a wide margin and Rajiv Gandhi became Prime Minister. In the months following Rajiv Gandhi's election victory, Punjab remained under president's rule.

On July 24, 1985, Rajiv Gandhi and the Akali Dal leader, Sant Harchand Singh Longowal, signed an agreement granting many of the Sikh community's long-standing demands. The eleven-point accord promised compensation to the families of the victims of the 1984 Delhi riots and provided that Chandigarh would be transferred to Punjab on January 26, 1986. The accord further provided for a Supreme Court tribunal to adjudicate the dispute between Punjab and neighboring states over water rights and promised, somewhat vaguely, that the government would take steps to provide Punjab with greater autonomy.

Less than one month later on August 20, Longowal was assassinated by Sikh extremists who regarded the accord as a compromise and a betrayal. In the Punjab legislature, a splinter party, the United Akali Dal, was launched to protest the accord and boycott state elections scheduled for the end of the year. With an unprecedented voter turnout, however, the Akali Dal swept the elections. The election appeared to signal widespread support for the accord in the Sikh community. Following the elections, Longowal's disciple, Surjit Singh Barnala, became chief minister of Punjab.

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<sup>48</sup> People's Union for Civil Liberties and People's Union for Democratic Rights, *Justice Denied*, (New Delhi, 1987) p. 16.

But the promised reforms did not take place. Threatened by angry protests from Hindu leaders in Haryana, Rajiv Gandhi announced instead a "postponement" of the transfer of Chandigarh. On May 23, 1986, Akali Dal members of parliament resigned in protest to form yet another splinter party aligned with the militants.

Violence by Sikh extremists continued to escalate, and some groups again established themselves inside the Golden Temple. On November 30, 1986, the Khalistan Liberation Force<sup>49</sup> claimed responsibility for the killing of 22 bus passengers near the city of Hoshiarpur in northern Punjab in the worst single massacre in five years. After that attack, a number of Sikh leaders were arrested and held under the provisions of the National Security Act, and parts of Punjab were declared "disturbed areas" in which the security forces, including the army, were granted increased powers to shoot to kill.

Chief Minister Barnala's dependence on the support of the central government cost him the confidence of the powerful Sikh religious leaders, who eventually excommunicated him. The excommunication signalled the collapse of Barnala's administration, and on May 11, 1987, Barnala was removed from office by the central government.<sup>50</sup> In Delhi, nearly the entire opposition in the parliament walked out to protest the central government's failure to consult with them before taking action.

On March 6, 1988, the central government dissolved the state assembly in Punjab. No date was set for new elections, and the state remained under president's rule. At around the same time, Parliament passed the 59th amendment to the constitution, providing that a state of emergency could be declared in Punjab whenever "internal disturbance" threatened "the integrity of India." The amendment also permitted the suspension of article 19 of the Indian constitution guaranteeing fundamental rights, including freedom of speech and association, and article 21, which guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law." Under the amendment, the right to habeas corpus would be suspended.<sup>51</sup>

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<sup>49</sup> The group was believed at that time to be the armed wing of the All-India Sikh Students Federation.

<sup>50</sup> The state assembly, however, was not dissolved. The central government justified dismissal of the Barnala administration on the grounds that ministers within the state government had obstructed the efforts of the security forces to combat terrorism. The Akali Dal accused the central government of using the dismissal to gain a political advantage in the elections in the neighboring Hindu-majority state of Haryana.

<sup>51</sup> During the Emergency (1975-77), the suspension of habeas corpus facilitated widespread abuses, including illegal detentions, prolonged detention without charge or trial,



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and torture. That legacy prompted Parliament to pass the 44th amendment to the constitution, stipulating that the fundamental rights guaranteed under articles 20 and 21 of the constitution could not be suspended. The 59th amendment provided for the revocation of the 44th amendment in Punjab.

In May 1988, commandos of the Indian army National Security Guards (NSG) launched a major offensive against some 100 armed men who had again created a fortified stronghold within the Golden Temple. Afterwards, the government negotiated an agreement with the SGPC to ensure that the militants would not be permitted to take over the temple again. In response, SGPC leaders requested guarantees for the lives of SGPC members who would then be at risk of assassination. Several members of the SGPC were reportedly assigned armed guards, including the head priest of the Golden Temple and the general secretary and office secretary of the SGPC. All three were assassinated in August 1988.<sup>52</sup> Meanwhile militant violence claimed the lives of 73 people killed by bombs hidden in gunny sacks in markets in New Delhi, Amritsar and other cities.

In an attempt to reopen negotiations with the Akali parties before national elections later that year, in March 1989 the "Jodhpur detainees," several hundred prisoners detained after Operation Bluestar who had been held without trial, were released.<sup>53</sup>

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<sup>52</sup> Vipul Mudgal, "Set-Back for Moderates," *India Today*, August 15, 1988, p. 31; Shekhar Gupta and Vipul Mudgal, "The Problems Ahead," *India Today*, June 15, 1988, p. 46.

<sup>53</sup> The detainees -- most of whom were temple employees and pilgrims -- were originally held under the National Security Act, then charged with "waging war" under the Terrorist Affected Areas Act. The trial began in January 1985, but was suspended six months later. Throughout their detention, the government produced no evidence to substantiate the charge of "waging war." See Amnesty International, *India: The Need to Review Cases Against 324 Sikhs Held for More than Four Years in Jodhpur Jail, Rajasthan*, September, 1988, AI Index: ASA 20/03/88.

The National Front victory in the November 1989 parliamentary elections raised new hopes for a political settlement to the Punjab crisis. The 59th amendment to the constitution was repealed, and Prime Minister V.P. Singh promised to establish special courts to try those charged in the 1984 massacre of Sikhs in New Delhi, which had become one of the most important demands of Sikh political leaders.<sup>54</sup> By the time this report went to print, no additional convictions had been reported.<sup>55</sup>

Despite promises to hold elections for the state assembly, in March 1990 the parliament amended the constitution to allow for an unprecedented extension of

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<sup>54</sup> In April 1989, seven human rights organizations issued a joint statement in response to claims made by then Prime Minister Rajiv Gandhi about actions taken to prosecute those responsible for the killings. "Till now -- after four and a half years -- the prosecution agency of the Government has been able to obtain convictions in just one murder case involving six people, who have been awarded life imprisonment by the sessions court. In the other murder cases, the accused have been acquitted primarily because of lapses in police investigation.... While repudiating the Prime Minister's preposterous claims regarding the 1984 carnage, we reiterate hereby that ... even after four and a half years the government has refused to punish the guilty." See "Wild Claims Regarding the 1984 Massacre of the Sikhs," *Lokayan*, vol. 7, no. 2 (March-April 1989), pp. 75-79.

<sup>55</sup> In fact, when investigators attempted to question Saajan Kumar, a leading member of the Congress (I) who had been identified as providing liquor and money to the rioters, they were attacked outside Kumar's home by a gang of thugs apparently hired for his protection. See Barbara Crossette, "In India's Debate, Converging Issues," *New York Times*, October 1, 1990.

president's rule in the state.<sup>56</sup> In October, president's rule was again extended. In November, Prime Minister V.P. Singh's government fell and was replaced by a Janata Dal administration under Prime Minister Chandra Shekhar. A long-time opponent of Congress(I) politics in Punjab, Chandra Shekhar was seen as one of the few leaders who could negotiate a political agreement. However, the first months of his administration saw an upsurge in militant violence with at least 500 people killed in November and December alone. By the end of the year, nearly 4,000 people were reported killed -- the highest number for any year since the conflict began. Army commandos of the National Security Guards were deployed to supplement the police and paramilitary forces in Punjab.

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<sup>56</sup> Under the constitution, president's rule cannot be extended longer than two years before holding elections. The 64th amendment also changed the term for the extension of president's rule from one year to six months.

In March 1991, Prime Minister Chandra Shekhar's government fell, paving the way for parliamentary elections in May. Despite fierce opposition from Congress (I) leaders, elections for both the national and state assembly were scheduled to be held in Punjab on June 22, a month after the general vote. Following the assassination of Congress (I) leader Rajiv Gandhi on May 21,<sup>57</sup> general elections were postponed until June 12 and 15. As this report went to press, more than 24 candidates in Punjab had been assassinated. With the election of a Congress (I) minority government under Prime Minister Narasimha Rao, the Punjab elections were canceled on June 21 and tentatively rescheduled for September 1991.

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<sup>57</sup> Although no group claimed responsibility for the assassination, the militant Sri Lankan Tamil separatist organization, the LTTE, was believed responsible.

### III. LINES OF AUTHORITY AND THE APPLICABLE LAW

The primary government forces operating in Punjab are the Punjab Police, the Punjab Armed Police and members of India's principal paramilitary forces, the Central Reserve Police Force (CRPF) and the Border Security Force (BSF).<sup>58</sup> In

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<sup>58</sup> In Punjab, the BSF and CRPF routinely engage in conflict with militants. They have combat duties and are, in effect, acting in lieu of army soldiers to perform purely military functions. The Punjab Armed Police sometimes assist in these operations. Their jurisdiction is legally restricted to Punjab state; however, they occasionally engage in operations in Chandigarh, along with the Chandigarh police. These are generally search operations; genuine combat between these forces and militant groups is intermittent and far less concentrated than in Kashmir. Also unlike Kashmir, there is no ethnic divide between the security forces and the militants and local population, as most of the Punjab police are also Sikh. See James Clad, "Terrorism's Toll," *Far Eastern Economic Review*, October 11, 1990, p. 34.

Created in 1939, the Central Reserve Police Force is the largest of the paramilitary forces, with 130,000 personnel stationed nationwide in 108 battalions. As of December 1990, three-fourths of the CRPF was concentrated in four states: Punjab (200 companies), Jammu and Kashmir (125), Assam (60), and Uttar Pradesh (49). See Manoj Mitta, "A Mini-India Protecting India," *Times of India*, December 23, 1990. Other reports indicate that the

addition to these forces, a number of other security detachments have been deployed, including the Indian Tibetan Border Police, the Central Industrial Security Force, and the Railway Police Force. One army unit is permanently stationed in Punjab, and as of late 1990, additional army units were deployed in the border districts to supplement the police and paramilitary forces.<sup>59</sup>

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number of CRPF was increased before the elections in June 1991. The Border Security Force, created in 1962, operates in Punjab, Kashmir, West Bengal and the entire northeastern border of India, including the states of Assam, Arunachal Pradesh, Nagaland, Mizoram, Tripura and Meghalaya.

<sup>59</sup> The Indian army was first deployed in 1984 to remove Bhindranwale's forces from the Golden Temple. Again in 1988, Black Cat army commandos laid siege to the Golden Temple, forcing the surrender of militant leaders inside.

The number of militant groups operating in Punjab, and their relative power, is not known. None of the armed Sikh groups controls territory. There are at least seven major groups, loosely organized under three Panthic Committees.<sup>60</sup> There are also numerous factions and other groups which operate as armed gangs profiting by extortion and arms smuggling.<sup>61</sup>

The militant groups themselves continue to spawn factions and splinters, each espousing different objectives. The criminality factor is high; the police do not exaggerate when they speak of unemployed youngsters drawn less to ideology and more to easy money gained from kidnap ransoms.... Often ready to fight among themselves, the gangs pin their primary loyalties to locality and kin.<sup>62</sup>

Most of the militants, whether bands of a half dozen men or organizations of hundreds of armed men with identifiable commanders, engage in ambushes of government forces and hit-and-run attacks for which they rely on automatic weapons such as AK-47s and other small arms, and explosives. Some groups appear to engage principally in assassinations, and some have also laid mines. The larger organizations appear to have at least a rudimentary command structure and some capacity for coordinating a military strategy.

It is difficult to gauge the support the militants command in the countryside. Observers note that in some areas of Punjab, particularly along the Pakistan border, "after 5:00 p.m. there is a parallel government," and residents in rural areas "lock themselves in their houses after the sun sets" because of the large scale movement of militants at that time.<sup>63</sup> While it is clear that villagers may provide shelter in some cases, in others they have been forced to do so at gunpoint. As one Indian civil liberties group notes,

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<sup>60</sup> In Sikhism, the *panth* is the community of believers.

<sup>61</sup> For a description of the militant organizations and their history, see chapter 5.

<sup>62</sup> James Clad, "Terrorism's Toll," *Far Eastern Economic Review*, October 11, 1990, p. 34.

<sup>63</sup> Interview with journalist in Amritsar, December 9, 1990.



Villagers ... remain under constant fear of the terrorists as well as the police. Almost all the persons interviewed by us told us that there was a "police-*raj*" ["rule"] during the day and the terrorists ruled in the night.... Being sandwiched between the two, that is, the terrorists and the police, they remain bewildered and demoralised.<sup>64</sup>

Unable to locate or identify the militants, government forces routinely respond to militant attacks by detaining young Sikh men in the vicinity, some of whom may be subsequently executed in reported encounters. In other cases, the security forces have retaliated against entire villages, assaulting and torturing civilians and conducting mass arrests.

Since 1984, Punjab has been under direct rule from Delhi for all but the two years between 1986 and 1988. In the absence of an elected state government, the civil administration has been under the authority of the governor, a federal appointee. The security forces, with the exception of the state police, operate under the authority of the federal home minister.<sup>65</sup> While technically answerable to the governor, in fact the police function as a parallel government, one that is arguably more powerful than the civil administration because of the increased powers it has been granted to fight the militants.

This rivalry has led to friction. Shortly before he was transferred in December 1990, Governor Virendra Verma gave an interview to the New Delhi based *Frontline* magazine in which he commented on the split between the two levels of authority.

The police have got the upper hand and so the villagers have several complaints of harassment by the lower police staff. I have suggested that ... the civil authorities in the districts should be more active to check the harassment of the public. If [the civil

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<sup>64</sup> Citizens for Democracy, "Violence in Punjab," August 9, 1989.

<sup>65</sup> According to a report published in *India Today* in April 1990, the CRPF and the BSF are under the authority of the the director general of police for Punjab. See Kanwar Sandhu, "Tough Tack," *India Today*, April 30, 1990, p. 18.

administration] becomes effective then it can have some kind of control over the police and the harassment would stop.<sup>66</sup>

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<sup>66</sup> "The Administration is not Effective," (Interview with Punjab Governor Virendra Verma), *Frontline*, December 8-21, 1990, pp. 11-12.

Conflict between the police and the civil administration over policy has resulted in the replacement of three governors in the past three years,<sup>67</sup> leaving the police less accountable than ever to any civil authority.<sup>68</sup> At the same time, the security forces, particularly the police and the paramilitary forces, have been granted sweeping powers to stem the separatist movement, and have been granted

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<sup>67</sup> Since 1983, Punjab has had eight different governors and six different police chiefs. See Shekhar Gupta, "Dangerous Upsurge," *India Today*, December 31, 1990, p. 30. As one observer notes, "A major obstacle to normalcy remains the police resistance to any state administration beholden to militant influence. There are many policemen who fear a reckoning of accounts for past excesses. Others in the security forces are loathe to surrender their special powers." James Clad, "Terrorism's Toll," *Far Eastern Economic Review*, October 11, 1990, p. 34.

<sup>68</sup> The rift between Governor Verma and Deputy General of Police K.P.S. Gill became apparent during a controversy in November 1990 over two incidents of police encounter killings. When Verma's home secretary recommended registering criminal cases against the police officials involved, Gill objected, stating that such action would "lead to demoralisation and insubordination in the police ranks." Kanwar Sandhu, "New Frictions," *India Today*, November 15, 1990. See also p. 53. In January, Verma was transferred to become governor of Himachal Pradesh and was replaced in Punjab by O.P. Malhotra, a former army general. Following the national assembly elections in June 1991, Governor Malhotra resigned.

protection from prosecution. These forces routinely engage in human rights abuses in the name of "fighting terrorism."

The security troops, which are largely unchecked by civilian or judicial authority, respond to their challenge by resorting to excessive force.... Police and paramilitary officers argue that a crusade for accountability will only demoralize soldiers.<sup>69</sup>

The Indian authorities have rarely conducted investigations into abuses committed by the security forces; in the few cases in which security personnel have been disciplined, the penalties have been dismissals or transfers.

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<sup>69</sup> Steve Coll, "India's Security Forces Assume New Power as Role in Ending Conflicts Grows," *Washington Post*, December 2, 1990. One senior police officer Coll interviewed in Punjab told him, "The politicians put us in this mess.... The police are asked to perform as the army and as politicians. How is that possible?" P.K. Parekh, a lawyer and director of the International Institute of Human Rights in New Delhi, told Coll, "They [the politicians] give the job of governance to the security forces.... The danger is ... once the forces taste power, they may not be able to give it up." Ibid.

Police high-handedness obviously stems from the simple fact that they can get away with it. Take the Brahmpura incident in December 1986, when it was proved beyond doubt that a CRPF posse had used excessive force while searching a village and even molested a woman. Three CRPF *jawans* ("servicemen") were picked up for punishment. [One] was demoted two ranks for three years, two increments of a head constable were withheld for two years and the third was dealt with in the orderly room by the commandant.... There have, in fact, been about a dozen magisterial inquiries in which police officials have been indicted. All have been swept under the carpet.<sup>70</sup>

Even after the severe torture of two women in the custody of the police in Batala in 1989 made headlines in the Indian press and received attention abroad, the only action taken was that the senior superintendent of police responsible was transferred.<sup>71</sup> Despite considerable evidence that abuses like those in Batala have become endemic to security operations in Punjab, the authorities in the state and in New Delhi have consistently justified even gross human rights violations as an acceptable cost of the conflict.

### **The Applicable Law**

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<sup>70</sup> Kanwar Sandhu, "Uniformed Brutality," *India Today*, September 30, 1989, p. 27.

<sup>71</sup> As one journalist noted at the time, the authorities excused the superintendent's actions on the grounds that the victims were alleged to be militants. "It seems unlikely that aside from a transfer any disciplinary action will be taken.... Particularly as the Director General of Police K.P.S. Gill ... now says that they had definite information that the two women were planning acts of terrorism." *Ibid.*

The government of India, like other governments, is obliged to respect internationally recognized human rights and is responsible for violations of those rights committed by and attributable to its armed forces and paramilitary forces.<sup>72</sup> Common Article 3 to the Geneva Conventions and customary international law govern the conduct of both government forces and armed insurgents in internal armed conflicts. Common Article 3 to the four Geneva Conventions provides:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

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<sup>72</sup> The government of India has ratified the four Geneva Conventions. The principal government forces operating in Punjab, the Punjab police, the CRPF, the BSF and the Indian army are all entities of the central government in New Delhi. Army soldiers report, ultimately, to the minister of defense; the CRPF, BSF and other national paramilitary police forces report to the home minister. As such, the actions of these troops are governed by the international laws of war and international human rights law which bind the government of India. In the periods in which Punjab has been under president's rule and the state legislative assembly has not been functioning, the central government has ruled the state directly.

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

Common Article 3 applies when a situation of internal armed conflict objectively exists in the territory of a state party; it expressly binds all parties to the internal conflict including insurgents, although they do not have the legal capacity to sign the Geneva Conventions. In Punjab, the Indian government and all principal armed militant organizations are parties to the conflict.

The obligation to apply Article 3 is absolute for all parties to the conflict and independent of the obligation of the other parties. Thus, the Indian government cannot excuse itself from complying with Article 3 on the grounds that the militants are violating Article 3, and vice versa. Finally, the government of India is obliged as well to comply with the International Covenant on Civil and Political Rights (ICCPR) to which it is a party.

#### **IV. VIOLATIONS BY GOVERNMENT FORCES**

Government forces operating in Punjab, including members of the Punjab police, the federal paramilitary troops of the Central Reserve Police Force and the Border Security Force, and the Indian army have systematically violated international human rights law and the international laws of war protecting civilians in internal armed conflict. Among the most egregious of these violations have been the summary executions of large numbers of civilians and suspected militants. During its mission to Punjab in 1990, the Asia Watch delegation investigated many cases of such killings that had occurred in 1989 and 1990 in districts throughout the state.

In most cases the victims were killed after first being detained in the custody of the police or the paramilitary forces. The killings were then reported by the authorities as having occurred in an encounter with the security forces. In some cases, the police have reportedly recruited and trained extrajudicial forces made up of civilians, some of whom have been selected because of their criminal records, and members of the police, to carry out these killings. Security legislation has facilitated such abuses by authorizing the security forces to shoot to kill and by subsequently protecting them from prosecution.

The security forces in Punjab have also engaged in widespread disappearances. Persons reported to have disappeared have been first detained in the custody of the police or security forces; subsequent to the arrest, the authorities have denied that the person was ever in custody.

Detainees are routinely subjected to torture in police stations, prisons and detention camps. Asia Watch interviewed dozens of former detainees whose testimony described a pattern of systematic torture by the security forces to coerce signed confessions or information about alleged militants and to impose summary punishment. Family members are frequently detained and tortured to reveal the whereabouts of relatives sought by the police. During house-to-house searches, security forces routinely assault and threaten civilians. In some cases, the male residents of entire villages have been beaten and otherwise assaulted.

Methods of torture include electric shock, prolonged beatings with canes and leather straps, tying the victim's hands and suspending him or her from the ceiling, pulling the victim's legs far apart so as to cause great pain and internal



pelvic injury, and rotating a heavy wooden or metal roller over the thighs. Female detainees also have been raped. Security legislation has suspended previous safeguards against torture, including the requirement that all detainees be seen by a judicial authority within 24 hours of arrest.<sup>73</sup> Also suspended are prohibitions against the use of confessions obtained under duress. Detainees are frequently held in incommunicado detention, which also increases the risk of torture.

Thousands of persons are believed to be detained throughout Punjab in police stations, at federal police camps and in prisons outside the state. Many of those detained appear to have been arrested solely because they are assumed to be militant sympathizers. Others are detained as hostages because their relatives or associates are suspected militants or because they live near militant strongholds. In such cases, persons may be detained on charges of "harboring terrorists."

The police deliberately obstruct efforts by family members and lawyers to locate detainees and produce them in court by transferring the detainees from police station to police station. Habeas corpus petitions often do not provide a remedy in such cases because the police routinely defy court orders or deny that the detainee is in their custody. The detainees rarely have access to lawyers, and some have been denied medical care. Lawyers attempting to represent detainees have been harassed

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<sup>73</sup> These safeguards are included in India's Code of Criminal Procedure. Section 56 provides, "A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of the police station." Under section 58, "Officers in charge of police stations shall report to the District Magistrate ... the cases of all persons arrested without warrant..." section 57 provides, "No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under Section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court."

themselves and in some cases also detained by the security forces. Persons also have been detained for peacefully exercising their rights of freedom of speech and assembly. Finally, the government has harassed some Punjabi newspapers, in some cases shutting down those which have published press statements released by the militant groups.

### **Extrajudicial Executions**

While there is no declared state of emergency<sup>74</sup> in Punjab, it is clear that violence by militants has claimed hundreds of civilian lives and seriously threatens civil order. Nevertheless, the actions taken by the security forces to crush the militants have resulted in the arbitrary deprivation of life on a huge scale.<sup>75</sup>

Furthermore, Common Article 3 of the 1949 Geneva Conventions requires in times of internal armed conflict that persons "taking no active part in hostilities ... be treated humanely" and prohibits "violence to life and person, in particular murder of all kinds." Common Article 3 also bars executions carried out "without previous judgment pronounced by a regularly constituted court." No derogation from these rules is permitted.

The evidence gathered by Asia Watch indicates that the Punjab police, the Central Reserve Police Force, the Border Security Force and the Indian army -- the principal government forces operating in Punjab<sup>76</sup> -- have systematically violated fundamental norms of international human rights and humanitarian law, most commonly by summary execution of civilians and suspected militants. Although the authorities generally claim that those killed were shot in encounters with the security forces, in fact, many of those killed in such reported encounters are simply

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<sup>74</sup> The 59th amendment to the constitution granted the government the authority to declare a state of emergency in Punjab on the grounds that "the integrity of India" was threatened. That authority was never invoked, and in 1990, the amendment was repealed. The amendment had been condemned by opposition parties and civil liberties groups in India.

<sup>75</sup> Under Article 4 of the International Covenant on Civil and Political Rights (ICCPR), the government of India has the right to derogate from certain articles of the ICCPR only if it first files a notification with the United Nations. However, the Indian government has not filed any such notification, making any derogation illegal. Moreover, the ICCPR expressly prohibits derogation from the right to life under any circumstance. Thus, even during time of emergency, "[n]o one shall be arbitrarily deprived of his life." Article 6, International Covenant on Civil and Political Rights.

<sup>76</sup> The paramilitary forces deployed in Punjab, the CRPF and the BSF have combat duties and sometimes conduct operations jointly with the Punjab police.

murdered. The summary execution of civilians and captured combatants without charge or trial constitutes an extremely grave violation of Common Article 3.

This pattern of extrajudicial killings by security forces has been documented by international human rights organizations and civil liberties groups and journalists in India.<sup>77</sup>

Publicly the police officers will never admit this phenomenon of fake encounters; privately, some of them would admit it and justify it. There is no other way to deal with the situation, they would say. You cannot reform them, you cannot get them convicted and you cannot keep them in detention indefinitely.<sup>78</sup>

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<sup>77</sup> Ironically, adopting the language of the security forces, these groups frequently use the term "encounter killings." One group explains, "The encounter: A unique contribution of the police in India to the vocabulary of human rights ... it represents in most cases the taking into custody of an individual or a group, torture and subsequent murder. The death generally occurs as a result of brutal torture or a stage-managed extermination in an appropriate area. An official press release then elaborately outlines a confrontation, an encounter where the police claim to have fired in 'self-defence.'" People's Union for Civil Liberties, "Murder by Encounter," [no date], in A.R.Desai, ed., *Violation of Democratic Rights in India*, (Bombay: Popular Prakashan, 1986), p. 457. See also Andhra Pradesh Civil Liberties Committee, "'Encounter' Killings in Andhra Pradesh -- The Post Emergency Period," [no date], in same publication; and Amnesty International, *Political Killings by Governments*, (AI Index: ACT 03/26/82), 1983.

<sup>78</sup> Prem Kumar, "Encounters of a Different Kind," *Indian Express*, June 12, 1989.

In fact, in 1988, Senior Police Officer Padma Shri told one journalist, "You catch the killer of a hundred people after chasing him for months, would you let him go scot-free to kill more, if the judiciary can't prove his guilt because of a lack of witnesses?"<sup>79</sup> The sentiment is frequently echoed publicly by other senior officers in the police who acknowledge that the authorities routinely turn a blind eye to evidence of abuse.

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<sup>79</sup> Vipul Mudgal, "Madness without Method," *India Today*, November 15, 1988, p. 20. In an address to Punjabi villagers in 1987, Senior Superintendent of Police Izhar Alam stated, "Terrorists who had committed five or more murders were killed by the police after they were caught." "Villagers Vow to Fight Terrorism," *Tribune*, October 2, 1987.

Under the law each unnatural death has to be investigated by a magistrate. However in Punjab those killed in militant encounters are given a prompt police cremation. The police say they couldn't care less and argue: the militants have killed judges, witnesses, public prosecutors and policemen, destroying the very institutions of the judiciary. Now they demand a fair trial. Isn't it like a man shooting his own parents and then seeking clemency on the grounds of being an orphan?"<sup>80</sup>

Other police officials acknowledge that abuses have been condoned by the authorities, and that in some cases abuses occur on the explicit instructions of senior officials. One senior police officer tacitly admitted as much when, shortly before Governor Verma was replaced in December 1990, he observed:

It is most demoralising when you don't know whether the next dispensation will continue the fight, or remove you, or initiate inquiries into the deaths of militants you've been killing all these months.<sup>81</sup>

When he resigned in 1988, former Inspector General of Police in Punjab Chaman Lal stated that, following the killing of seven train passengers by a militant group, Director General of Police K.P.S. Gill issued instructions for the police to "let loose terror in the villages." (Gill subsequently denied the statement.)<sup>82</sup>

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<sup>80</sup> Shekhar Gupta and Prashant Panjiar, "The Rule of the Gun," *India Today*, January 15, 1991, p. 19.

<sup>81</sup> See Shekhar Gupta, "Dangerous Upsurge," *India Today*, December 31, 1990, p. 32.

<sup>82</sup> Throughout his tenure with the Punjab police, Gill acquired a reputation for condoning the brutal methods of the police. When the authorities considered taking disciplinary action against the senior superintendent of police of Batala, Gobind Ram, who had been accused in a number of cases of torture and assault, Gill threatened to resign in protest. As a result,

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Gobind Ram was only transferred. While director general of police in Assam, Gill was charged with kicking a demonstrator to death, but was acquitted by the Delhi High Court. See Vipul Mudgal, "Madness without Method," *India Today*, November 15, 1988, p. 19. See also Vipul Mudgal, "A Tight Spot," *India Today*, August 31, 1988, p. 33. (In late 1990, Gill was promoted as head of the CRPF in Punjab.)

On August 30, 1989, the director general of police for Punjab issued an order promising rewards of Rs. 25,000 [about U.S. \$1,390] and higher for the arrest "or liquidation" of 53 alleged militants.<sup>83</sup> Such rewards may go as high as Rs. 100,000 [about U.S. \$5,560] for killing "hard-core" terrorists; unofficially the payoff may be Rs. 2 million [about U.S. \$111,100].<sup>84</sup> As a result, some members of the police and other security forces reportedly operate as bounty hunters, called "cats." The police also reportedly recruit civilians as "special police officers" who for Rs. 30 a day [about U.S. \$1.67] are given a gun and told to kill "terrorists." These recruits operate as vigilante forces without any official constraints; some authorities admit that many have joined the militants or formed criminal bands of their own. When questioned about the legality of such measures, former Director General of Police Julio Ribeiro was reported to have replied, "In fighting this undeclared war in Punjab what matters is success in tracking down killers."<sup>85</sup>

Observers have noted that in fighting the militants, the police have learned to copy their methods:

In this deadly game of hide and seek rules are rewritten every day. The militants in the state began with the killing of policemen on the hit list. The police responded by drawing up their own hit lists. Earlier in 1990 the militants made deadly use of a new tactic: kidnapping family members of police officials and demanding the release of their men in ransom. For some time the police played along. Then they retaliated. Each time the relative

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<sup>83</sup> On February 21, 1991, the Indian Supreme Court ordered the Punjab government to quash the order. "Notice Issued to Punjab on Order to Kill Terrorists," *Telegraph*, February 22, 1990.

<sup>84</sup> Shekhar Gupta and Prashant Panjiar, "The Rule of the Gun," *India Today*, January 15, 1991, p.19.

<sup>85</sup> Vipul Mudgal, "The Underground Army," *India Today*, September 15, 1988, p. 42. *See also* Shekhar Gupta and Prashant Panjiar, "The Rule of the Gun," *India Today*, January 15, 1991, p. 20.

of a policeman was kidnapped he was given a list of the family members of the leaders of the militant group involved.<sup>86</sup>

As a result, both sides in the Punjab conflict have come to resemble one another, resulting in a criminalization of the police and lawlessness on all sides.

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<sup>86</sup> Shekhar Gupta and Prashant Panjiar, "The Rule of the Gun," *India Today*, January 15, 1991, p. 20.



In addition to encounter killings, the security forces have also responded to militant attacks by attacking farmhouses and other civilian targets, killing civilians. Such attacks are strictly prohibited under the laws of war.<sup>87</sup>

The Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983 authorizes the governor or the central government to declare the whole or any part of the state to be a "disturbed area" if it is found that disturbances in the area are such that "the use of the armed forces in aid of the civil power" is necessary to prevent "terrorist acts" or separatist activities. As of August 1991, all of the state of Punjab had been declared a "disturbed area."<sup>88</sup> In such an area the act empowers "any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces" to,

after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances....

The legislation also authorizes such personnel to "enter and search, without warrant, any premises" to make an arrest where "reasonable suspicion exists that [a person] has committed or is about to commit a cognizable offence."

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<sup>87</sup> Where there is no evidence that the militants were launching attacks from these houses or were hiding in them, but that the security forces only retaliated against civilians living nearby, the actions violate the laws of war. Protocol I, Article 51. Though Protocol I applies only to international armed conflicts, the principle that civilians and civilian objects should not be targeted is recognized as customary international law, applicable in all circumstances.

<sup>88</sup> The entire state was declared a disturbed area on June 14, 1991. Punjab was first declared a disturbed area in October 1983. The designation has been subsequently restricted to specific districts, particularly those bordering Pakistan.

The Punjab Disturbed Areas Act (1983) also empowers any magistrate or police officer to use lethal force "against any person who is indulging in any act which may result in serious breach of the public order or is acting in contravention of any law or order for the time being in force prohibiting the assembly of five or more persons or the carrying of weapons."<sup>89</sup> Both acts provide, "No suit, prosecution, or other legal proceedings shall be instituted except with the previous sanction of the State Government against any person in respect of anything done or purporting to be done in exercise of the powers conferred [by the Acts]."<sup>90</sup> Similarly, section 197 of the Code of Criminal Procedure provides,

No Court shall take cognizance of any offense alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

Such provisions contravene the International Covenant's guarantee of a non-derogable right to life. Both acts grant extraordinary power to officers in the security forces to shoot and kill unarmed civilians. In fact, the laws explicitly sanction the shooting of persons who have merely violated laws "prohibiting the assembly of five or more persons." By encouraging the use of lethal force and protecting the police from accountability for their actions, these laws effectively grant the security forces a license to kill.

### **Encounter Killing in Mohali**

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<sup>89</sup> The Punjab Disturbed Areas Act, 1990, section 4.

<sup>90</sup> Ibid, section 6; and Punjab Armed Forces Special Powers Act, section 7.

- Residents of Mohali, a suburb of Chandigarh, described the police killing of Kulwant Singh, 24, a resident of Nawangaroan in Ropar district, in July 1990, and the subsequent attempts by the police to cover up the incident. At 11:10 a.m. on July 8, 1990, three young Sikh men, Kulwant Singh, Amarjit Singh and Harjit Singh, who were riding on a scooter,<sup>91</sup> passed the Chawla Chowk crossing in Mohali, followed by a police van that came from behind them and ordered them to stop. According to eyewitnesses,<sup>92</sup> after the youths stopped, the policemen got out of the van and beat the youths on the heads and shoulders with their rifle butts. The policemen were seven in number, and all but one was in uniform. At least two of the constables were reportedly intoxicated.<sup>93</sup> Kulwant Singh raised his hands and asked the police why they were being beaten. Gurcharan Singh Randhawa, a witness to the incident who was standing about 90 yards, away described what happened next.

The police then ordered Kulwant Singh to run. He appeared reluctant to run, but as the police continued to slap him he moved about five yards away until they told him to move again. The other two youths were then made to get into the police van and driven away. Three of the constables, Jagir Singh, Gian Singh and Bhag Singh, all from the Mohali police station, then began to push Kulwant Singh toward a by-lane. Again the constables told Kulwant to run away. When he again refused, I shouted at the police, "Why are you beating this man?" At first the police ignored me, but then they aimed their guns at me, saying, "Why are you interfering in this matter?" Kulwant had his arms raised, screaming, "Why are you beating me? What have I done?" During the commotion, area residents had come out of their houses to see what was going on. The police fired several shots in the air and told everyone to go back inside, saying they "would not be responsible if anyone is hurt." By this time the deputy superintendent of police (DSP), Dalip Singh, had reached the by-lane and stood five yards behind me. The three constables kept beating Kulwant with their fists and rifle butts, and when he again refused to run, the policemen pushed him, and as he turned with his arms raised, one of the constables shot him. The bullet

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<sup>91</sup> Triple riding is a traffic violation in Punjab.

<sup>92</sup> Asia Watch interviewed the principal eye-witness to the incident and obtained affidavits from six additional witnesses.

<sup>93</sup> According to a report of an investigation conducted by the Punjab Human Rights Organisation (PHRO), doctors who had examined two of the constables confirmed that they were under the influence of alcohol at the time of the incident.

hit Kulwant on the left side of his chest and exited the right side below his ribs. As Kulwant fell with his hands over his head, DSP Dalip Singh called out to the constables, "*Chak dita?*" ("Have you finished him?"), to which they replied, "Yes, sir, finished."

After Kulwant Singh had been shot, DSP Dalip Singh contacted the station house officer (SHO), and minutes later five or six uniformed policemen arrived on the scene. The DSP ordered them to stand watch over Kulwant Singh's body; meanwhile he went back to the crossing. Five to ten minutes later, Dalip Singh returned with a revolver, which he placed on the ground next to Kulwant Singh's hand. Randhawa told Asia Watch,

I asked him, "Why are you putting the revolver there?" He replied, "Why are you interfering in our business?" I accused Dalip Singh of trying to create a false encounter and shouted for the local residents to come out and help. A number of people who had seen what had happened came out and accused Dalip Singh of killing Kulwant Singh "for nothing."

A local member of Parliament, Bimal Kaur Khalsa, who had joined the crowd, asked Dalip Singh to identify the dead man. He retorted that he was not required to tell her anything, saying, "You may be a MP or anybody else; I won't bother. I won't tell you his name nor will I say what he has done. It will be known afterwards."<sup>94</sup> He then called a photographer to take a picture of the body, but the people stopped him and insisted that Dalip Singh first remove the revolver. After he did so, one of the men accompanying Bimal Kaur Khalsa called the deputy commissioner. About 45 minutes later, the deputy commissioner, the additional deputy commissioner and the senior superintendent of police (SSP) from the Ropar police station, Mohammed Mustafa, arrived with reinforcements. After the witnesses told him what had happened, Mustafa stated that Kulwant Singh "was innocent and killed by mistake." He said that there had been no charges pending against him.

Over the objections of the residents, the police removed Kulwant Singh's body. A number of the witnesses then surrounded the police station until, later that

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<sup>94</sup> According to the PHRO report, Dalip Singh also told her, "Just as you have achieved little by having an enquiry ordered into the Kotla Ajner incident, so also would be the outcome of the attempts in this case." For more on the Kotla Ajner incident, see discussion beginning on p. 47.

day, the district commissioner announced that an inquiry into the incident would be held. The next day the governor arrived, and the witnesses also told him what had happened. He assured them that "justice would be done."

On July 9, the *Tribune*, a Chandigarh-based daily, reported the senior superintendent of police (SSP) as saying that Kulwant Singh "fired at constable Jagir Singh and was killed in an exchange of fire with policemen." According to the report, the SSP added that

Kulwant Singh was "running" when he was shot dead. A Mauser 9 mm. bore pistol was recovered from the scene.... [T]he three suspects had looted a petrol station about three days ago and today again they were on a similar mission.<sup>95</sup>

In testimony before the deputy commissioner, the police repeated the story, claiming that the three youths had just committed a robbery at a petrol pump, and that when they were flagged down for riding triple on the scooter, Kulwant Singh pointed a revolver at one of the constables. As the constable, Jagbir Singh, tried to push the gun away it went off, injuring him in the wrist. About 20 days after the incident a lawyer from the Punjab Human Rights Organisation (PHRO) investigating the case interviewed the doctor who had treated Jagbir Singh. The doctor told him that the injury appeared to have been caused by a puncture on either side of the wrist, but not by a bullet as there was no damage to the flesh or bone in between.

G. S. Randhawa testified about the incident before the deputy commissioner. Several days later, DSP Dalip Singh and an entourage of uniformed constables came to G.S. Randhawa's house in Mohali and warned him that he would "meet the same fate as Kulwant Singh." Randhawa reported the incident to Rajwant Singh, a special police officer (SP) appointed by the home secretary to investigate Bimal Kaur Khalsa's complaint that Dalip Singh had been abusive, and the harassment stopped.

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<sup>95</sup> "One Shot in Mohali," *Tribune*, July 9, 1990.

The police attempted to bring charges under the Terrorist and Disruptive Activities Act (TADA)<sup>96</sup> against the other two youths who had been arrested, Amarjit Singh and Harjit Singh, but the charges were dismissed and they were released on July 14. According to the PHRO lawyer, after they were released the police warned the youths, "Look, nothing has happened to you but if you go around cooperating with PHRO there could be trouble." All three youths were former classmates at the Polytechnic College in Hosiarpur. Kulwant was employed as a junior engineer with a telephone cables factory in Mohali. According to the PHRO lawyer, at the time of the incident the three youths had been returning from seeing a movie and were on their way to the bazaar to shop for a scooter.

The report of the investigation into the incident conducted by Additional Deputy Commissioner Arun Goel was said to have been submitted to the office of the home secretary in September 1990. According to a press account,

Sources said the report indicated that the force used by the police in the incident was "excessive" and it did not resort to firing in self-defense.... The police did not lift fingerprints from the weapon in question ... [and] did not record the statement of Mr. G.S. Randhawa, who said he was an eye-witness.<sup>97</sup>

An article in *India Today* in November 1990 reported that the magistrate had not been able to arrive at a "conclusive verdict."<sup>98</sup> Asia Watch is not aware of any official results of the inquiry. According to Hoshiar Singh, 33, an assistant sub-inspector (ASI) with the Punjab police head office in Chandigarh and Kulwant Singh's brother, one of the constables, Bagh Singh, was killed by militants in Ropar about a month after the incident. As of December 1990 the other policemen involved in this case remained on active duty.

### **Encounter Killings in Kotla Ajner**

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<sup>96</sup> For more on the act, see discussion beginning on p. 153.

<sup>97</sup> "Youth's Killing: Police Used "Excessive Force," *Tribune*, October 3, 1990.

<sup>98</sup> Kanwar Sandhu, "New Frictions," *India Today*, November 15, 1990.

- Villagers in Kotla Ajner described the encounter killings of two young Sikh men, Baljit Singh, 20, and Harpal Singh, 24, on June 14, 1990.<sup>99</sup> According to eyewitnesses, at about 6:30 p.m, the two men were traveling on a scooter on the main road that leads to the village of Khanna, followed by a police vehicle. When their scooter skidded, and they saw the police, they ran into the fields. The police opened fire, wounding one of the men in the leg. At the sound of the shot, the other man raised his hands. Both men were captured and made to sit on a brick platform under a large tree in the village schoolyard. They were kept there for at least two hours with their hands tied behind their backs. The man who had been shot, Harpal Singh, wrote his name in blood on the platform. When the villagers returned to the site the next day the men were gone. A FIR<sup>100</sup> registered by the police on June 15 under the TADA, the Arms Act and the Indian Penal Code stated that the two men had been killed in an encounter on June 14 at 7:40 p.m. The FIR was signed by Station House Officer (SHO) Rupinder Singh.

Tara Singh, 45, a resident of Khanna, told Asia Watch that on June 14 he was traveling by bullock cart near Kotla Ajner an hour before sunset when he heard the sound of gunshot. When he reached the village schoolyard, he saw the two men, one of whom was injured in the leg, sitting on the brick platform under the large tree. Four policemen and an assistant subinspector sat nearby in a jeep, and a scooter lay on the right side of the road. Tara Singh told Asia Watch,

I asked the police officials whether the boy lying on the ground was alive or dead. They told me he was alive. Then they asked me, "What do you have to gain here? Go away from here." So I left and went to the village.

Jaswant Singh, 70, the *sarpanch* ("village headman") of Kotla Ajner since 1952, told Asia Watch,

I was in my house about 200 yards away when I heard a number of shots. On hearing the gunfire I came to the spot. This was about 10-12 minutes after the firing. When I reached the place I saw one jeep and four or five police including Assistant Subinspector (ASI) Bhupinder Singh and two others in civil dress with the police. One boy was injured in the leg and

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<sup>99</sup> Both men were members of the All-India Sikh Students Federation (AISSF), according to a PHRO report on the incident. At the time of the incident, Harpal had been released from prison on bail. There were no charges pending against Baljit Singh at the time.

<sup>100</sup> A First Information Report (FIR) is filed by police and is the starting point for any further investigation into a crime.

was lying by the side of a tree. The other boy who was standing near the police official was not injured. Neither of the boys was armed. I had never seen the boys before. I was about one yard away from the boys when I saw them. By this time it was after 7:00 p.m. The police called in a message on the wireless. Then they told me to go away. I went to the field across the road. They blocked the road and did not allow me to come back. After that there was firing in the night about 10:00 p.m.

Another eyewitness, Dalip Singh, a farmer from Kotla Ajner, stated,

On June 14, 1990, I was coming along the road from Khanna. I saw an injured boy lying on the ground and the other boy standing near the police officials -- four policemen and an ASI. The police told me to go away so I came and stood near the school about 50 yards away. At that time the boys were all right. They were not armed. We kept watching for 15-20 minutes, until the police officials asked us to move. There were about 200 people watching at that time. At about 10:00-11:00 p.m. we heard gunshots. The next day, the village leaders led by Jaswant Kaur approached the police at Khanna station and asked for the bodies of the boys, but the police refused to hand them over.

Rattan Singh, 55, a farmer from Malikpur who cultivated land in Kotla Ajner, was in his fields when the incident took place. He told Asia Watch that he saw the police van on the road and one of the young men running. He stated,

The police fired at the boy, then the other boy raised his hands and surrendered. The police took off their turbans and tied their hands behind their backs. When the police saw that we were watching, they fired one shot and told us to go away. They dragged the boys under a big tree. Then I parked my bicycle and joined the other people by the school. At that time the police asked one boy from the village to give the boys some water. One of the boys was sitting and one was lying down. I asked the other villagers what had happened, and they said the boys were unarmed and there had been no firing at the police. Both boys seemed to be about 20 or 21. I had never seen them before. The next morning when I returned to the spot I saw blood leading



from the two small trees beside the school back to the big tree.<sup>101</sup>

The name of one of the boys had been written in blood on the bricks around the big tree. I testified about all this to the deputy commissioner.

On June 15 the father of Baljit Singh, one of the boys who was killed, filed a petition in the court, demanding the return of the body. According to his lawyer, although the court originally ordered the magistrate to investigate the incident, the order had been crossed out and the father's petition returned without response. According to the PHRO report on the incident,

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<sup>101</sup> According to other witnesses, blood was found in several places in the schoolyard and on one of the window grates of the school building, suggesting that the men may have been tied and beaten before they were killed.

The parents of the boys met the SHO Bhullar at Khanna police station and requested him to hand over the bodies to them for the last rites. He refused. They were only allowed to see the dead bodies after they had been placed on the funeral pyres by the police.... Sardar Krishan Singh, Baljit Singh's father, saw that his son had bullet injuries in the side of his ribs. His forehead was badly battered.... The face was badly battered. There were signs of him having bled from his ears, nose and eyes.... SHO Bhullar informed us that Harpal Singh finding himself surrounded, had committed suicide by shooting himself first in the chest then in the bridge of the nose.<sup>102</sup>

The lawyer met the home secretary, Punjab, A.S. Chatha, to request an inquiry into the killing. On June 15, a delegation from PHRO also met with Governor Virendra Verma, who ordered the deputy commissioner of Ludhiana district, S.S. Brar, to conduct an open inquiry into the incident. According to press reports, the director general of police (DGP) K. P. Gill and other senior police officers objected to the governor's decision and to Verma's accusation that "a section of the police was hand in glove with extortionists and that the police of the state had become corrupt and inefficient."

The DGP reportedly took exception to the comments of the governor and held that the Punjab police was fighting a war of the nation and calling it corrupt or inefficient was least expected. He said the holding of enquiries into police encounters would demoralise the force and there would be laxity in the war against terrorism.<sup>103</sup>

Asia Watch interviewed Pirkaksh Singh, 35, a laborer who worked for Sukhminder Singh, a cousin of the police inspector. Sukhminder Singh ordered Pirkaksh to provide corroborating testimony to support the police version of the alleged encounter, even though he had not been present during the incident and knew nothing about the case. Pirkaksh told Asia Watch that when he refused, Sukhminder beat him, causing him to lose two teeth. On June 17-18 he was taken by police from his residence to the deputy commissioner. Pirkaksh told Asia Watch,

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<sup>102</sup> "One More Faked Encounter: A Report into the Kotla Ajner Incident," Punjab Human Rights Organisation, Chandigarh, [no date].

<sup>103</sup> "Dismiss Gill or Quit, Mann Tells Verma," *Tribune*, June 24, 1990.

I was afraid because I have never before been in a police station. Four policemen were present while I was beaten inside the police station at the staircase outside the office of the deputy commissioner. Afterwards I approached Lakhbir Singh [a bank official who had registered the case against the police] and a lawyer, Swaran Singh Sandhu who took me to Chandigarh to see the governor on June 22. The director general of police, K. P. S. Gill, accused me of lying. I told him I am not prepared to have my children killed so I will not give false evidence. After coming back some 15-20 days later, the police again came searching for me.... Then about a month and a half ago the police came to my house with Sukhminder Singh asking for return of Rs. 3,500 [about U.S. \$195] Sukhminder had loaned to me. Someone from the village paid the amount for me, saying, "He is not going back to the police station." After that I left my job with Sukhminder Singh, which I had for two years. Before this, he had never beaten me.

Gurmukh Singh, a *Harijan*<sup>104</sup> from Kotla Ajner, was arrested from his home on June 21. According to press reports, he was taken to the police station and ordered to sign statements stating that on the night of the incident he had heard shots "being fired from all sides." Out of fear, he gave the statement and was released. Afterwards, he reported what had happened to him to a local labor union leader, who brought him to see the governor. According to a press report,

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<sup>104</sup> A member of those at the bottom of the Hindu caste system, also known as "untouchables." The word literally means "people of god," and was coined by Mahatma Gandhi. Many now prefer the term "Dalit" which means "the oppressed."

This is not an isolated case. Three other Harijans of Ajner village -- Mr. Gajjan Singh, Mr. Sadhu Singh and Mr. Ujagar Singh -- were taken away by the police and produced before an officer. When they expressed their ignorance about the "Kotla Ajner encounter," they were asked to sit in a corner. Their thumb impressions were obtained.... All police officials of the area concerned were asked to bring witnesses in support of the police action. These witnesses were brought to the CIA [Central Interrogation Agency] staff building at Ludhiana. They deposed before the enquiry officer only after the villagers had left.<sup>105</sup>

The police made other attempts to obstruct the investigation. On June 19 or 20, Tara Singh and Rattan Singh testified before the deputy commissioner. Both men were detained by the police in October 1990.<sup>106</sup> On November 14, the village was cordoned off for two hours by the police and the CRPF, who conducted a house-to-house search of the whole village. The station house officer, Sant Kumar, arrested Dalip Singh, who had also testified before the commissioner. Dalip Singh told Asia Watch,

On November 14, they took me from my house at about 1:00 p.m. to a gurdwara in village Bhambiya six or seven miles away. But then they drove off without me. The next day at about 7:00-7:30 a.m., they came looking for me, but I was at Lakhbir Singh's shop in Khanna Mandi.

The magistrate conducting the inquiry reportedly concluded that the deaths of Harpal Singh and Baljit Singh were "not in the ordinary course of an encounter," and Home Secretary A.S. Chatha recommended that a criminal case be registered against the police officials involved. However, DGP Gill reportedly protested that to do so would lead to "demoralisation and insubordination" in the police ranks.<sup>107</sup> As of December 1990, no criminal cases had been registered in the case.

### **Other Incidents of Encounter Killings**

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<sup>105</sup> Prabhjot Singh, "Appear as Witness, Otherwise ...", *Tribune*, June 23, 1990.

<sup>106</sup> For a more on their detention, see discussion beginning on p.113.

<sup>107</sup> Kanwar Sandhu, "New Frictions," *India Today*, November 15, 1990, p. 44.

• **Shiv Charanjit Singh.** Gurwant Singh, 56, a teacher at a government primary school at Sahibana, Ludhiana, and resident of Model Town, Ludhiana, told Asia Watch that his son, Shiv Charanjit Singh, a 22-year-old agriculture student at Punjab Agricultural University, was arrested at about 8:00 p.m. on July 9, 1989. Charanjit was at home at the time, as the university had been closed since July 6. Three police officers arrested him, including Assistant Subinspector (ASI) Sant Kumar, ASI Gurdial Singh, who were both from the police CIA staff in Ludhiana, and Shankar Das, the SHO of the Saddar police station in Ludhiana. The three officers came and searched the house but took nothing. Meanwhile, outside the house, two truckloads of CRPF police were parked, and three or four jeeps of Punjab police. When the police ordered Charanjit to come with them, Gurwant said, "If you take him, you must tell me the reason in writing." When he said this, Sant Kumar pushed him, and Shankar Das pulled the son outside. Gurwant Singh told Asia Watch:

They pushed open the door and just came in and started searching, then they grabbed my son, and they asked me my son's name and if he was a student at Punjab Agricultural University. They asked me how many children I have and what they do. I pointed at my son and said that he is a student. Then they took him. When I went outside after them, I saw my younger son Harbans Singh was already sitting in the back of a jeep, and they made Charanjit sit with him. Deputy Superintendent of Police Chattopadhyaya was sitting in front.

Jagben Singh, a doctor, and Maghar Singh, a relative, also witnessed the arrest. On July 10, Gurwant Singh, accompanied by local political leaders, went to the house of Senior Superintendent of Police Sumedh Singh Saini, who assured them that after one or two days of interrogation, Charanjit would be released. He did not say why the police were holding him. On July 11, Gurwant, accompanied by teachers from his school and the district education office, went to the senior superintendent of police who assured them Charanjit would be released the next day. On July 12, Gurwant sent a telegram about the arrest to Governor S.S. Ray. That same day he, along with three or four other teachers, sat all day outside the CIA headquarters in Ludhiana. Charanjit was not released.

Over the next few days, Gurwant sent telegrams to other government officials. He kept inquiring at the police station, but Saini refused to see them. On July 13 or 14, he met with B.S. Gill, of the Special Police (Operations) who denied that Charanjit had ever been arrested. Several days later, Director Inspector General

of the Jalandhar Police D. R. Bhatti told Gurwant, "I'll inquire and let you know. Come back after three or four days." As Gurwant was preparing to return to see Bhatti, he went to the home of Jagrup Singh, a former member of the Punjab state assembly, and while there he read in the Punjabi newspaper *Ajit* that Charanjit had been killed in an encounter in Sudhar, Jagraon, on July 18. The report stated that Charanjit, along with the friend of a militant leader, had been riding together on a scooter. When they were stopped at a barrier, they allegedly opened fire on the police, and the police returned fire. Police sources claimed that the other man escaped and that Charanjit was killed. The police never officially told the family that Charanjit had been killed, and the body was never returned.

Additionally, the police obtained the addresses of other students in Charanjit's class, four or five of whom were subsequently arrested. Along with Charanjit's brother, Harbans Singh, his grandfather Gurchial Singh, 75, was also arrested on July 9. Gurchial Singh was detained at Mullanpur police station, Ludhiana, for three days. Harbans was detained for four days at CIA staff headquarters in Ludhiana. While in custody, Gurchial Singh was beaten with leather straps and interrogated about Charanjit's activities.

The police came looking for the father, Gurwant Singh, on July 9 and 10, but he was not at home. On July 12, the day he sent the telegram to Governor Ray, Gurwant informed the press of the arrest, and a brief story appeared on the morning of the July 13 in a local newspaper, *Aaj-di Awaz*. After that, the deputy superintendent of police for Jagraon sent police to Gurwant's house to bring him to the station. When they could not find Gurwant, they arrested another son, Gurcharan Singh, 24, and took him to Jagraon, about 40 kilometers away. He was brought to the DSP immediately, who showed him the clipping and told him to tell his father "not to indulge in things like this because whatever we want to do we will do and after that we will release your brother." (Charanjit was already dead by this time.) Then they released Gurcharan.

The High Court ordered an inquiry into the incident by the district police. Harbans Singh also filed an affidavit with the district judge, but to Asia Watch's knowledge, no inquiry into Charanjit's detention and the alleged encounter killing has taken place.

- **Sukhdev Singh.** Baldev Singh, 19, a resident of village Nandpur, Sahnewal, told Asia Watch about the extrajudicial execution of his brother Sukhdev Singh, 22, the owner of a welding shop on the Grand Trunk Road. At 5:00 a.m. on October 1, 1990, the police arrested "Kanti," a former employee of Sukhdev's, from

the village of Mangli Nechi. That morning, Sukhdev had asked Baldev to open the shop while he went to a rice sheller, opposite a *dhaba* ("outdoor diner") owned by a man named Thekedar. While he was gone, police officials from the CIA staff in Jalandhar came to the welding shop, among them Raj Kumar, Gurbax Singh, Subinspector Jaswant Singh, and Jassa, the driver, in addition to five others. The police searched the shop and asked where Sukhdev was. Baldev replied that he had gone to work at the rice sheller. The police accused Baldev of lying. He was made to sit in the van and was taken to his house in the village of Nandpur. The police searched the house and then came back to the shop.

Kashmir Singh, a local farmer who residents believe is a police informer (with close ties to Superintendent Bedi and the chief of the CIA in Jalandhar), was ordered by the police to go with the driver to the dhaba. When they reached the dhaba, they told Sukhdev that the police were looking for him and that they had detained his brother. They assured him it was for some minor thing and urged him to come with them. At first Sukhdev agreed to come, but then refused. The driver and Kashmir came back and told the police that Sukhdev had run away; promptly, the police left for the dhaba.

The police returned about half an hour later without Sukhdev, around 9:30 a.m. They then left for Jalandhar, taking Baldev with them in the van. Baldev saw a police jeep following the van as far as Sherpur near Ludhiana. The police took him to the CIA staff office where he spent the night in a police lockup.

At 6:00 a.m. on October 2, the police brought Baldev back to the welding shop, ostensibly so that he could get some clothes. When they reached the house, his uncle, Jaswant Singh, a police constable posted in Ludhiana, was there. Jaswant asked the police about Sukhdev, and was told to bring Sukhdev to them. Jaswant replied, "We have been looking for him and he has not returned, but as soon as he comes back we will produce him." A police officer named Jaswan Singh then said to Jaswant: "You haven't found him? You should search for him in the fields near the dhaba and you will find him. It is surprising you haven't found him by now."

At about 6:30 a.m., the uncle and a neighbor, Gurpal Singh, went by scooter to the dhaba and searched the fields. Across the road by a brick kiln a group of about 15-18 police from the Sahawal police station was standing with a number of civilians. When the uncle asked what was going on, the police told him, "There is an unidentified body lying here." The uncle and neighbor saw that the body was Sukhdev's. The police officials there told them that Sukhdev had "taken poison," but Jaswant and Gurpal could see, where Sukhdev's turban had fallen off, a

bloody wound on his head. His pants and underwear had been pulled down to his knees, and his shoes were off.

The SHO from Sanehwal, Swarup Singh, told Jaswant to go to Jalandhar and collect Baldev from custody. Jaswant asked the SHO not to remove the body, then left to get Baldev. But the police, after getting the signature of Sukhdev's father on a blank piece of paper, removed the body. Jaswant arrived at Jalandhar about 11:30 a.m., and Baldev was released about 1:00-1:30 p.m. At about 4:00 p.m. Sukhdev's body was handed over to his father.

Gurmukh Singh, 42, a neighbor from Nandegam and a generator operator at Punjab Breweries, told Asia Watch that he was coming on his bicycle from Kohara at about 9:30 a.m. on October 1 and stopped when he saw Sukhdev's scooter outside the dhaba. He saw Sukhdev, chased by the police, running in the field across from the dhaba. He told Asia Watch:

I was standing about 15-20 yards away. I saw three policemen in uniform and one in civil dress chasing Sukhdev. They were carrying rifles. They were about 5-10 yards behind Sukhdev. I left then to go to the village. Along the way I passed Sukhdev's shop. I saw policemen standing there and police jeeps parked there. After I went to the village, I returned to the field about 45 minutes later. The policemen had gone and Sukhdev's father was looking for him and couldn't find him.

Family members were told by eyewitnesses that when the police came to the dhaba, Sukhdev was running at a far corner of the field, with four policemen running after him. A jeep and more police closed in from both sides, cornering Sukhdev in the middle of a crop of sugar cane. The police beat Sukhdev with their rifle butts until he fell down unconscious; then, to make sure he was dead, they pulled on his testicles "to make sure he would not live to tell what had happened."

• **Gurmeet Singh.** Krishna, 40, a resident of Ghawadi, Ludhiana, told Asia Watch about the reported killing of her son, Gurmeet Singh, 19, in 1990. Gurmeet had been arrested repeatedly, beginning in October 1986 when he was detained for four days and tortured in custody.<sup>108</sup> He was again arrested a week later, along with three other members of the family. The others were released the

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<sup>108</sup> For more on the torture of Gurmeet and other members of the family, see discussion beginning on p.114.



next day, but Gurmeet was detained for 22 days, during which time the police repeatedly denied he was in their custody. After 22 days, Gurmeet was charged in six or seven separate criminal cases of extortion, murder and other crimes. The police had made him sign a number of blank pieces of paper in which the confessions were apparently later written out. Six months later Gurmeet was released on bail.

On June 1, 1987, Gurmeet's father, Hardev Singh was ordered to produce Gurmeet at the Dehlon police station. Hardev brought Gurmeet to the police station; he was told to return the next day when his son would be released. The next day, the head constable, Darshan Singh, told the father that Gurmeet was not in his custody. On June 2, Hardev sent a telegram about the arrest to the chief justice of the High Court and on June 2 and June 3 Hardev filed applications in the magistrate's court to have Gurmeet produced. On both days, the police claimed that they had not arrested Gurmeet. On June 4, Hardev filed a complaint before Magistrate Shri Bhagwan Singh against Subinspector Manjit Singh, Assistant Subinspector Jogender Singh and Head Constable Darshan Singh charging that Gurmeet had been illegally detained and that the family feared him dead. By June 8, the statements of witnesses and family had been recorded before the magistrate. At that point, a police official named Sodh Ram threatened Hardev, saying, "Up to now only your son has been involved, but now you too will be involved in cases."

Special Police Detective Surjit Singh pressed Hardev to drop his complaint against the police and promised that the charges against Hardev and Gurmeet would be dropped if Hardev did so. Hardev withdrew his complaint on July 1, the first day the courts reopened, but the police did not withdraw the cases against Hardev and Gurmeet. After ten days of talks with Surjit Singh, on June 29 the police produced Gurmeet in court and Hardev was permitted to meet with him in jail. Gurmeet had again been severely tortured in custody.

Gurmeet was released at the end of March 1988. The police falsely recorded the date of his arrest as June 29, 1987 -- 28 days after the actual arrest. From March to August 1988, Gurmeet was arrested three or four times, and detained each time for five to seven days. He was repeatedly tortured.

In October 1988, Bhagwan Singh, a neighbor close to Head Constable Darshan Singh, was found murdered. The police, led by ASI Shamsheer Singh and Darshan Singh, arrested Hardev's brother from Ludhiana and brother-in-law from Siahara and then went to Dhuri with them and arrested another brother-in-law. At that time Gurmeet, who was staying with his relations, had gone to the market. The

police arrested Hardev Singh and a friend of Gurmeet, Gurmukh Singh Bassi, and brought them from Dhuri to Ludhiana. Along the way the men were beaten and kicked. At 6:00 p.m. all of them were brought to Saddar police station. Both men were tortured, and Gurmukh was so badly injured that Hardev had to dress him as Gurmukh was unable to do so on his own. Later that night Hardev heard one police official say, "Gurmukh has not done anything. Put him on the train." SSP Saini came into the room and tied Gurmukh's hands and blindfolded him. At about 1:30 a.m. Gurmukh was taken out of the room. At 4:30 a.m., a sentry outside the door told Hardev that Gurmukh had been "liquidated." Hardev learned later from a newspaper report that the police claimed that Gurmukh had been killed in an encounter in Laddowal, Ludhiana.

Mazgar Singh, who had been detained at the same time as Hardev, told Asia Watch that he saw Hardev and Gurmukh when they were brought to the police stations in a van. He saw them being beaten and then taken to a room. Afterwards he could hear them screaming. He saw Gurmukh being carried out of the room and put in the jeep, and then the three vehicles, including the jeep, pulled away.

On May 28, 1990, police inspector Balbir Chand Tiwari of Samrala district, Ludhiana, in the presence of local MP Rajender Kaur Bulara, told Hardev that Gurmeet had been killed in a gunfight between rival gangs in Ropar. He did not say when the incident was supposed to have occurred. The family has been able to learn nothing more about the incident. Hardev told Asia Watch that since Gurmeet's death, the police have continued to come to the house, questioning family members.

Throughout Asia Watch's interview with the family, a policeman kept watch outside the home, and another was posted on the roof of a neighboring house.

• **Jasvinder ("Dittu") Singh.** Bakshish Singh, 50, an ex-serviceman in the Indian army and a resident of Chandigarh, told Asia Watch that on September 1, 1987, the day he retired from the army, his son, Jasvinder ("Dittu") Singh, who was 16 or 17 at the time, was arrested by the Ropar police and charged with murder and with "unlawful assembly while being armed."<sup>109</sup> On the day of the arrest, Bakshish had gone to Jabalpur, in the state of Madhya Pradesh, to get his pension papers finalized. At 10:00 a.m., four police jeeps arrived at their house in the village of Moonak Khurd, Tanda, Hoshiarpur. The police asked for Bakshish and Dittu and

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<sup>109</sup> The FIR specified violations under sections 302, 404, 120(b), 148, 149 of the Indian Penal Code. (FIR # 63, dated August 9, 1987).

were told by the grandfather that neither father nor son had resided in the village for a long time. The police then detained Parminder Singh, Bakshish's disabled brother, and said that they would not release him until Dittu was produced.

On September 1, Dittu returned to Moonak Khurd from Dharmsala, Himachal Pradesh, where he had gone for a job interview. When he arrived at the village, his grandfather and the village leaders brought him to the CIA staff police station in Ropar. The police arrested Dittu and released Parminder. When Dittu was produced before a magistrate on September 7, however, the police claimed that he had been arrested from a checkpoint near Kirat Pursahib on September 3 or 4.

On September 8, 1987, Bakshish was able to meet with Dittu in the central jail in Patiala. Dittu told him that while in the CIA staff police station, the police had given him electric shocks to his genitals, rolled a heavy wooden bar over his thighs and forced his legs apart at a wide angle. He was also beaten on the back and on the soles of his feet with canes and hung by his hair from a post on the wall while the police pulled on his legs. He stated that he was hung from a hook on the ceiling first by his legs, which had been tied together, and then by an arm and leg tied together. While he was suspended the police burned chilies under his nose. He was taken down when he fell unconscious. He told Bakshish that this treatment continued every day for the seven days he was in custody. Bakshish saw the marks of beatings on Dittu's back.

In the central jail Dittu was kept with detainees accused of terrorism and related charges. In February or March, 1988, Bakshish complained to the inspector general of jails for the state of Punjab that Dittu, himself held on a lesser charge, should not be kept with persons accused of terrorism. He told Asia Watch,

In every respect, persons charged with terrorism are treated worse than those charged with other crimes. While other prisoners were allowed to mix freely, Dittu and the persons accused of terrorist charges were kept in separate cells according to the region from which they came. He and prisoners accused of terrorist crimes received worse food than other prisoners. Visiting privileges were more restricted than for other prisoners.

In response to the application, Bakshish was told that Dittu would be moved to the "under trial" ward.

In March 1988, however, Dittu was transferred to the central jail in Sangrur, which contained only accused "hard-core terrorists." Shortly afterwards, Bakshish moved another application to the inspector general, arguing that Dittu should not be kept with "hard-core terrorists." After that, Dittu was moved to the central jail in Patiala in May 1988, where he was again segregated with those charged with terrorism. On May 2, 1989, he was acquitted of all charges and released.

After his release, Dittu suffered from insomnia and anxiety. He also continued to suffer problems in his legs as a result of his treatment in jail. For three months after his release, he was treated at the Chandigarh civil hospital.

Between May 2, 1989 and July 20, 1990, the police came to the village twice and ordered the grandfather to hand over Dittu. After the grandfather told Bakshish, the latter went to see SP Detective H. S. Bajwa in the last week of April. Bajwa told him to keep Dittu in Chandigarh and not let him go to Hoshiarpur, otherwise he would "not be responsible."

Dittu applied for a passport in June 1989; after the police confirmed that there were no pending charges against him, the passport was issued. A relative who had settled in Oman had arranged a job for Dittu, and he was scheduled to leave the country at the end of July. On July 15, Dittu went to the village to say goodbye to his relatives. On July 20 he and a friend took a bus from his village to Amritsar to pay his respects at the Golden Temple before leaving the country. According to the friend, the bus was followed by the police from Hoshiarpur. Between 3:00 p.m. and 4:00 p.m., plainclothes police in a police jeep stopped the bus about two kilometers from Jandiala Guru. They arrested Dittu, put him into the jeep and drove off toward Jandiala Guru. The friend got a lift in another car and followed both police vehicles to Jandiala Guru, where he lost track of them.

On July 21 the friend returned to Chandigarh between 5:00 p.m. and 6:00 p.m. and informed Dittu's father about the arrest. Dittu's father met with a lawyer who told him to check at the local police station in Hoshiarpur. The next morning at 10:00 a.m. Bakshish went to the Hoshiarpur police station. The police there denied any knowledge of Dittu's arrest. On July 22 at 11:00 a.m. Dittu's father met with SP Detective Bajwa at district police headquarters in Hoshiarpur, who also denied any knowledge of the detention.

On the evening of July 22 at around 7:30-8:00 p.m., uniformed police came again to Moonak Khurd and inquired about the whereabouts of Dittu's father.

When they were told that he did not live in the village, the police asked for any other near relative and were directed to the house of Dittu's grandfather. The policemen told the grandfather that they had cornered Dittu at the Hoshiarpur-Tanda bypass and that when he found himself trapped, Dittu had shot himself in the head. The police told the grandfather to come to the civil hospital in Hoshiarpur and collect the body, but the grandfather refused to come during the night.

At 6:00 a.m. on July 23, Dittu's mother, Narinder Kaur, a telephone operator, received a telephone call from her brother-in-law, Sarinder Singh, who told her that Dittu had been shot dead by the police and that his body was lying at the civil hospital in Hoshiarpur. As he told her that she and her husband should come soon, the call was disconnected.

On July 23, when Bakshish, Narinder Kaur and two other relatives arrived at the civil hospital, they were informed that the body had already been shown to the father's brother, Rajinder Singh, who told the parents that there was no bullet wound to the head but there were swellings on the head, apparently from blows from a blunt object. When he asked the police officials what had happened, Inspector Choor Singh, who was at the hospital at that time, stated that on July 22 Dittu had been traveling by bus from Hoshiarpur to Tanda when the bus was stopped at 6:30 p.m. at a police checkpoint. When Dittu was ordered to disembark, he pushed a police constable and started to run. The police party followed him for about two kilometers and fired at him, hitting him in the leg. The police brought him to the civil hospital at 7:30 p.m. and he died at 10:30 p.m. When Rajinder argued that he had seen the body and there was no bullet wound in the leg, Inspector Choor Singh replied, "Do you know more or do I? Do you want to be sent inside [to jail]?"

Rajinder told the police that they must wait for Dittu's parents to arrive before removing the body, but the police insisted on taking the body to the village in Hoshiarpur to cremate it. At 11:00 a.m., Rajinder accompanied the police to the village with Dittu's body. By the time Dittu's parents reached the hospital at 11:30 a.m., they were told that Dittu had died and that the body had been sent to the family's village in Hoshiarpur. When Dittu's father reached the village at 12:30 p.m., the house was surrounded by police and hundreds of people from the area had also gathered around the house. Bakshish described Dittu's body to Asia Watch:

There were injuries to the head including six or seven swellings on the cheeks and blood had oozed out of the nose. Blood had clotted underneath the fingernails and they had turned blue. Both elbows appeared to be broken as the arms were bent backwards,

and there was a burn mark just below the ribs. Both thighs were swollen, and there were marks on them as if they had been hit with a hard object. There were cane marks on both calves, the toenails had turned blue, and the feet were swollen. There were bloody scratches or drag marks on the back. When I removed the clothing everyone could see that there were no bullet marks on the body. After we looked at the body, the police ordered me to cremate it immediately, otherwise, they said they would take it away and would not give us the ashes.

The body was cremated between 3:00 and 4:00 p.m. The police did not leave until the body had been completely cremated.

When the parents returned to Chandigarh, their neighbors told them that at 10:00 p.m. on the night of July 23, policemen had broken into the family's apartment and searched the place -- damaging the family's television, refrigerator, photographs, radio and beds. Before they entered the house, the police ordered all the residents including the landlord and other tenants in the building to line up outside. They were made to stay outside throughout the search. The police remained there for about half an hour. As they left they told the landlord to bring a new lock, and then the police locked the premises with the new lock and left the key with the landlord.

On July 27-28 and again in mid-November, Dittu's father tried repeatedly to obtain a copy of the police FIR and the post mortem report, but was told by the SSP of the Hoshiarpur police station and by hospital authorities that there was no one available who could provide them. As of December 1990, he had not been able to obtain a copy of either report.

• **Kulwinder ("Kid") Singh.** T.S. Sidhu, the principal of Khalsa Secondary School, Kharar, Ropar, told Asia Watch that on May 9, 1985, a police party came to his house in Mohali at about 9:00 p.m. and told him they were looking for his son, Kulwinder ("Kid") Singh, 16. When they could not locate Kid, the police arrested Sidhu and his wife and took them first to the Mohali police station and then to the Kharar police station. He told them that they would not be released until Kid was produced. The next day, other relatives accompanied by village leaders brought Kid to the police station, where he was arrested by the SHO on charges of attempted murder. The parents were released.

On May 11, Sidhu went to the Kharar police station and was told that his son was not there. On May 15, Kid was produced in court and told Sidhu that between May 10 and May 14 he had been hung upside down and had his legs pulled apart. The police claimed that Kid had been taken into custody along with five other young men following an encounter with the police at Bothgarh, Morinda, Ropar, on May 14, 1985. The police version appeared in the newspapers on May 15. Kid, along with the other youths, was sent to the central jail in Patiala.

On May 31, Kid was remanded to the custody of the Chandigarh police and charged with stealing a car on May 12, two days after he had already been detained. He was transferred to the Burail jail in Chandigarh on May 31, and on October 28, he was granted bail and released. After he was released, the police came repeatedly to the house, although Kid was no longer living there.

On April 2, 1986, at about 1:30 a.m., some 15-20 policemen from the Punjab police and the CRPF came to the house. They blindfolded Sidhu and tied his hands behind his back and drove for two hours. The police told Sidhu that he was going to be sent to New Delhi for questioning, but instead he was taken to the Mohali police station. (He realized he was in Mohali because he recognized the voice of the *granthi*, the priest who leads the hymns, at the Mohali temple.) He was kept blindfolded with his hands tied until May 4; his hands were only untied to allow him to eat. During his detention, the police repeatedly questioned him about the whereabouts of Kid. On May 5, Sidhu was produced before a senior district magistrate for Kharar and charged with "harboring militants" and detained under the TADA. He was remanded to police custody for one day and sent to the Mohali police station. The next day, he was remanded to judicial custody and sent to Patiala Central Jail. He was released on bail on June 26.

On April 13, Kid was arrested along with Harmit Singh ("Tochi"), 20 or 21, the son of Sidhu's brother-in-law, Joginder Singh. Both young men were arrested at Kheri Salabatpur, Ropar, by police from the Chamkot Sahib police station. When the men were produced in court on April 23, the police alleged that they had been arrested with three other men following an encounter with the police on May 22. Kid and Harmit were sent to the central jail in Patiala, and the next day transferred to the high security prison in Nabha, Patiala. They were charged with attempted murder, possession of a stolen car, possession and use of arms, and assault on the police. Both men were also implicated in some twenty other cases. On October 27, 1988, Kid and Harmit were transferred to Burail jail in Chandigarh. The next day they were acquitted in all cases but four counts of murder and one charge of car theft, and released on bail. At 4:00 a.m. on October 29, the police

again came to Sidhu's house searching for Kid, who had gone underground out of fear of the police. On November 4, Kid's parents learned from the Haryana police that Kid was wanted in connection with a case of murder in Panch Kula, Ambala, Haryana.

The police and the CRPF came to Sidhu's house almost every day until, on January 4, 1989, Sidhu complained to the police about the harassment. The SSP of Ropar, Chander Shekhar told Sidhu that there was no case pending against Kid and that Sidhu should bring him home and arrange for his marriage.

On January 21, Sidhu, accompanied by 20 persons from the village, met with the SSP and received assurances that Kid could return home to get married without fear of the police. The SSP told the group that if Kid returned and was not involved in any other charges, the police raids would stop. Because he believed the police, Sidhu contacted Kid on January 31, 1989, and arranged for his marriage. After the wedding, a meeting between the SSP and Kid was arranged for February 22 at 11:00 a.m. A group of some 500 people, including the Ropar and Kharar bar associations, went along with Kid to the SHO. When 20 of them went inside with Kid, SSP Chander Shekhar told the group that he needed to question Kid. The delegation insisted that all meetings between Kid and the police be conducted at the police station during the day and that Kid be permitted to return home at night. The SP of operations told the group to return at 3:30 p.m., but as the delegation was leaving Kid told one of the group that he was suspicious of the intentions of the police. That day Kid went underground.

On March 31, the DSP of Pinjore, Haryana, was shot dead. The police accused Kid of being involved in the case. At about 1:30 p.m. on April 3, about 60 members of the Haryana police raided Sidhu's school and arrested Sidhu, saying that he was needed for questioning. The police did not take Sidhu to the Ropar police station but instead took him to the Pinjore police station where he was detained for two days, and for another two days at the Saddar police station in Ambala. When he arrived at Pinjore, Sidhu saw Karnail Singh, Gurbax Singh, and Gural Singh, all of whom had accompanied Kid when he was brought before the SSP. The three men were the fathers of other youths implicated in the Pinjore murder case. The police told all four fathers that if they did not produce their sons they would be implicated in other cases. All of them stated that their sons had all gone underground and that they did not know their whereabouts. On April 23, 1989, all of the fathers were released. They had never been produced before a magistrate, and no charges were ever brought against them.



At 3:00 p.m. on July 22, 1989, Kid was arrested from a house in Mohali. Sidhu and a number of neighbors witnessed the arrest. The police, including officers from the CIA staff, had been at the house since about 11:00 a.m. that day. According to the neighbors, Kid and a friend named Pula had just arrived at the house when, at 3:00 p.m., ten police entered the courtyard. Pula, who was unarmed, was shot dead by the police as he tried to climb the outer wall to escape. The police, led by Inspector Surjit Singh Grewal and ASI Amarjit Singh of Patiala then arrested Kid. The police blindfolded him, tied his hands and feet, covered him with a blanket, dragged him into a police jeep and drove away. Other policemen who had remained behind guarding Pula's body would not permit any of the neighbors to go near Pula.

After the police left, the neighbors went immediately to the Mohali police station, but the officers there denied that Kid had been arrested. Kid's father then sent telegrams to the prime minister, home minister, governor, director general of police, home secretary for Punjab and the SSP of Ropar. At 7:30 p.m. it was reported on the television and radio news that Pula had been killed in an encounter and that Kid had escaped.

Sidhu then went to the *Tribune* office and told a reporter that Kid had actually been arrested and that he suspected the police would claim another fake encounter. His statement appeared along with the police version in an article published on July 23. At 7:30 a.m. on July 24, Sidhu heard that two boys had been killed in an encounter with the police in the village of Tangori, in Sohana, Ropar. Accompanied by Justice Ajit Singh Bains, Baljit Kaur Gill and Inderjit Singh Jajji of the PHRO, along with five other persons, he went to Tangori. The local villagers told them that at 2:30 a.m. they had heard shots.

The group was not permitted to see the bodies at the local morgue, so they went to see the district commissioner in Ropar who telephoned the morgue and told the officials there to permit the group to see the bodies. But when the group returned to the morgue, the bodies had been removed. They later learned that the police had taken the bodies to Kharar and handed them over to the municipal committee, which had cremated them. In the post mortem report, the bodies were identified as "unknown persons" killed by firearms. In protest of the incident, the entire district of Ropar observed a two-day strike.

On July 27, Sidhu filed a petition with the court in Kharar for Kid's clothes and photographs, but the police did not return them. Between August 1 and 7, Sidhu repeatedly made inquiries at police stations in Chamkot Sahib, Mohali, Kharar,

Morinda and Banur, the CIA staff in Patiala, Mal Mandi interrogation center in Amritsar and SSP Ropar, but learned nothing. On August 8, he sent messages to the governor and the Union home minister requesting an inquiry.

On September 22, Sidhu filed a habeas corpus petition in the High Court in Chandigarh. The High Court ordered the chief judicial magistrate to conduct the inquiry, to begin on June 19, 1990. But on the basis of a petition signed by Inspector Surjit Singh Grewal, Assistant Sub-inspector Ajit Singh and Director General of Police K. P. S. Gill, however, the police were granted a stay order on August 25, 1990. At the next hearing on September 5, the Ropar police requested that the inquiry be transferred to Chandigarh because the Ropar police were "in danger" and claimed that they had not been able to find a lawyer to defend them "as even the High Court lawyer had received threatening telephone calls." Sidhu also petitioned the court that the police had attempted to influence the magistrate and so the case should be transferred to the Sessions Judge in Chandigarh. The court agreed to the transfer without ruling on the merits of Sidhu's complaint. At the time of the Asia Watch visit in December 1990, the inquiry was proceeding.

• **Mehel Singh and Gurmel Singh.** Harmel Singh, 30, a farmer from Pandori Gola, Taran Taran, told Asia Watch about the encounter killings of two of his brothers in June 1990. Between midnight and 1:00 a.m. on June 16-17, 1989, Harmel was sleeping in the courtyard of his house when he was awakened by shouting and the sound of rifles being loaded. He saw Punjab police and CRPF forces surrounding the place, standing in the courtyard and on the roofs of neighboring houses. The police identified themselves, and then took Harmel and two of his brothers, Gurmel, and Nurvel, and his father Dara Singh, tied their hands behind their backs and made them sit down facing the wall. A third brother, Mehel, was taken behind the house and they heard him being beaten while saying, "I don't know anything, I'm innocent."

At about 2:00 a.m., the police then took the five men to the CIA staff headquarters in Taran Taran. At 6:00 a.m., all but Mehel were taken to the city police station where they were detained until June 20 and released after local leaders from the village appealed on their behalf. Meanwhile, Mehel remained at CIA headquarters, although officials there repeatedly denied to Harmel that Mehel was in their custody. About a month later, Sita Ram, the DSP of Taran Taran, told Harmel, "You are wasting your time. Mehel was eliminated on the night of June 23-24."

G. S. Randhawa, who also owns a farm in the area, told Asia Watch that Sita Ram told him that there was nothing against Mehel, but the police believed he was so badly tortured he would not survive.

He told me, "Now, you, it's been nearly a month you have been coming around. You are not going to achieve anything. He died due to heavy torture four or five days after."

He said that when he and others asked why there had been no report of the death, Sita Ram said,

We showed an encounter at Banjalipur [four kilometers away], and his body was burned with several others so you will not be able to get anything of his ashes.

Gurbachan Singh, 60, a farmer and resident of Pandori Gola, told Asia Watch that on the night of June 16-17 his house was also surrounded. He saw 25-30 police enter the premises. He heard Mehel being beaten, and he saw Harmel and the other detainees tied and taken away. When Gurbachan accompanied the villagers who appealed for the release of the detainees, he saw Mehel in the police lockup. While he was there the other four detainees were transferred to the city police station while Mehel remained at CIA staff.

Dara Singh told Asia Watch that when the police came to the house, Sita Ram asked for Mehel and then ordered the other police to take him behind the house and beat him.

Sita Ram questioned us, "What does Mehel bring home? Loot?" We told him, "You can search the house." When I asked why they wanted Mehel and why they were detaining us they did not answer. We were detained there for about one hour, and then transferred to the CIA staff headquarters, where they made us lie down on the veranda. Sukhain Singh, the SHO of the city police, slapped my other sons. He told me that we will release your other boys but not Mehel. We were released four or five days later. Mehel was taken to the lockup. We could see Mehel as he was being suspended from the ceiling while Sita Ram and Inspector Gurvel Singh supervised and accused him of being a terrorist. Mehel denied it. As we were being taken away, Gurvel

was still questioning Mehel. I saw Mehel give a shake of his head as if to say, "I'm finished."

While he was detained, the police told Dara Singh they would release him and his other sons but not Mehel. Two or three days after their release, CIA Inspector Gurvel Singh told him that he could not meet with Mehel, and after that, SP (Operations) Atvar Singh told him that the police were not going to release Mehel.

Dara Singh then met with a local reporter who published a story about the arrest in the local newspaper on June 24. On June 25 *Ajit* reported that an encounter had taken place in which two unidentified men had been killed.

According to reports received from Amritsar there was an encounter near Bajah. Two militants were killed and one managed to escape.... The encounter took place when three terrorists refused to stop and a *naka* ("police check-point"). When the police tried to flag them down they opened fire. One took advantage of the darkness and escaped. The other two were killed.<sup>110</sup>

Dara Singh went to the area where the encounter allegedly took place, and the villagers there told him they had heard shots around 11:00 p.m. and that the police had claimed to have killed two "terrorists."

Durbail Singh, who had been detained at the same time as Mehel, told Dara Singh that Mehel had been killed in an encounter. Dara Singh went to the civil hospital and asked the doctor on duty to describe the bodies that had been brought in from Banjalipur. The doctor's description of the body and clothing matched Mehel. About three weeks later, Dara Singh met with Inspector Gurvel Singh in the town of Patti who told him,

Why are you running around? It is useless. Go home. Mehel was a very bad fellow and we have eliminated him.

Some days later, Sita Ram changed his story and told him that Mehel had *not* been eliminated but that he was not in their custody.

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<sup>110</sup> *Ajit*, June 25, 1989.

Late in the evening on June 22, 1990, another son, Gurmel Singh, left the house and walked toward Taran Taran when, according to the village headman who witnessed the incident, he was stopped by uniformed police and taken away in a jeep. When Gurmel did not return home, his family made inquiries at the CIA staff headquarters and police station in Taran Taran, but the police denied that Gurmel was in their custody. About 10 to 15 days later, the newspaper *Rozana Jagbani* reported that on July 12, an encounter had taken place in Noanwal, near Ambala, in which six militants were killed. According to the report,

The militants had kidnapped the son of a rice mill owner from the village of Mashija and demanded ransom. The police learned that they were hiding near a dry water channel near Noanwal. The police surrounded the area. An encounter ensued between 5:00 p.m. and 9:00 p.m. The militants were led by Rewal Singh, who had committed more than 100 killings.

The report named Gurmel as among the militants killed, and the family recognized Gurmel in a photograph accompanying the article. When the family visited the site, local villagers warned them that if they were seen in the area they would probably be arrested since the village is near the border. Out of fear, Dara Singh did not go to see the police at Ambala and made no further inquiries. Gurmel was reportedly sympathetic to the militant group Bhindranwale Tiger Force.

• **Harpal Singh Warring and Harpal Singh Gaggrewal.** Jasbir Kaur, 42, a teacher in a government high school in Amritsar, told Asia Watch that between 4:30 and 4:45 p.m. on October 2, 1990, she was in the front of the house when she heard a scooter approaching at high speed and then stop in the driveway. She saw two strangers, both young Sikh men, get off the scooter and cover it with a tarpaulin. They then entered her house through a side door. A few minutes later, a servant working in the back of the house called out that the police had come. As she came out of the bedroom, the two young men who had been on the scooter ran past her and hid in a storeroom. She got her son and went to the front gate where she saw a plainclothes policeman telling a uniformed policeman, "The scooter is still warm. It was just parked. This is the one. I recognize the number." There were 15-20 police standing outside the wall. Jasbir told Asia Watch,

The plainclothes policeman asked me, "Where is your husband?" I told him I would give him the address of the place where he worked. Then he said, "Two men came into your home. Where are they?" I told him, "Yes, they are here. But it commonly happens that anyone who tells on people who are hiding is killed.

Who will protect us?" He told me there was nothing to fear, and a uniformed policeman said, "We would be responsible for your safety." I said, "How? You won't be here." One uniformed policeman then took me aside and said, "Tell me alone where the two went." I told him I was afraid I would be killed if I told, and then another policeman accused me of hiding them. I told him, "If you think I have hidden them, I will not let you into my house." Then the first policeman told the second to leave, and he went and brought a CRPF officer. My neighbor's younger brother came over to see what was going on, and the police elbowed him in the face and chest. The police told me to come outside the gate, and then they began discussing whether they should start shooting. I told them not to open fire. Another neighbor, Gurbachan Singh, 60, also came over. The police kept asking, "Where have they gone?" but I told them I had said all that I knew and that was that. I told them I was afraid that if the police searched my house they would take my money, but they said they would not.

By this time it was 6:00 p.m. The police then called out for "Harpal Singh Warring" to come out of the house, and then they said, "Either they have killed themselves, or they are waiting for us to come out and then they will shoot."

I asked if my sons could go to my brother-in-law's house, and the police told me they would not be responsible for damage to houses in the neighborhood. By this time the road was filled with police. Then I overheard one officer tell his superior over the wireless that Satnam Singh Cheera of the BTF was in the house holding a meeting with 15 people. I told him there are not 15 people in the house. I had just gone to take my sons to my brother-in-law's house when the police rushed into my house. When I reached the door they were bringing out the two boys, and they had used their turbans to blindfold them and tie their hands behind their backs. They made them walk barefoot through two rows of policemen in the driveway, each of whom punched them in the face as they walked past.

The police asked her to identify the two men, but she told them that it was their job to do that. A constable accused her of allowing the two men to enter the house and said that there had to be three more inside.

When I went inside with my brother-in-law, many police were searching the house. I grabbed my purse, and the police made me open all the closets because they said they were looking for explosives. They asked me why I have a cricket bat and a hockey stick in the house, and I told them it is because I have children. One constable tried to take a scarf and I stopped him, but after they left I discovered that they had taken a watch, my husband's new shoes and Rs. 150 [about U.S. \$8.30] in cash.

She told Asia Watch that on October 3, it was reported on the television news that two unidentified militants had been killed and three escaped in an encounter in Sultanwind, three kilometers away. On October 4, a report in *Ajit* also stated that two unidentified militants had been killed in the alleged encounter. The *Tribune* identified them as Harpal Singh Warring, 28, and Harpal Singh Gaggrewal, 24.

Jasbir's husband, Karam Singh Sandhu, 42, the manager of the Punjab and Sind Bank, told Asia Watch that on October 2, 1990, he left his house with a friend at about 3:30 p.m. to go to an automobile workshop. At about 6:30 p.m. the police came to the workshop and SSP Sanjiv Gupta took him to the Circuit House government building where he was searched and asked if he had any relations with the militants. When he said no, Gupta asked him if he knew what had happened at his house. He said everything was fine when he left, so they said nothing more and took him back to the workshop. He returned home at 7:00 p.m., and his wife told him what had happened. His neighbors told him that the police were claiming that there had been five men in the house and that two of them were captured and three escaped.

On October 8, Karam and Harpal Singh Gaggrewal's brother spoke with the doctor who performed the post mortem on the two men on October 3. The doctor's description of the body and the clothing matched that of Gaggrewal. Karam and Harpal Singh Gaggrewal's brother then went to see the head constable of the Punjab police who had arranged for the cremation of the bodies and the officials who had conducted the cremation. Their descriptions also matched that of Gaggrewal. The officials described two men, one taller who had a fair complexion and wore light brown pants and shirt and a black turban, and the other shorter with a darker complexion who wore checked trousers, a short-sleeved blue shirt and a black turban. Jasbir told Asia Watch that the men in the house had been wearing clothes that fit the description. She also stated that neither of the men was armed.

Karam was followed by the police for two days after the incident. On October 4 SSP Sanjiv Gupta told Harpal Singh Warring's family that the two men had been released after being in police custody.

Harpal Singh Warring had been living in Taran Taran and was employed as a commission agent for an agricultural company. Harpal Singh Gaggrewal was living in Gaggrewal in district Amritsar. Two months earlier he had been released on bail after being charged under TADA for "harboring terrorists."

- **Charanjit Singh Channi.** Harbans Kaur, 38, a staff nurse at the Employee State Insurance Hospital, told Asia Watch about the encounter killing of her husband, Charanjit Singh Channi, in June 1989. Channi, a village *panchayat* ("council") member, was a farmer and an activist member of the All-India Sikh Students' Federation (AISSF), and had been in the Golden Temple at the time of Operation Bluestar in 1984. After that, he went underground, and in August 1985 the Punjab police charged him with conspiring to kill the moderate Sikh leader, Sant Longowal.<sup>111</sup> Channi's uncle, Jagdev Singh Talwandi, was at that time president of another faction of the Akali Dal and had opposed the peace agreement signed between then Prime Minister Rajiv Gandhi and Sant Longowal. For the next four years, the family was subjected to harassment, and Harbans and other family members were frequently detained and interrogated by the police about Channi's whereabouts.<sup>112</sup>

On June 2, 1989, Harbans heard a report on the radio that Channi had been killed in a police encounter in Mohali, a suburb of Chandigarh. When she arrived at the place in Mohali, local residents told her that earlier that day the police had surrounded the area and arrested Channi, who was unarmed at the time. When Channi attempted to resist arrest, a scuffle broke out, and the police beat him with their rifle butts until he fell to the ground. According to witnesses, every time Channi lifted his head the police beat him again until he lost consciousness. Then the police put him in a van and drove away.

The police FIR on the incident alleged that on June 2 at 4:30 a.m. a police party had come under fire by "extremists" near the village of Parrol. When police returned fire, one of the "extremists" was killed and the others "escaped." The next

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<sup>111</sup> For more on the assassination, *see* p. 22.

<sup>112</sup> For more on these incidents, *see* discussion beginning at p. 131.



day the police report was carried by the local press. On June 3, the *Tribune* reported:

Channi was carrying a reward of Rs. 1 lakh [100,000] [about U.S. \$5,560] on his head.... The police said that a Chinese assault (AK 47) rifle, three magazines and 15 empties were seized from the alleged site of the encounter.... According to Mr. Gurcharan Singh Ghuman, a lawyer of the Talwandi family, he received a telephonic message that Channi was taken into custody from the Phase VII Rehri market when he was going on a bicycle.<sup>113</sup>

Asia Watch obtained a copy of the telegram Paramjit Singh sent to the chief justice of the Punjab and Haryana High Court, the governor and the head of the Punjab Human Rights Organisation, dated June 1:

Punjab police with Police thana [station] Mohali took in custody Charanjit Singh Channi ... today dated 1st June, 89 early morning. Made him disappear. Torture, false implication in criminal cases, fake encounter apprehended. Pray intervene, treating telegram as Habeas Corpus petition.

In a subsequent petition to the governor, Talwandi challenged the police version of events, stating that although the FIR had reported that the "extremist" killed in the encounter was not identified, the reports broadcast over state-run All-India Radio and television on the evening of June 2 had named him as Channi. To Asia Watch's knowledge, there has been no investigation into the incident.

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<sup>113</sup> "Talwandi's Nephew Shot Dead," *Tribune*, June 3, 1989.

• **Jasbir Singh.** Gurcharan Kaur, 50, a resident of Maksudra, told Asia Watch that on the night of May 4, 1990, as she was asleep on the roof<sup>114</sup> of the family house along with Jasbir Singh, a son, and Kuldip Kaur, a visiting relative, a police party raided the home. Her husband, Bhajan, and two other sons, Balwant and Bhagwant, were sleeping inside the house. In the middle of the night, police surrounded the house and about 15-20 policemen climbed a ladder to the roof. They woke the family and asked them where Jasbir was. When Jasbir heard them, he attempted to run away but the police fired three shots, hitting him in the leg. The police on the roof then dragged Jasbir to the ground below where an additional 35-40 police were waiting. At that point, Jasbir's brother, Bhagwant Singh, came outside. When the police saw him they said to the family, "Why didn't you tell us he was here?" Then they arrested him, Balwant Singh, and Kuldip Kaur and took them away with their hands tied behind their backs. As of December 1990, Kuldip Kaur had been released, and the two sons had been released on bail.

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<sup>114</sup> In north India, where temperatures in May and June typically reach 110 degrees during the day, people frequently sleep outdoors.

On May 20, police officials informed the family that Jasbir had been killed in an encounter. When the family scheduled the *bhog* ("memorial service"),<sup>115</sup> the police threatened the family and would not permit it to be held. The family was not allowed to hold the *bhog* until two and a half months after Jasbir was reported to have been killed. Two to three weeks after the *bhog*, the police arrested Gurcharan Kaur, and accused her of receiving Rs. 50,000 [about U.S. \$2,780] from militants who had attended Jasbir's *bhog*. The police threatened her and told her she should hand over her fourth son Baljit for interrogation. Baljit was living in Ludhiana at the time. The police accused her of giving the money from the militants to Baljit. When she said she would not hand over Baljit, the police insulted her, but then released her.<sup>116</sup>

• **Paramjit Singh.** Fauja Singh, a farmer from Ghasitpur Khurad, district Gurdaspur, told Asia Watch that on November 21, 1990, at 3:15 p.m., his son Paramjit Singh, 38, took his scooter to go to the fields. Three or four vehicles with police inside were parked on the main road outside the village; as he stood on the Amritsar-Batala road, Fauja saw the vehicles follow his son. Paramjit parked the scooter near the field several hundred yards from the house, and Fauja saw the vehicles stop. The police got out and surrounded Paramjit. Fauja could not hear what the police were saying, but he saw them tie Paramjit's hands behind his back with his turban and beat him.

Paramjit's brother Amarjit, who had been in the field since 3:00 p.m., told Asia Watch that he was standing about 100 yards away from his brother when he saw a police party of about 40 uniformed, armed policemen arrive in three police vehicles led by Inspector Ajab Singh from the Saddar police station, Batala. As Amarjit hid in the field, he saw the police surround Paramjit and heard them warn him, "Don't try to run away." The police accused him of being "the brother of Amarjit Singh" and then tied Paramjit's hands behind his back with his turban.

Darshan Singh, 35, a cousin of Paramjit Singh, told Asia Watch that he was standing in another field also about 100 yards from where Paramjit was arrested. Darshan stated that the police brought Paramjit to the courtyard of his house, where they beat him with canes on his legs, arms and back for several minutes. As Paramjit was lying on the ground and crying out, the police said to him, "If you try to run away, we will shoot you." Some of the police, including Inspector Ajab Singh, also beat Darshan Singh with canes and rifle butts. They asked him, "Is

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<sup>115</sup> The *bhog*, the Sikh memorial ceremony, must be held ten days after death.

<sup>116</sup> For more on the arrests and torture of this family's members, see discussion beginning on p. 123.

this man Paramjit Singh?" but he refused to answer. Then they put Paramjit in a police car and drove off.

At 5:00 a number of the local villagers assembled to take a deputation of about 20 persons to the Saddar police station in Batala. Amarjit went with them. Giani Charan Singh, the sarpanch of the village of Shankarpura, went inside to inquire about Paramjit. The head constable told him that the police had not arrested Paramjit. The deputation then returned to the village.

The next day at 9:00 a.m., 200 people from the village went to the police station, Amarjit with them. The group was led by Lakhbir Singh Dhillon, Akali Dal leader from the area, and the village sarpanch and a leading member of the Congress (I) party. When they reached the police station, however, Inspector Ajab Singh again denied that Paramjit was in police custody.

On the way to Batala, the delegation heard from a milkman that at about 6:00 a.m. there had been an encounter in Kalanaur at Kalanaur Dera Baba Nanak Road and that there were two bodies lying on the road. A report of the encounter appeared in *Ajit*, which stated:

Two unidentified terrorists were killed in village Rudhyana, under Batala police station, in an encounter with the security forces. According to SSP Batala, Mr. Sita Ram, the dead terrorists could not be identified. The slain terrorists fired on the security forces and in return fire the two were killed.<sup>117</sup>

At about 12:00 noon, Amarjit went to the Gurdaspur morgue to make inquiries about the persons killed in the encounter. He identified one of the bodies as that of his brother. He did not recognize the other body. The body was naked, and the back had a number of bullet holes in it as if from a burst of gunfire. Blood covered the front of the body. Amarjit left and returned at about 2:30 p.m. with Lakhbir Singh Dhillon to take the body, but officials at the morgue told them that the body had already been cremated. (On their way to the morgue, Amarjit and Dhillon had seen that bodies were being cremated at the cremation ground, about a kilometer from Batala. They went to the grounds where the head of the cremation ground told them the bodies were those of the persons killed in the encounter near Kalanaur.)

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<sup>117</sup> "25 Persons Killed near Chandigarh, Elsewhere 9 Persons Killed, Including 10 Militants," *Ajit*, November 23, 1990.

Amarjit heard from an unofficial source that before he was killed, Paramjit had been held at the Beeco center in Batala, a former industrial site converted into an interrogation center.

Paramjit had previously been arrested in May 1988 and held for five or six months in Amritsar Central Jail. There were no cases pending against him at the time. In May 1990, he had returned from working in Rajasthan as a truck driver.

Amarjit himself had been arrested on May 3 or 4, 1988. His house was surrounded by police who then tied his hands with his turban and beat him with canes until he lost consciousness. They accused him of harboring militants and took him to the Majitha police station where he was held for two days. He was then charged under TADA and sent to Amritsar Central Jail where he was held for three months until he was released on bail. After a year, the charges were dropped, but the police continued to visit the house -- the last time was in May 1990. Since Paramjit's death, however, the police have not returned to the house. Out of fear, the family has not made any other inquiries.

• **Lakhbir Singh.** Paramjit Kaur, 27, the wife of Lakhbir Singh, a farmer and resident of Ghasitpur Khurada, told Asia Watch that on September 17, 1990, Lakhbir Singh left the house at about 6:00 p.m., on his way to the farm of a neighbor. Five or ten minutes after Lakhbir left the house, she heard the sound of three or four gunshots.

Gurdeep Kaur, about 70, the mother of Lakhbir Singh, also heard the gunfire. She told Asia Watch that she and Paramjit Kaur were too frightened to go out to see what had happened. The next day at about 7:00 a.m., Lakhbir's older brother Ajit Singh and local villagers searched for Lakhbir, but they could not find him.

Jaghvir, Lakhbir's brother, told Asia Watch that on September 18, the sarpanch of the village, Santokh Singh, was told by Ajab Singh, a railway police officer, and Kashmir Singh of the Saddar police station in Batala, that they had killed a man the previous night. Ajit Singh and his brothers went to the civil hospital. There were three bodies, the faces disfigured with bullet holes. The doctors told them that they did not know who the dead men were. At 12:00 noon, Jaghvir and Paramjit Kaur went to Batala police station and met with Head Constable Kashmir Singh and the police station clerk who told him that they believed that Lakhbir "might have been killed." Kashmir Singh told them, "We

have got a shirt and turban with bloodstains. You may look at those." The shirt had several bullet holes in it. Jaghvir and Paramjit Kaur recognized the clothing as belonging to Lakhbir.

Jaghvir told Asia Watch that the police report stated that Lakhvir was with a group attempting to cross the railway line when he was shot. He later learned from police sources and villagers that on September 17 the police had set up three new checkpoints along the railway line. On September 19, *Ajit* reported that one unidentified person was killed near the railway line in Ghasitpur Khurada.

- **Maninder Singh.** In January 1990, Maninder Singh, 19, a resident of Amritsar, joined the Punjab police department as a constable. He was posted at the Ajnala police station in Amritsar district at the end of July. Due to an illness, he was on leave from August 7 until August 28.

On August 28, as he and his father, Gurnam Singh, were standing at a bus stop in Amritsar, waiting for the bus to go to Ajnala, CRPF and Punjab police apprehended him and ordered Maninder to get into a police van. Maninder had a bicycle with him, which he had rented from a local shop. The police took the cycle with them. The police told Gurnam Singh that they were taking Maninder on duty and that he should leave.

On August 29, Gurnam's wife, Kashmir Kaur, 45, and daughter, Harinder Kaur, 22, went to Ajnala to bring some medicine for Maninder, who was still recovering from an illness. When they arrived, the Ajnala police told them that Maninder was not there and said that the family should bring him to the station. Kashmir Kaur and Harinder Kaur told the police they thought that Maninder had been brought to Ajnala the day before in a police van. On September 2, Gurnam's father, Sadhu Singh, 70, went to Ajnala police station to inquire about Maninder, and the police also told him that Maninder was not at the police station.

A press report on September 5 stated that an encounter had taken place near the Verka bypass on the outskirts of Amritsar and that Maninder Singh had been killed by the police around 1:00 a.m. on September 4. The police FIR stated that an "unknown person" had been killed in the encounter. That morning, police from the Majitha police district came to the family's house to ask where Maninder Singh was. They searched the house and took all the family's photographs of Maninder Singh, including a group photo of Maninder in his police training school class.

Later that day, Gurnam went to the Verka police post in Amritsar to identify his son. The police had a photograph of the person who had been killed, but they refused to show it to Gurnam. On September 6, Gurnam went to the CIA staff office in Amritsar, but the police there also refused to show him the photograph. On September 7, the police at the CIA staff finally permitted him to see the photograph, which showed Maninder's body lying face up on a bench. There were no visible signs of injury. Maninder was wearing only underpants. The photographer, who is a police officer, told a friend of Gurnam that the photos were taken inside the B.R. Model school interrogation center.

The police at the main police station in Amritsar told Gurnam that Maninder's body had been cremated on the morning of September 4. They permitted Gurnam to see his son's clothes, but he was not allowed to take them. There was no blood or holes in the clothing. On December 2, Gurnam went to the main police station in Amritsar to examine the post-mortem report. Although he was not permitted to read the report, a police official told him that the report described two injuries to the body, one in the right neck and one in the right side near the chest. The register of deaths in the Amritsar municipal corporation listed all four persons killed in the encounter as unknown, even though the press report of the encounter had named three. Throughout this period, the Ajnala police continued to claim that Maninder was absent from duty. To Asia Watch's knowledge, even though Maninder was a constable, the police never officially acknowledged that Maninder was detained nor informed the family of his death.

• **Sukhdip Singh.** Sukhdip Singh, son of Gurnam Singh and a resident of Chandigarh, was first arrested in May or June 1986 on charges of arson at a local post office. After five to seven days in police custody, Sukhdip was produced before a magistrate and remanded to the Patiala central jail. After several months he was released on bail.

In February 1987, the police from Sohana again came to the house looking for Sukhdip. Not finding him, they took Gurnam Singh to the Sohana police station where they detained him for a day. The police said they only wanted to question Sukhdip and that he would be released within one or two days. The police gave Gurnam a week to produce his son; several days later, Gurnam brought Sukhdip to the police station. The next day, Sukhdip was detained under the National Security Act and sent to Ropar jail and from there to Patiala central jail. In October 1987 he was released and two months later he was acquitted of all charges.

On November 7, 1987, at about 12:30 a.m. a police officer who identified himself as Inspector Sohenlal from the CIA staff Patiala, accompanied by six

uniformed policemen, arrested Sukhdip Singh from his home. The police did not say why he was being arrested or where they were taking him. The next morning when Sukhdip's father went to the CIA staff police station in Patiala he was told that no person by the name of Sukhdip Singh had been detained or brought there and also that there was no Inspector Sohenlal at that station.

On November 9, Sukhdip's father sent telegrams to the governor of Punjab, the Ropar SSP, and the inspector general of police for Punjab. He continued to make inquiries at the Mohali and Ropar police stations. Fifteen days later he learned from unofficial sources that the police had reported his son killed in an encounter along with a man named Shamsher Singh at Jarage in the district of Ludhiana, within the jurisdiction of the Payal police station. The police never officially informed the family that Sukhdip had been killed. Immediately after learning of the encounter, Gurnam Singh traveled to Jarage. The villagers told him that a few days before the bodies of two boys had been thrown into the canal by the police.

- **Gurmej Singh.** Gurmej Singh, a resident of Krishna Nagar, in the district of Amritsar, and a clerk with the SGPC, was detained by Inspector Gurdev Singh of the Amritsar police on May 21, 1989, as he was participating in a funeral procession for Santokh Singh. His father, Harpal Singh, who witnessed the arrest, and Gurdev's supervisor, the SGPC manager at the Golden Temple, sent telegrams to the governor, chief justice of the High Court, deputy commissioner and SSP for Amritsar, stating that they feared Gurmej might be killed in a fake encounter. In a FIR dated May 27, 1989, Gurmej was reported killed in an encounter with the police at 11:00 p.m. on May 26 at Partap Nagar, Sultanwind, Amritsar.

- **Istpal Singh.** Swaran Singh, 45, a farmer from Bassi Pathana, Patiala, told Asia Watch that at 8:00 a.m. on October 1, 1989, six armed policemen from the Punjab police, including ASI Baldev Singh Barar, with officers from the CIA staff in Patiala, came to his house and asked for his nephew, Istpal Singh, 24. When he told the police that Istpal had gone to the market, the police insulted him and threatened to arrest him unless he produced Istpal. Swaran said he would produce Istpal with Ranbir Singh Cheema, a former minister in the Akali Dal administration in Punjab. Then the policemen slapped him and made him and Istpal's grandfather Kahla Singh, 77, and Istpal's mother, Daljit Kaur, get into the police van. When some neighbors protested, the police released them but told them that when they returned at 4:00 p.m., the family would have to hand over Istpal.

Istpal returned home at 12:00 noon. By 4:00 p.m. the family had assembled about 100 people from neighboring homes. When the police returned,



Istpal was handed over to ASI Barar in the presence of the crowd. When the family asked Barar why Istpal was being arrested, the police replied that Istpal was wanted in connection with the case of Kulwinder Singh.<sup>118</sup> He said they were taking him to CIA staff headquarters in Patiala. The police then left with Istpal.

On October 2, Swaran and Kahla went to the CIA staff headquarters in Patiala and met with Inspector Surjit Singh who told them that Istpal was being questioned and would be released in a few days. Swaran and Kahla returned to the police station over the next two days, but the police told them the same thing. When they returned a week later with Ranbir Singh Cheema, the police told them that while they were attempting to take Istpal to Uttar Pradesh to identify someone the police wanted to arrest, he escaped.

For the next two months the family continued to make inquiries, and in December 1989 they filed a habeas corpus petition. After several months, ASI Barar filed an affidavit in reply, stating that Istpal had never been arrested. The presiding judge, Justice Bajaj, appointed Sessions Judge Mahajan to hold an inquiry.<sup>119</sup> The inquiry had its first hearing on September 3, 1990. The police submitted a document signed by a doctor stating that the ASI was ill on the day Istpal was arrested, but at the time Asia Watch interviewed Istpal's family, the doctor had not personally testified. Family members told Asia Watch that neighbors who witnessed the arrest have been threatened by the police to prevent them from testifying. At the time of the Asia Watch visit, seven witnesses who feared that they might be arrested had filed for anticipatory bail.

Ranjit Singh, 73, a farmer from Bassi Pathana, Patiala, told Asia Watch that in late 1989 he filed an affidavit in the Punjab and Haryana High Court in Chandigarh stating that he was present when Istpal was arrested by ASI Barar at 4:00 p.m. on October 1. He said that Barar was well-known to everyone in the village because he was formerly the head constable of the police station in Bassi Pathana.

In early September he was contacted by a local cement dealer with close connections with police officials. He told him,

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<sup>118</sup> For more on this case *see* discussion beginning on p. 64.

<sup>119</sup> It is up to the discretion of the judge whether to appoint a warrant officer or hold an inquiry in such cases.

You know how these police officials are. There is no use getting into a confrontation with them. Therefore, it will be better if you settle the matter with them. I can introduce you to some officials if you are willing to settle the matter.

In mid-November 1990, Ranjit was approached in the village by two men who threatened him that he should "take care that while standing for the boy you yourself do not disappear." Another witness, Harprit Singh, was similarly threatened by a local constable, who also offered to pay him if he would agree not to testify. Ranjit told Asia Watch that he is frightened of the police, but because he has been a neighbor of Istpal's family for a long time, he would continue to speak the truth. As of December 1990, to Asia Watch's knowledge, the inquiry was proceeding.

• **Gurmej Singh.** Savinder Kaur, 50, resident of Navrangabad, Taran Taran, told Asia Watch that on November 7, 1990, at about 1:30 p.m. the Punjab police and CRPF surrounded her house. Seven police came over the wall into the courtyard while others pushed out bricks from the wall and shoved in their rifles. The police entered the courtyard and slapped family members saying, "Where have they [the militants] fled?" They searched the house and after insulting the women they arrested the men, including Savinder's son Gurmej, a clerk with the SGPC in Taran Taran who had deserted the army in 1984 and had been detained until early 1986. Savinder Kaur's brothers Surjit Singh and Dalbir Singh were also arrested, along with two friends of the family, Rashpal Singh and Balbir Singh, who had come to the house in order to plan for a wedding.

On November 11, another relative, Sukhdev Singh, went to his fields at around noon. The police, who were conducting a search of the village, followed him. Villagers in the area saw him running to escape the police. When the family made inquiries at the Taran Taran police station, officials denied that Sukhdev had been arrested. On November 12, the family returned to the police station and was told that Sukhdev was at the CIA staff headquarters in Taran Taran and that he had been charged with illegal possession of arms. The family has since been permitted to see Sukhdev at the CIA headquarters.

The family continued to make inquiries about Gurmej and the other men at the Taran Taran, Amritsar and Harike police stations, but the police all denied that the men had been detained. On November 15, a police official named Walia from the Govindwal police station told them that the men were being held at the Mohallpur police station in Hoshiapur district. On November 23, other relatives

learned that Gurmej had been remanded to police custody until November 26. There was no information about the other men. On November 24, an article published in *Ajit* reported that on November 23 the police claimed that Gurmej had been killed in an encounter along with two other unidentified militants after they had ambushed a police party near the village of Nurpur Brahmin, near Mahalpur.<sup>120</sup> The police returned to search the family's home on November 23, but took nothing.

Gurmej's brother Shubeg, 38, told Asia Watch that on November 25 he and two sarpanches from the village and other panchayat members went to the Mahalpur police station. The police showed them some clothes and said that they had cremated the bodies. Three days later officials at the municipal committee gave the family the ashes. On November 30 the other men who had been arrested with Gurmej were released. They stated that they had been tortured with electric shock and by having their legs pulled apart. No charges were brought against them.

• **Surinder Kaur.** Civilians have also been the victims of extrajudicial executions following militant attacks on security force patrols. In these cases, although there is no evidence that the militants were launching attacks from civilian houses or were hiding in them, the security forces opened fire, killing civilians. Rupinderjit Singh, 54, a farmer and resident of village Bham in district Gurdaspur, described an incident which occurred on November 29, 1990. He told Asia Watch that on that day, at about 5:00 p.m., he heard an exchange of gunfire, followed by gunshots from the direction of the village of Harchowal. The firing continued between a group of six militants and BSF forces. About one and a half kilometers from Rupinderjit's house, the militants turned down a road toward the village of Aulakh. When Rupinderjit came out into his field, he could see that the BSF forces, about 200 yards behind the militants, had surrounded a farmhouse owned by Nirmal Singh and his two brothers. Although there were no longer any militants in the immediate vicinity, the BSF opened fire on the farmhouse and continued to fire for about 20 minutes. Nirmal Singh, his wife, two daughters and one son came out of the house with their hands raised and asked the troops, "Why are you firing? There is no one here but us." At about the same time, Surinder Kaur, 45, the wife of Nirmal's brother Mohinder, came out of the house and walked across the courtyard in order to go into the kitchen. A bullet entered her left eye and exited her right ear, killing her instantly. Nirmal's mother, Balwant Kaur, 90, was working a hand pump in the courtyard of the house when her back was grazed by a bullet.

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<sup>120</sup> *Ajit*, November 24, 1990.

Kuljinder Kaur, 40, Nirmal Singh's wife, told Asia Watch that at around 5:00 p.m. she was preparing fodder for the cattle when she heard the sound of gunfire and saw BSF troops outside. Some of the BSF troops had grenades in their hands and said, "We'll blow up your house."

We came out with our hands raised. The troops ordered us to come out to the road, and then they told me to move back. Five or six soldiers started beating Nirmal on the shoulders, neck and arms. The other soldiers insulted me and my daughters. They beat Nirmal for about half an hour, and then they made him lie down in the road. We could not understand what they were saying.

Kuldip Singh, 18, the son of Surinder Singh told Asia Watch,

When the firing started we went to one room and then we came out to go to the kitchen. I ducked but my mother couldn't and she fell. The soldiers were firing from a shrub about 50 feet away. I said to them, "My mother is injured, take her to the hospital." But they said, "So what if she's injured? Many of our people also die."

At about 8:30 p.m. the BSF left. Two of the family's water buffalos were also shot dead.

At 4:00 a.m. the BSF returned to collect the empty shells from the firing and again surrounded the farmhouse. At 6:30 a.m. they were joined by the Punjab police. When Rupinderjit told the BSF officer in charge that he should have warned the occupants to come out and let the house be searched, the officer replied, "We were fired at from this house and a pistol has been recovered." He held a gun in his hand and claimed it had been found near Surinder Kaur's body. When Rupinderjit told him that if he wanted to arrest someone he need only to have contacted the residents, the officer replied, "These people are all extremists." The Punjab police said the BSF had filed an FIR stating that an encounter had taken place, and then they ordered Surinder Kaur's body be taken to the civil hospital in Batala for a post mortem. Nirmal took the body to the hospital, but it was cremated the next day.

On December 1, three sarpanches from the village went to see the SSP in Batala, Sital Das, who told them to write a report of the entire incident. He

promised to send the SP of operations to see them the next day, but no one came. To Asia Watch's knowledge, no investigation of the incident has taken place.

• **Killings in Nathuke Burj.** On February 26, 1991, six farmers from the village of Nathuke Burj in Amritsar who were transporting empty diesel cans by bullock cart to a diesel pump outside the village were killed by Indian army soldiers on patrol in the area. The police claimed that they had "mistaken the farmers for militants." Two farmers who had fallen behind the others witnessed the incident; one of them alerted local villagers. When the villagers reached the site, the soldiers at first did not allow them to see the bodies, but after the villagers protested they were permitted to examine the bodies. The farmers, all of whom had been inside the bullock cart, had been shot. (The bullock had also been killed.) The soldiers attempted to place weapons at the scene in order to stage an encounter, but were stopped by the villagers. When the district commissioner and the SSP from Taran Taran reached the site, they promised to pay Rs. 50,000 [about U.S. \$2780] to the families of the victims, and also provide the village with a veterinary dispensary and a school. To Asia Watch's knowledge, no action has been taken against the army officials.<sup>121</sup>

### **Disappearances**

In the cases listed below, the authorities in Punjab have not acknowledged the arrest or admitted that the detainee in question was ever in custody. Such cases constitute disappearances -- an extremely grave violation of international human rights law. Many of those reported as disappeared may have been killed in encounters. Although ordinary Indian law requires that every unnatural death be investigated by a magistrate and that a post mortem be performed, in many cases of encounter killings, those killed are cremated as "unidentified persons" and no subsequent investigation is possible. In other cases, the police claim that the detainee "escaped."

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<sup>121</sup> "Armymen Kill Farmers by Mistake," *Telegraph*, February 27, 1991; See also Tajinder Singh Ahuja, "New Spirit in Punjab," *Radical Humanist* (New Delhi), June 1991, pp. 18-19; and the report by the Punjab Janta Morcha, published in the *Tribune* (Punjabi edition), March 16, 1991.

Under international law, it is the government's responsibility to investigate all reports of disappearances. In such cases, the government's responsibility only ends when those detained are safely returned to their families, or if official wrongdoing is uncovered, the responsible parties are tried and punished according to the law. The government is also obligated to ensure that family members and others seeking information about missing persons are not subjected to harassment or intimidation and are protected from reprisals. That kind of harassment has been reported frequently in Punjab. Responsibility for accounting for all persons alleged to have been detained by the authorities rests with the highest-ranking officers of the security forces involved; if enforced, such a requirement may ensure that a "code of silence" among security personnel does not protect those who may have been responsible for disappearances. Those found to be responsible for disappearances should be granted no amnesty, and no government official should be allowed to claim that he or she was mandated to discontinue investigations into the whereabouts of disappeared persons or to not identify those responsible for disappearances.<sup>122</sup> As indicated by some of the examples cited below and those described in the section on encounter killings above, the police in Punjab have frequently resorted to tactics to obstruct investigations, particularly by intimidating witnesses.

- **Inder Mohan Singh Uppal.** Inder Mohan Singh Uppal, 22, a businessman in Ludhiana, disappeared after being arrested on September 11, 1988. Family members who have sought information about his whereabouts from the police have been threatened and detained. While some police officials have stated that Inder Mohan died in custody, the family has received no official acknowledgement of his death or, indeed, of his detention from any police authority.

According to family members, at 2:00 p.m. three or four men -- actually CIA policemen -- entered the showroom of the family's furniture store and said they wanted to buy a bed. When J. Singh, Inder Mohan's brother-in-law, arrived at 5:00 p.m., one of the men, Inspector Shiv Kumar, asked where his brother-in-law was, then arrested him and took him to the Sarabahnagar police station.

Inder Mohan arrived at the house at 9:35 p.m. At 10:00 p.m. Parminder Singh, a CIA clerk, came to the house with other plainclothes policemen, one of

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<sup>122</sup> See Report of the Working Group on Enforced or Involuntary Disappearances, U.N. E/CN.4/1989/18, June 18, 1989, pp. 4-5.

whom carried a pistol. Without saying anything or producing a warrant, they arrested Inder Mohan and left with him in a jeep. His sister, D., who was married to J. Singh, witnessed the arrest.

The next day at 2:00 a.m. as D. left the house with her daughter, she was stopped by policemen who ordered her to come with them. She refused. Afterwards, her uncle made inquiries at the city police stations, but all of them denied having arrested J. Singh. At the Habnewal police station D. asked the police to file an FIR on his disappearance, but they refused to do so. She and her mother then asked DSP Barar for information. He told them he would try to help. When they met with him at his house that evening, he told them he had spoken with the SP of operations, B.S. Gill, who had admitted that J. Singh was in custody and that the police would not release him until D.'s other brother was produced at the police station. Gill did not say that Inder Mohan already was in custody.

The next day the older brother, M. Singh, was arrested at 9:00 a.m. by CRPF commander Swaran Singh of the 82nd Battalion. Swaran Singh ordered Deputy Superintendent Police, Hari Ram, to take M. Singh to B.S. Gill. After that, M. Singh was taken to the CRPF headquarters at Dhugri.

On September 13, the family sent telegrams about Inder Mohan's arrest to the prime minister, governor, president and to other government offices. On September 14, Sumedh Singh Saini, SSP of Ludhiana, told D. and her mother that Inder Mohan was not in his custody. He telephoned DSP detective Joginder Singh Khaira, who said that he would make inquiries and that they should come back the next day. On September 15, the family's neighbors met with detective Khaira, who told them that the police had gone to the house when Inder Mohan was there alone and that when they tried to arrest him he "ran away." When D. met with Khaira the next day and told him she had been a witness to the arrest, he told her, "I have already spoken to your group. I will not tell you any more." On the evening of September 16, D. and her mother met with B.S. Gill at his house and he told them, "We do not have your brother. He is wanted by the police, but we do not have him." He told them that Inder Mohan was wanted because he had allegedly sheltered the militant leader, Sukhdev Singh Babbar.

The older brother, M. Singh, was detained at the CRPF camp in Dhugri until September 17, when he was transferred to the Srabhanagar police station in Ludhiana. There he was interrogated by Saini, Khaira and B.S. Gill. He told Asia Watch,

They kept asking about Sukhdev Singh Babbar's whereabouts, and accused me of hiding arms supplies and participating in shootouts. Then they beat me with a leather strap, a cane and with their fists. This went on from 7:00 p.m. until 11:00 p.m. They threw me from one to the other as they all took part in beating me.

On September 17 a FIR was lodged against M. Singh accusing him of sheltering three known militants: Sukhdev Singh Babbar, Mehal Singh Babbar, Josvinder Singh Jassi, and their landlord, Gurdip Singh Sehgal. When he was taken to court on September 18, a report appeared in the press that both brothers (M. Singh and Inder Mohan) had been arrested for harboring terrorists, and that the older brother had been sent to jail.<sup>123</sup>

On September 18, D. and her mother again met with SSP Saini. D. told Asia Watch,

I accused Saini of torturing my brother to death. So he called in Inspector Shiv Kumar, who had arrested my husband, and said to him, "If you have done any hanky-panky I will hang you." Then they talked together privately. When we were called back in, Saini told me, "Your brother is very much alive. Since you are crying so much I will call your husband you can meet him." They brought J. Singh to the room in handcuffs, and Saini joked with him about killing my brothers. Then Saini told me, "Your husband is totally innocent but I am not going to release him until I am satisfied."

J. Singh was released on September 21. The family continued to meet with Saini, who reiterated that Inder Mohan was alive and in custody. On October 11 or 12, M. Singh was released on bail; as of December 1990, the charges against him were still pending. D.'s uncle and other family members met with Director General of Police K.P.S. Gill in early November, who promised to contact them the following day. The next day Gill's secretary called and said that Inder Mohan was alive and that the family should again see Saini.

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<sup>123</sup> "Ludhiana police arrested two persons -- Simpy [Inder Mohan's nickname] and [M. Singh] -- for harboring terrorists and conspiring to kill innocent people." *Punjab Kesari*, September 18, 1988.



On November 20, the uncle again met with Saini, who told them that Inder Mohan "had absconded." Saini assured the uncle that Inder Mohan was alive and that they would "find him surfacing in Delhi within a month or two." A week later, after Saini discovered that the uncle had informed DGP Gill about his conversations with Saini, Saini told the family that he would order an inquiry into Inder Mohan's disappearance. Saini also threatened the family, saying that if D. and her mother pursued the case further, he would arrest them both on charges of "harboring terrorists." Thereafter, Saini refused to meet with the family again. They continued to meet with DGP Gill, who assured them that Inder Mohan was alive and discouraged them from holding a memorial service for him. On February 28, 1989, Gill wrote to the uncle (who had been posted as first secretary at the Indian Embassy in Baghdad), assuring him that the investigation into the "suspected kidnapping of your nephew" was underway.<sup>124</sup>

On June 9 or 10, 1990, the family met with the DIG of Patiala, R. S. Gill, who promised to find Inder Mohan and get him released. In the presence of D., R.S. Gill telephoned B.S. Gill and asked him about Inder Mohan's whereabouts. According to R. S. Gill, B.S. Gill first told him that he did not know Inder Mohan; then that he knew him but knew nothing about the case; and finally that he could not tell R.S. Gill what he knew over the telephone. R.S. Gill told B.S. Gill to come the next day and bring all the documents on the case. The next day at 10:00 a.m. B.S. Gill and R.S. Gill met for four hours in private. After B.S. Gill left, R.S. Gill called the family to his office, and said,

I'm sorry, the boy is no more. These people have been making fools of you. He expired on the very first day, the 11th of September. He was totally innocent but was in ill health and he died of fever on the first day of detention. He did not die of torture.

R.S. Gill also said that J. Singh and M. Singh had been detained because the police wanted no male family member to pursue the case.

When they returned from Patiala the family made plans to hold the bhog ceremony for Inder Mohan but then decided not to go through with it because a

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<sup>124</sup> Asia Watch obtained a copy of the letter which referred to the kidnapping of Inder Mohan as reported in FIR # 122, dated December 19, 1988, which had been registered at the Sarabha Nagar police station.

contact in the BSF in Delhi told them that Inder Mohan might still be alive in police custody. The family has never received official confirmation of Inder Mohan's death.

- **Sukhwinder Singh.** Kulwant Singh, "Fauji", 45, a farmer from Chawinda Devi in Amritsar district, told Asia Watch about the disappearance of his son, Sukhwinder. It began with the arrest of both sons in May 1990:

I have two sons, Sukhwinder, 21, and Bhupinder, 20, and a daughter, Parminderjit Kaur, 23. On May 23, 1990, Bhupinder and Sukhwinder were arrested and detained for 24 hours by Inspector Mohinder Singh from Sajada, police station Kathunangal. They were accused of firing at the police on July 22 near Chawindi Devi. After the elders of the village panchayat intervened, they were released. While they were in police custody, they were insulted and beaten, had their hair pulled, made to lie on the ground and were kicked and were beaten with leather straps.

The matter was reported to the SSP of the Majitha police station, Paramjit Singh Gill. After the application was filed, the DSP transferred Mohinder Singh from Sajada to the Majitha police station. About 7:30 p.m. on July 27, 1990, Sukhwinder was collecting money from tenants in the market place when Mohinder Singh arrested him a second time. The arrest was witnessed by four residents of the village, including the head of the village panchayat.

One of the witnesses, Satnam Singh, 50, farmer and resident of Sajada, told Asia Watch:

I had gone to the market to buy some cattle feed between 7:00-7:30 p.m. When I saw a police truck and a police jeep near the bus stand in Sajada. I heard a commotion and I saw six or seven policemen tying Sukhwinder's hands with his turban. He was shouting, "I only came here to collect money." Mohinder Singh was sitting in the back seat of the van. He was not in uniform. Then the policemen gagged Sukhwinder and threw him in the truck. There were about 50 policemen there, and all of them were carrying either assault rifles or Sten guns. Sukhwinder was empty-handed. Many people saw it happen.

The next day, Kulwant Singh went to the Majitha police station. Mohinder Singh told him, "If you want your son back, you will have to pay me Rs. 150,000 [about U.S. \$8330]. On July 28, Bhupinder sent telegrams about the illegal arrest to the deputy commissioner in Punjab and attempted unsuccessfully to meet with the governor. On July 29 or 30, Kulwant went to see the SSP and DIG Bhula of the Border Range in Amritsar, who told him, "We are trying to find out where your son is and ascertain the facts."

At the end of August, Kulwant filed a complaint against Mohinder Singh. On September 18 he had a meeting with the governor in Jalandhar, who ordered the deputy commissioner in Amritsar to inquire into the case. Executive Magistrate Har Bhupinder Singh was appointed to conduct the investigation. On October 24, Kulwant's statement was recorded by the magistrate and after that the statements of the witnesses to the arrest were recorded. Mohinder Singh denied arresting Sukhwinder, both after the magisterial inquiry was ordered and again on November 30. A hearing was scheduled for December 10, but Asia Watch has been unable to learn of its outcome.

(Mohinder Singh previously had been charged with rape while he was at the Kathunangal police station and had arrested the father and brother of the rape victim, a girl from Leharka. Asia Watch does not know if the case was ever prosecuted.)

A relative of Kulwant Singh stated that SSP Paramjit Singh had told him in mid-August that Sukhwinder was in his custody and was brought once a week to the Saddar police station in Amritsar and taken from there to other police stations. Paramjit Singh told the relative, "When he comes again to Saddar, I will secure his release." A week later, the relative again met with Paramjit Singh who denied that Sukhwinder was in his custody, saying, "Sukhwinder is not in my jurisdiction, he may be under another SSP. I will try to ascertain the facts." Then he added, "Don't bring any panchayat around and I will either get the boy released, or get him legally arrested."

On November 24, Mohinder Singh met Kulwant outside the court and said to him, "You have filed an inquiry against me -- why not against SSP [Paramjit Singh]? Nothing happens without his knowledge. Whatever I have done it was on the orders of the SSP."

• **Hardial Singh.** Hari Singh, 67, a farmer and a retired serviceman, resident of village Dhotian, Taran Taran, told Asia Watch that his son, Hardial

Singh, had been arrested in 1985 on charges of murder and other crimes. In August 1988 he was released on bail and acquitted of all charges except murder and assault against the police. A hearing was scheduled for August 19, 1989 at the Sangrur jail court.

At 10:00 a.m. on August 18, Hardial was arrested by Harbans Singh, the SHO of the CIA staff, and three armed constables, just as he and his father were about to board the bus at the bus stand in Taran Taran. Hari Singh asked what was wrong, but the police did not reply. One policeman put his hand over Hardial Singh's mouth and placed him in the police van, and another policeman kicked Hari Singh. Then the police drove off.

Later that day, Hari Singh went to the CIA staff headquarters in Taran Taran where he met with Harbans Singh. When he asked him why Hardial had been arrested, Harbans pushed him and said, "Hardial is with me. We will hold an inquiry and tell you later on." Hari replied, "There is a hearing for him scheduled for tomorrow and we are going there." Harbans said he knew nothing about the hearing, and then ordered Hari to leave.

Hari returned to the police station for the next three days. On August 21, Harbans insulted him and ordered him to go, saying the case was in the hands of "higher authorities." He denied that Hardial was in his custody, and told Hari to contact higher officials. Hari then asked DIG Bhula to call SSP Baldev Singh, who agreed to meet with Hari a week later. While he was meeting Hari, Baldev Singh called in Harbans Singh, who denied ever having arrested Hardial, and this conversation ensued:

SSP Baldev Singh: "He is saying that you arrested his son.

Where is he?"

Harbans Singh: "I don't know."

Hari: "You arrested him in my presence and now you deny it?"

Harbans: "When?"

SSP Baldev Singh: "The subinspector says that he did not arrest your son.

Hari said that Hardial was arrested on August 18 at the bus stand, and Harbans again claimed that he knew nothing about it. The SSP then told Hari to come back in three days; but when he returned, there was no change as Harbans continued to deny that he had arrested Hardial.

On September 7, Hari sent telegrams to Prime Minister V. P. Singh, the governor of Punjab, Director General of Police K. P. S. Gill and former Chief Minister Barnala. In November, 1990, he met with the ASI of the Saddar police station along with five or six constables who told him that higher officials were making an inquiry. After that, Harbans Singh, continuing to deny that Hardial had been arrested, was promoted to inspector. When Asia Watch interviewed Hari Singh in December 1990, he had learned nothing more about the inquiry.

• **Daljit Singh.** Mahinder Singh, 56, a farmer from the village of Mahal in district Amritsar, told Asia Watch that his son Daljit Singh, 29, was arrested by the police in 1985. He was charged with the murder of Romesh Chandra, an editor with the *Hind Samochar* newspapers<sup>125</sup> in Jalandhar and had been killed by unidentified persons in 1984. In September 1988 Daljit was released on bail from Amritsar jail. After his release from jail, he assisted his family in farming. Later, the charges against him were dropped.

On June 7, 1989, at 7:30 p.m., Daljit was arrested from his home in Mahal by a police party led by Inspector S.S. Barar from the main police station in Amritsar, who said that the SSP had ordered the arrest. Daljit was detained at the main police station in Amritsar. Mahinder sent telegrams about the arrest to the governor, the director general of police, and the deputy commissioner.

In October 1989, Mahinder met his son three times at the Gharinda police station in Amritsar district. On his fourth visit, in October, he was told that Daljit had been moved but the police would not tell him where. Over the next several weeks, Mahinder, accompanied by village leaders, met with the Deputy Commissioner Sarabjit Singh in Amritsar, SSP Sanjiv Gupta in Amritsar, and Inspector General of Police Mahal Singh Bullar. In all he had over 20 meetings, and in each case the officials assured him they would make inquiries about the whereabouts of Daljit. On December 25, he was told to come to the police station, but when he arrived he was told him to come back on December 29, then on January 2, then on January 5, and finally on January 9. After that the SSP told him that he would summon him after eight or nine days, but Mahinder was never called.

On January 17, Mahinder again went to see SSP Sanjiv Gupta who acknowledged that Daljit was in custody but told him that he should not come any more, saying, "When your son is traced, we will call you." He added, "As soon as he is brought to me, I will inform you."

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<sup>125</sup> The newspaper chain has been a target of attacks by militant groups since 1981.

In May 1990, Mahinder met with the SP of Operations, Harbhajan Chand, who admitted that Daljit was in police custody. He told Mahinder to come back after some time. Shortly thereafter, Chand was killed in a road accident. Mahinder told Asia Watch that he had since received information from persons released from police custody that Daljit may have been detained at the CRPF camp in Moga town in district Faridkot. Daljit also had been seen by relatives and friends at CRPF posts throughout the city, and they believed he was being used by the police to identify suspected militants. A man who had been detained in Amritsar jail told Mahinder that Daljit had been detained at the CRPF and police interrogation center at the B.R. Model School in Amritsar from December 27, 1989, to January 5, 1990. The police have never produced Daljit before a magistrate nor officially recorded the arrest.

- **Suvinder Singh.** Lakha Singh, 50, a resident of the village of Gandiwind in Amritsar told Asia Watch that on November 30, 1990, his son, Suvinder Singh, 25, had gone to village Her in district Amritsar to attend his uncle's wedding and was returning at 4:30 p.m. with some other people in a car. They were about two kilometers from Her, in the village of Bhagna, when they were stopped by 12 armed CRPF officials in a jeep. The officials forced Suvinder to accompany them. When others in the car asked why they were taking Suvinder, the CRPF policemen pointed rifles at them and said, "Get away or we'll shoot you." They took Suvinder to the jeep in which a young man dressed in civilian clothes was sitting. The police took off Suvinder's turban and used it to blindfolded him and tie his hands behind his back. They then threw him into the jeep and drove off. They did not tell the others in the car where they were taking him.

Afterwards, Lakha and other family members made inquiries at the Chheretta police station in Amritsar. Ashok Kumar Sharma, the inspector in charge, told them Suvinder was not there. Police officials at the Gharinda police station told them the same thing. Since then, they have learned unofficially that Suvinder may have been detained at the B.R. Model School, a police interrogation center in downtown Amritsar. The family has never been officially informed of the arrest, and to Asia Watch's knowledge, Suvinder was never charged or produced before a magistrate.

- **Swaran Singh.** Jasvir Singh, 46, a resident of Gandiwind, told Asia Watch that Swaran Singh, the son-in-law of his cousin, Chanan Singh, was arrested by police from the Chheretta police station on November 21, 1990, along with three brothers and an uncle. After a visit from the leaders from the village panchayat, the four were released on November 23. But shortly afterwards, at about 2:00 p.m. on that day, police raided Swaran Singh's house, tied his hands and blindfolded him

with his turban and brought him back to the station. Jasvir was in the house at the time of the arrest. For two or three days, a family member visited Swaran Singh in the police station in Chheretta. By the time of the third visit, Swaran Singh had been badly tortured and could not move.

After that, the Chheretta police told the family that Swaran had been transferred but they would not tell them where. From unofficial sources, the family has learned that Swaran Singh also may have been detained at the B.R. Model School interrogation center in Amritsar.

• **Jatinder "Sukhi" Singh.** On August 31, 1990, Jatinder "Sukhi" Singh, a resident of Chawal Mandi, Amritsar, and a truck driver by profession, left his home at about 10:00 a.m. to repair his scooter at a shop located near Namdhari Dharam Kanda, Taran Taran Road, Amritsar. He went alone. When he did not return home that night, his family searched for him. The next day, Sukhi's father, Dilawar Singh, traveled to Amritsar, where a friend of Sukhi told him that Sukhi had come to the house on the morning of August 31 and left after eating breakfast, saying that he was going to repair his scooter.

On September 2, Dilawar Singh went to the scooter repair shop on Taran Taran Road. Shopkeepers in the area told him that on August 31, the police of division A and division B in Amritsar had come to the scooter shop in three white vehicles, beaten a number of people with clubs and taken Sukhi away. On September 19, Dilawar Singh sent telegrams about the arrest to the superintendent of police in Amritsar, the area magistrate, the chief justice of the Punjab and Haryana High Court and the governor of the Punjab. On the basis of information he received from unofficial sources, Dilawar stated in the telegrams that he believed his son had been taken to the B.R. Model School interrogation center in Amritsar, and subsequently transferred to Gharinda police station.

On October 13, 1990, Dilawar sent a telegram to the president of India and the governor of Punjab about his son's detention and then met with the deputy commissioner of Amritsar twice in mid-September and again in the third week of September. At these meetings, Dilawar gave the deputy commissioner a written petition requesting Sukhi's release. The deputy commissioner wrote a letter of reply dated September 18, 1990, acknowledging the petition. At their next meeting, the deputy commissioner told Dilawar that he had spoken with Superintendent of Police Sanjiv Gupta and told him to search for Sukhi. After this meeting, despite further requests, Dilawar was not permitted to meet with the deputy commissioner again.

Dilawar met with the superintendent of police and Detective Nirmal Singh several times in September, and each time he was told that the police were making efforts to locate his son. Nirmal Singh asked Dilawar if there had been any witnesses to the alleged police kidnapping of his son. Rani Kaur, Dilawar's sister-in-law who had been travelling by bus from Taran Taran to Amritsar on the day of the arrest, told Nirmal Singh she had seen Sukhi with others at the scooter shop and had seen the police party and police vehicles parked at the site. Later that day, she went to Amritsar police Division B where she saw the same vehicles she had seen at the scooter shop. Fearing the police, the shopkeepers in the area of the arrest would not testify about what had happened. Nirmal Singh again told the family the police were making inquiries and that he would let the family know when they learned anything.

As of December 1990, the family had been unable to locate Sukhi. The police have never acknowledged that Sukhi was arrested, nor have they told the family that he was not in police custody.

- **Nirmal Singh.** Piara Singh, 65, a farmer from Dhotian, Taran Taran, told Asia Watch that his son, Nirmal Singh, disappeared after being arrested on November 14, 1988. At about 10:00 a.m., Nirmal Singh had gone to Taran Taran and, as he passed the police station (on his way to a tailor shop) was arrested. Prem Singh, from the village of Tur, who had accompanied Nirmal, was also arrested.

Two days after the arrest, Prem Singh's father informed Piara Singh that both of their sons, Prem and Nirmal, were in custody at the main police station in Taran Taran. At the station, Piara learned that Nirmal had been taken into custody by Inspector Surinder Singh and that the inspector had told Prem that he had handed Nirmal over to the CRPF. After one week, Prem Singh was released.

On November 16 or 17, Piara (who had served in the CRPF for 25 years before retiring in 1982) learned from unofficial sources that Nirmal had been transferred to the CRPF 29th Battalion in Dera Saheb, Amritsar. On November 20, Piara went to the camp, but the CRPF officers denied that Nirmal was in their custody. Upon learning that Piara himself was a CRPF veteran, however, a number of lower officials offered to assist, and they located Nirmal, who was locked in a small house in the camp. Piara spoke with Nirmal for about five minutes through a window; he could see that his son was in bad shape and stood with great difficulty. Nirmal asked Piara to pray for him and told him that only Inspector Surinder Singh could get him released.



On November 21, Piara again met with Surinder Singh, who said that he could only release Nirmal if the CRPF 29th Battalion released him first. About two weeks later, after the family had continued to meet with Surinder Singh and had been reassured that Nirmal would be released after the CRPF turned him over to the police, the 29th Battalion of the CRPF shifted from Amritsar to Delhi. On December 6 or 7, Surinder Singh told Piara that Nirmal had been turned over to him and then transferred to the 48th Battalion CRPF.

On November 18, Piara sent telegrams to Governor S. S. Ray, to the chief justice of the High Court, to the director general of the Punjab police and to the SSP for the district of Taran Taran requesting information about Nirmal's whereabouts. He received no response.

Piara also made inquiries at the CRPF 48th Battalion, but the officials there denied that Nirmal was in their custody. A relative told Piara that he had seen Nirmal sitting in a red jeep with Captain Khubi Ram of the 48th Battalion at Khadur Sahib, 18 kilometers from Taran Taran. The lead evaporated, however, and when Piara requested to meet with Khubi Ram at the CRPF camp, he was told that Khubi Ram had left the camp, and that Nirmal was not there.

While visiting a friend in the Guntala Jail in early March 1989, Piara learned that one inmate, Swaran Singh, had shared a room with Nirmal at the CRPF interrogation center in Taran Taran. The headman of the village Bangalipur told Piara that he too had been detained with Nirmal and Swaran Singh at the CRPF interrogation center in Taran Taran, until he and Swaran Singh were sent to the Amritsar central jail. Around March 7, Piara went to the CRPF interrogation center, but he was not allowed to go inside. A few days later he met a CRPF major at the center who denied that Nirmal Singh was in custody. The next day Piara again returned to the interrogation center where he met a constable who had formerly guarded Nirmal who assured Piara that Nirmal was still detained there. The constable offered to get a message to Nirmal to let him know that Piara was looking for him and trying to get him released. The constable also offered to try to arrange a meeting between Piara and his son. The meeting never took place, however, and on March 30 Piara learned that Nirmal had been transferred, but he did not learn where.

Also in March 1989, Piara met with Director General of Police Ribeiro who told him to speak to R.K. Parshad, the inspector general of police for the CRPF. When Piara met with Parshad in May, he was told that Nirmal *had* been in CRPF custody, but that Parshad no longer knew where he was. Parshad sent a telex

message to Delhi and to the 48th CRPF Battalion, which was then posted at Leh, asking for the whereabouts of Nirmal Singh. Parshad read Piara the reply, which stated that before shifting to Leh the 48th Battalion had handed over Nirmal to the Punjab police in Taran Taran.

Piara sent a letter to the CRPF in July 1989; on August 10, he received a reply from the additional director inspector general of police for the CRPF in Amritsar, which stated, "Your son Nirmal Singh was not kept in the custody of the 48th Battalion CRPF." On November 18, 1989, Piara filed a petition in the High Court, but as of December 1990 he had received no response. No formal charges were ever brought against Nirmal, and Piara has never been told why Nirmal was arrested.

• **Parvinder Singh.** Parvinder Singh, 26, an employee of the Punjab State Electricity Board, was arrested at 10:00 a.m. on August 3, 1990, by Subinspector Ram Parkash, SHO S.I. Radhakrishan and other police officials of the Balachor police station in Hoshiarpur district. Parvinder's employer, Balwant Singh, who witnessed the arrest, was told by Ram Parkash that Parvinder would be released after about a half hour of questioning. Parvinder was not released, however, and when his father, Chain Singh, attempted to locate him, he was repeatedly told that Parvinder was not in custody.

On August 9, the assistant executive engineer at the State Electricity Board wrote to the senior superintendent of police in Kapurthala describing the arrest and inquiring about Parvinder's whereabouts. Asia Watch obtained a copy of the letter in which the assistant executive engineer also stated that,

Om Parkash, J.E. of this office visited the city police station, Phagwara, on dt. 6,7 and 8.8.90 in order to know the nature of the case under which [Parvinder Singh] has been kept under secret confinement....

In a response dated August 23, 1990, SHO Radhakrishan acknowledged that subinspector Ram Parkash had taken Parvinder for questioning.

[Subinspector Ram Parkash] asked me to accompany him to police station Balachor to hand over Parvinder Singh son of Chain Singh resident of Anandpur Sahib working with the electricity office at Balachor to him as he is wanted in some case at Phagwara. Therefore I, the SI/SHO went with SI Ram Parkash to the Electricity office and sent Parvinder Singh with him.

Afterwards, Chain Singh and a number of the village panchayat members met with the senior superintendents of surrounding police stations to determine where Parvinder was being detained, but none of the police officials acknowledged having Parvinder in custody.

On October 30, 1990, Chain Singh's lawyer filed a habeas corpus petition with the Punjab and Haryana High Court. In response, on November 14, Ram Parkash submitted an affidavit in which he stated that he had gone to the office of the electricity board to arrest Parvinder but that Parvinder's supervisor, Balwant Singh had refused to permit the arrest and had only allowed Ram Parkash to talk with Parvinder for 15 minutes within the electricity board complex.

[I] talked with the detenu/accused in the presence of the SHO Balachor, because the SHO Balachor had sent Parvinder Singh accused with [me] ... and we talked 15 minutes and thereafter [Balwant Singh] did not allow [me] to arrest the accused.... Now till today, the accused has been absconding from the custody to escape his arrest.... The accused is not in the custody of [me] ... nor he has been killed in the encounter by [me].

S.I. Radhakrishnan submitted an affidavit that corroborated Ram Parkash's version of events. On November 20, Justice Jag Bhushan Garg dismissed the habeas corpus petition on the grounds that the police had denied that Parvinder was in custody and that "on the contrary, it appears that this employee is still required by the police." To Asia Watch's knowledge, there has been no further investigation of the case.

• **Kuljit Singh.** On March 30, 1990, the Supreme Court of India established a commission of inquiry into the July 1989 disappearance of Kuljit Singh, the sarpanch of Ambala Jattan, in the district of Hoshiarpur. R. L. Randev was appointed to conduct the enquiry. According to affidavits submitted by Kuljit Singh's wife, Gurmit Kaur, and Parkash Kaur, the mother-in-law of Kuljit Singh's brother, Kuljit Singh was taken into custody from the home of Gurmail Singh, the sarpanch of the village of Garhi, at about 9:00 p.m. on July 23, 1989, by a police party headed by DSP Ajit Singh. Jagtar Singh, the sarpanch of the village of Bodal; Devinder Singh, the sarpanch of the village of Malhian; Kuldip Singh, the sarpanch of Dhat; and a relative of his, Surjit Singh, were also taken into custody at that time. Surjit Singh and Kuldip Singh were released the same day. On August 4, Jagtar Singh was released. Devinder Singh and Kuljit Singh remained in custody.

When Gurmeet Kaur made inquiries at the police station as to why Kuljit Singh had been detained, she was told by Superintendent of Police (Operations) S. P. Basra, in the presence of Inspector Sardul Singh and Jaspal Singh, the SHO of the Dasuya police station, that Kuljit would be released after interrogation. She was told that Kuljit was being held in connection with the July 19 murder of Iqbal Singh, a resident of the village of Roopowal who was reportedly shot by two men who accused him of being a police informer.

In an FIR dated July 26, 1990, the police claimed that at about 3:00 p.m. Kuljit Singh had been taken in a police jeep in the custody of eight police officers to the Mand area<sup>126</sup> of Punjab to locate a weapons cache. The FIR report stated that Kuljit Singh, who was handcuffed at the time, jumped into a river and escaped.

The accused went ahead of the police party (following him) located and identified the place.... During this time, Kuljit Singh broke with a sudden shake the handcuffs from the belt of Constable Harjinder Singh ... where he was tied. He jumped into the Beas River while handcuffed and succeeded in escaping. The accused could not be found even with lot of efforts.

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<sup>126</sup> The Mand is a swampy area bordering Pakistan where border crossings by militants and smugglers are reported to occur frequently.

In an affidavit submitted to the Supreme Court on September 27, 1989, however, Harbhajan Singh, Kuljit Singh's brother, stated that a September 17 article in the Punjabi newspaper *Ajit*, citing police sources, had reported that Kuljit had escaped in a truck after police and the BSF had signalled him to stop. According to the report, the police and BSF followed the truck and in an exchange of fire, one of the other passengers on the truck was killed while Kuljit Singh and two others escaped. In an affidavit submitted to the Supreme Court on November 4, 1989, Deputy Superintendent of Police Ajit Singh did not comment on the report, sticking to the earlier version of events and adding that Kuljit Singh had "jumped into the deep water of the river and under cover of darkness managed to escape."<sup>127</sup>

On August 18, Parkash Kaur met with Home Minister Buta Singh and requested a judicial inquiry into Kuljit Singh's disappearance. On August 24 Inspector Jarnail Singh informed the family that he would conduct a departmental inquiry into the incident. However, Kuljit's Singh's family members refused to participate in the inquiry, on the grounds that a police inquiry conducted by a junior officer into allegations concerning his superior could not be considered impartial or satisfactory. On August 16, the district magistrate of Hoshiarpur ordered a magisterial inquiry, to be conducted by the additional district magistrate, S.S. Rajput. However, the inquiry reportedly did not commence because again Kuljit Singh's family protested that a magisterial inquiry did not constitute a high level judicial investigation. S.S. Rajput also left the area for a training program shortly after the order was given, although the home secretary for the government of Punjab argued,

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<sup>127</sup> Police officers Ajit Singh and Sita Ram also attempted to dismiss the allegations on the basis that the petitioners had close links with the Punjab Human Rights Organisation: "It is well known the PHRO ... is supporting the cases of terrorists in Punjab in the name of alleged police excesses on Sikh youth." According to Gurmeet Kaur's affidavit, Ajit Singh had been accused in two previous cases of encounter killings, as had Inspector Jaspal Singh of the Dasuya police station.

It is incorrect to conclude that he proceeded on training to evade the enquiry entrusted to him. Due opportunity was afforded through known sources of communication and publicity to the petitioners to represent their case before the Inquiry Officer. Since the matter had become *subjudice* in the ... Supreme Court ... [he] expressed his inability to proceed with the enquiry.<sup>128</sup>

Before the Supreme Court inquiry commenced in March 1990, witnesses in the case complained of receiving threats from police officials. In an affidavit submitted before the inquiry, Gurmeet Kaur stated that on July 28, 1990, five policemen in plain clothes came to her house and told her that "she too would meet the same fate as that of her husband if she did not withdraw from the enquiry." Police officers had also threatened to implicate Kuljit's brother, Harjinder Singh Dhutt, in "terrorist cases."

Sukhwinder Singh, a resident of Ambala Jattan who had assisted the family in pursuing the case, stated in an affidavit that he was detained at the Tanda police station on July 25, 27 and 28, and was threatened by police officials that if he participated in the inquiry he would be implicated in terrorist cases. Harbans Singh, also a resident of Ambala Jattan who assisted the family, received similar threats.

In her affidavit, Parkash Kaur stated that when she attempted to travel by car from Ambala Jattan to Chandigarh to attend the inquiry, she was stopped by the police on a number of occasions. The police denied all allegations of harassment.

On August 1, 1990, Gurmeet Kaur petitioned the court to place on leave all of the police officials named in the investigation or to post them to non-operational duties until the inquiry was completed, because of threats and other forms of harassment to the witnesses. On August 20, 1990, the court ruled that,

Because of the very posting on operational jobs at present being held by them, they are in a position to wield influence for pressurising and intimidating the petitioner ... as well as her said witnesses for not giving evidence against them in the enquiry. So, this, by itself is sufficient to cause apprehension in her mind in this regard ... I feel that in order to enable her to pursue this

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<sup>128</sup> Affidavit by R.L. Kalsia, Secretary to the Government of Punjab, Department of Home Affairs and Justice, February 12, 1990.

enquiry without fear or pressure on the part of these police officers/officials, it is just, equitable and expedient that they should be transferred to non-operational posts.

In a confidential response to the order, A.S. Chatha, secretary in the Department of Home Affairs and justice for the government of Punjab, argued that the transfer of the police officers to non-operational posts

will not only put their lives in danger but will also demoralise the police force which is fighting ... with the terrorists.... The plea of the petitioner for the transfer of the police officers is just to harass and demoralise them.

As of December 1990, to Asia Watch's knowledge, no police officials named in the inquiry had been transferred, as their appeal was still pending before the court. Despite the allegations against him, in the months after Kuljit Singh's disappearance, Ajit Singh was promoted from deputy superintendent of police to assistant inspector general of police. All of the other police officers named in the case remained on active duty.

• **Devi Dayal.** On November 15, 1990, Devi Dayal, a resident of the village of Suron in the district of Patiala, was detained at the CIA staff headquarters at the Rajpura police station. On November 28, Jaspal Singh, a lawyer for PHRO, filed a habeas corpus petition on behalf of Devi Dayal, stating that although no charges had been brought against Devi Dayal, the police had refused to release him unless his relatives paid a bribe. The relatives were also threatened that if they did not pay, Devi Dayal would be eliminated in an encounter. The habeas corpus petition was rejected by the court on the grounds that, as head of the Ropar office of the PHRO, Jaspal Singh was not qualified to submit a petition in the district of Patiala.<sup>129</sup> A second petition was filed, but as of December 1990, no warrant officer had been appointed to locate Devi Dayal, nor had the police responded to the court.

• **Raj Gurbax Singh.** Raj Gurbax Singh was first arrested in September 1986 in Ajnala, as he and his mother, Gurmit Kaur, were on their way to attend a court hearing on a case concerning Raj Gurbax's father. Gurmit Kaur sent a telegram to the High Court which was accepted as a habeas corpus petition. In

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<sup>129</sup> Human rights lawyers in India have stated that, to the contrary, following a 1984 Supreme Court ruling, under Indian law any person may file a writ petition in any court.

response to the court order, dated November 26, 1986, the SHO of the Ajnala police stated that Raj Gurbax was not detained and was not wanted in connection with any case. Raj Gurbax was released four or five months later.

At around 1:00 a.m. on July 1, 1987, Raj Gurbax was again arrested. Gurmit Kaur sent telegrams to the High Court and other authorities stating that she feared that Raj Gurbax might be killed. On July 23, after she had learned that Raj Gurbax had been detained by the Jandiala police, she sent another telegram to the High Court and petitioned the subdivisional magistrate of Ajnala to permit her to meet with her son. On July 28, *Indian Express* reported that Raj Gurbax had been arrested in connection with an ambush of a CRPF patrol that had taken place in the first week on June. Raj Gurbax's father sent another telegram to the High Court, citing the press report and stating that he feared that Raj Gurbax might be killed in an encounter. On the basis of the telegram, the court ordered an inquiry into the case. On July 31, the SHO of the Jandiala police station, Harcharan Singh, filed an affidavit stating that Raj Gurbax had not been detained and was not wanted in any case. After that, Raj Gurbax again petitioned the court to order the SHO of the Jandiala police station, the SHO of the Ajnala police station, and the SSP for Amritsar, Izhar Alam, to reveal the whereabouts of her son and permit her to see him and to grant him a medical examination.

In September Gurmit Kaur and her husband were arrested by police from the Lopoke police station. Gurmit Kaur was detained at the police station for two months; when she was released she was informed that her husband had been killed in an encounter. She filed a petition in the High Court claiming that her husband had been tortured to death, but received no response.

On November 28, 1987, Justice Ujagar Singh ordered an inquiry into the case. The police claimed that Raj Gurbax had been arrested on July 27, in connection with a case under the Arms Act and TADA. In his affidavit, SHO Madan Gopal stated that on August 16, 1987, constable Darshan Singh took Raj Gurbax in handcuffs to recover a weapon. The police jeep got a flat tire and rolled into a canal, and while the police were attempting to free the vehicle, Raj Gurbax escaped.

In an official inquiry, on January 17, 1989, Additional Sessions Judge Bakshish Kaur stated that Madan Gopal's account of the escape did not "appear to be plausible." She added,



I am of the view that Raj Gurbax Singh had not escaped from the police custody as alleged and that the facts relating to the alleged escape do not appear to be satisfactory.

To Asia Watch's knowledge, there has been no further investigation and no action taken against the police officials responsible for Raj Gurbax's disappearance.

### **Torture**

Virtually everyone detained in Punjab is tortured. Common Article 3 requires that persons "taking no active part in hostilities ... be treated humanely" and prohibits "violence to life and person, in particular ... cruel treatment and torture." Article 3 also bars "outrages upon personal dignity, in particular humiliating and degrading treatment." In addition, the International Covenant on Civil and Political Rights expressly prohibits derogation from Article 7's stipulation that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."<sup>130</sup>

The routine practice of torture in Punjab has been the subject of previous inquiries. On November 29, 1985, Justice Tiwana, retired judge of the Punjab and Haryana High Court in Chandigarh, was appointed by the government of the state of Punjab to conduct a judicial investigation into allegations that a number of the "Jodhpur detainees"<sup>131</sup> had been tortured while in custody at Ladha Kothi Jail, Sangrur, in Punjab.<sup>132</sup>

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<sup>130</sup> Article 4, International Covenant on Civil and Political Rights.

<sup>131</sup> This refers to the remaining 400 or so detainees taken into custody following Operation Bluestar, the June 1984 army assault on the militants' stronghold in the Golden Temple. Although criminal charges were not brought against the detainees, they were not released until March 1989.

<sup>132</sup> The original order, dated October 25, 1985, had specified that the commission should "inquire into all aspects of the matters relating to the alleged torture of detenus under the

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National Security Act, 1980 at Ladha Kothi Jail, District Sangrur ... and suggest consequential action on the basis of the findings recorded by it." Directions that the commission suggest consequential action were subsequently deleted in the version received by Justice Tiwana.

The Tiwana Commission submitted a report in May 1986 which found evidence that 90 detainees taken into custody at the Golden Temple in June 1984 had been tortured. The inquiry had been prompted by the complaint that prisoners were being taken in batches to Ladha Kothi Jail. Justice S. S. Sodhi of the Punjab and Haryana High Court stated that he received complaints from detainees that the jail was an interrogation center and that torture was practiced to elicit information. According to Justice Sodhi, the jail superintendent confirmed that detainees were often transferred from Nabha Jail (also in Punjab) to Ladha Kothi for a few days and then returned.<sup>133</sup>

Justice Tiwana examined and recorded the individual statements of six detainees, and also recorded separately the statements of detainees examined by Judge T. S. Cheema, district and sessions judge of Patiala district in Punjab. On the basis of their investigations, Justice Tiwana concluded that the torture had occurred over a 14-month period between August 30, 1984 and November 11, 1985, at Ladha Kothi jail. The detainees had no opportunity to talk to one another before they were interviewed, and their the statements revealed a consistent pattern of torture carried out at the jail. Most commonly, the detainees described the use of a heavy wooden plank or roller which is placed over the prisoner's thighs while he is seated or supine, and which is then rotated while one or two persons stand on it. Detainees also described being made to sit while their legs were pulled apart at an angle intended to cause intense pain. In some cases, detainees described having their genitals smeared with hot chili powder and being gagged overnight with cloth smeared in dog feces. Handcuffed detainees were also thrown repeatedly into a canal on the jail compound. At least one detainee was subjected to electric shock. Another detainee suffered damage to his hearing in his left ear as a result of a beating.

While at Ladha Kothi Jail, the detainees were kept in solitary confinement. The cramped cells served as the detainees' toilet as well as for sleeping and eating. The meager facilities led Justice Tiwana to conclude that

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<sup>133</sup> Ibid, p. 2.

it was just an interrogation centre and was not a jail. The staff posted at Ladha Kothi jail did not belong to jail department of the State. They were either members of the Punjab police or belonged to the C.R.P.F. [Central Reserve Police Force]. None of the facilities which are provided to the detenus under the Punjab Detenus (Conditions of Detention) Order 1981 were available at Ladha Kothi jail ... The detenus were not provided cots or bedding. Even blankets were not provided to give them shelter against the cold. The detenus were kept in handcuffs and shut up in cell type of rooms. They were forced to urinate and ease themselves out inside these rooms.<sup>134</sup>

Although officials had reversed their initial directive calling on Justice Tiwana to recommend remedial action in these cases, the Justice nevertheless recommended compensation from between Rs. 10,000-20,000 (about U.S. \$560-1,100) to each victim of torture. The Commission also recommended disciplinary action against 22 police officers. Although it appears that the compensation was paid,<sup>135</sup> the government has not made known any prosecutions of police officers identified in the report.

The evidence gathered by Asia Watch indicates that Justice Tiwana's recommendations have had little effect. The security forces in Punjab still routinely engage in torture of persons held in their custody, both to extract information and to impose summary punishment. Family members are frequently detained and tortured in order to induce relatives sought by the police to surrender. Severe beatings, electric shock, suspending the victim from the ceiling, and pulling the legs apart are the most common forms of torture. The "roller treatment" is also widely practiced by police throughout Punjab. This practice involves rotating a heavy wooden roller, weighed down by a number of policemen who sit or stand on it, over the legs of the

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<sup>134</sup> Tiwana Commission of Inquiry, Punjab, *Inquiry Report Re: The Alleged Torture of N.S.A. Detenus Lodged at Ladha Kothi Jail (Sangrur)*, May 1986.

<sup>135</sup> Amnesty International, "India: A Review of Human Rights Violations," p. 9.

prisoner.<sup>136</sup> Women have also been raped in custody. The International Committee of the Red Cross (ICRC) does not have access to detainees.

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<sup>136</sup> The practice gained notoriety following the Emergency of 1975-77 when it contributed to the death in custody of at least one detainee who, according to police testimony, was subjected to almost constant torture with iron and wooden rollers. *See* Amnesty International, *Report 1977*, (London: Amnesty International, 1978), p. 183.

• **Rattan Singh and Tara Singh.** Witnesses who testified against the police before a commission of inquiry into an encounter killing that took place in Kotla Ajner on June 15, 1990,<sup>137</sup> have been detained and tortured. On June 19 or 20, Rattan Singh, a local resident, testified before the deputy commissioner. About two weeks later, after an article about the incident appeared in the press, Rattan Singh was detained for two days. He and another witness, Tara Singh, were again detained in October 1990. Rattan told Asia Watch:

Around October 22 Inspector Bhullar, who had led the police party on June 14 [the day of the encounter], along with Bhupinder Singh, picked me up at my home. Before that Inspector Bhullar had also come looking for me two or three times but I was not at home. This happened three or four days after the incident. They took me to the station where they repeatedly beat me with a cane and said, "Now will you give statements to the Deputy Commissioner or sit in the car with Lakhbir Singh [the bank chairman who had registered the case against the police]?" When they made me lie on my stomach on the ground while four policemen sat on me and pulled my legs. They beat me on the soles of my feet with a leather strap and with canes and beat me on the hands, arms and ribs. My forearm was fractured by the beating. For two nights I was kept at police station in Khanna along with Tara Singh, then we were shifted to the Payal police station for one night. When the station house officer asked what our offense was they told him that we had given evidence against them. He said, "Make them lie down and we'll see." We were again made to lie down and beaten and our arms and legs were pulled apart. The next day they released us after warning us that if we gave testimony again we would be beaten again.

Tara Singh told Asia Watch that Inspector Bhullar was intoxicated while he was beating them. He stated that he and Rattan Singh were beaten with canes for two and a half hours on the legs, ribs, hands and arms and that the police pistol-whipped them on the head, leaving him with a bad wound. The police interrogated them about the whereabouts of Jaswant Kaur, the president of the Akali Dal in Khanna district, who had publicized the case. Tara Singh told Asia Watch that the

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<sup>137</sup> For more on this incident, see the discussion beginning on p. 47

police threatened him, saying, "You have given evidence against us, you cannot stay here."

• **The Family of Gurmeet Singh.** Krishna, 40, a resident of Ghawadi, Ludhiana, told Asia Watch about the arrest and torture of her son Gurmeet and other members of the family.<sup>138</sup>

Our son, Gurmeet, 19, had been learning television repair. The first time the police raided the house was in October 1986. Policemen from the Dehlon police station came in from the roof and into the courtyard in the middle of the night. They started asking us about Gurmeet. He was not at home as he had gone to my parents' house. The police told us we should bring him to the police station. The next day we went along with officials from the village panchayat and took Gurmeet to the police station, where he was arrested. We went every day after that to ask for his release, but the police only insulted us. Four days later he was released. He had been badly tortured by having his genitals burned with a candle, and being suspended from the ceiling for three hours at a time. He had burn marks and boils on his loins and was in pain and not able to walk.

Bhagwan Singh, a neighbor who was on close terms with the head constable, Darshan Singh, told the family that Darshan Singh was demanding Rs. 20,000 [about U.S. \$1100] from them in order not to harass them again. The family refused to pay because they did not have the money. One week later, the police again raided the house and the houses of relatives; Krishna, Hardev, their son-in-law Nazir Singh and Gurmeet were arrested and taken to the Dehlon police station.

Everyone but Gurmeet was released at 4:00 a.m. the next day. Members of the local panchayat repeatedly attempted to see Gurmeet, but the police denied that he was in their custody. After 22 days, he was charged with extortion, murder and other crimes. The police made Gurmeet sign blank pieces of paper on which the confessions were apparently later written out.

Six months later Gurmeet was released on bail. Three months after that, Hardev Singh was arrested and interrogated about Gurmeet's whereabouts. During

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<sup>138</sup> Gurmeet was killed in an encounter in 1990. For more on the killing, see the discussion beginning on p. 57

this time Hardev was tortured with the roller and his legs were pulled apart. After four days, Hardev was released on the condition that he deliver his son to the police station by June 1, 1987.

On June 1 Hardev, accompanied by two other people, took Gurmeet to the Saddar police station in Ludhiana, where constable Darshan Singh had been transferred. Hardev was told to return the next day and his son would be released. When he returned, however, Darshan Singh told him that Gurmeet was not in custody. On June 2, Hardev sent a telegram to the chief justice of the High Court, and on June 2 and June 3 he moved applications in the magistrate's court. The police claimed that Gurmeet had not been arrested. On June 4 Hardev filed a claim before Magistrate Shri Bhagwan Singh against Subinspector Manjit Singh, Assistant Subinspector Jogender Singh and Head Constable Darshan Singh in which he stated that Gurmeet had been detained illegally and the family feared he might be killed in an illegal encounter. By June 8, after the statements of witnesses and family members had been recorded before the magistrate, a police official named Sudhram threatened Hardev, "Up to now only your son has been involved, but now you too will be involved in cases."

On June 9, the police lodged a case against Hardev, accusing him of harboring terrorists; then they raided the home, but found that Hardev had gone underground where he remained for 10 days. The village leaders then produced Hardev before SP Detective Surjit Singh. Surjit Singh threatened to arrest Hardev's daughters, and then said that if Hardev ceased his complaint against the police, all charges against him and his son would be dropped. Hardev withdrew his complaint on July 1, the first day the courts reopened, but the police did not drop the cases against Hardev and Gurmeet.

The telegrams Hardev had sent on June 2 were accepted by the court as a habeas corpus petition and the police produced Gurmeet in court on June 29. His father was permitted to see him in jail, but only from a distance. Gurmeet limped because his legs had been pulled apart; he could not bend his right arm because he had been suspended from the ceiling by his hands tied behind his back. Gurmeet also told Hardev that he had been burned. Thereafter, Hardev was able to see Gurmeet every 15 days in Nabha jail, where he had been transferred.

In early August, the police came to the house and ordered Hardev to come to the High Court to withdraw his complaint and sign a statement that Gurmeet was safe and that he knew his whereabouts. Hardev refused to do so unless the police withdrew the case against him as well. At the end of August, the police withdrew



the case against him, and Hardev withdrew the complaint. Gurmeet was released at the end of March 1988. The police recorded the formal date of arrest as June 29, 1987, 28 days after the actual arrest. From March to August 1988, Gurmeet was arrested three or four more times, detained for five to seven days and tortured each time. Fearing further harassment, the family moved to Dhuri, where Gurmeet opened a television and tape recorder repair shop.

When, in October 1988, Bhagwan Singh was found murdered, the police -- led by ASI Shamsheer Singh and Head Constable Darshan Singh -- again went after the family. Unable in this instance to find Gurmeet, they arrested Hardev, Hardev's brother, two brothers-in law and a friend of Gurmeet's, Gurmukh Singh Bassi. The police beat the men with fists, canes and rifle butts, and kicked them. Hardev lost several teeth. At 6:00 p.m. all of the men were brought to the Saddar police station. Hardev was again tortured with the roller and by having his legs pulled apart. Gurmukh Singh had his fingernails and toenails pulled out and was burned on his genitals with hot iron rods. He was so badly injured that Hardev had to help him get dressed. When Gurmukh asked for water, the police called him "a dog." At about 1:30 a.m. Gurmukh was taken out of the room, blindfolded and with his hands tied. At 4:30 a.m. Hardev was told by a sentry, "Gurmukh was liquidated."

Afterwards the police went to the family's home in Dhuri and arrested Hardev's wife and five daughters: Baljit Kaur, 21; Manjeet Jaur, 19; Harpreet Kaur, 16; Palwinder Kaur, 14; and Sukhvinder Kaur, 12. All five were first taken to the Dhuri police station where the two youngest were set free; the rest were taken to the Saddar police station where the older three and the mother were detained. After two nights the daughters were released. During their detention the daughters were insulted, and Baljit was slapped and hit with rifle butts.

After their release, the children sent telegrams and filed petitions, and their parents were released about a week later. As they were released the police told them to produce Gurmeet, but they told the police that Gurmeet had left home and they did not know where he was.

One month after the release, Hardev and Krishna were again arrested and told to produce Gurmeet. When they did not, they were implicated in a case of harboring terrorists and jailed for three months in the central jail in Ludhiana along with Hardev Singh Phanna, a witness to Hardev's complaint against the police. After three months all three were released on bail.

In October 1989 Hardev was told by Inspector Kanwarjit Singh of the Saddar police station that if he did not produce his son, he should get his bail

canceled and go back to jail or else he might be implicated in another case. Out of fear, Hardev had his bail canceled and returned to prison, where he remained until February 28, 1990, when he was again released on bail.

On May 19, Gurmeet's sister, Baljit Kaur, was detained and raped by a police constable. She was leaving her classes at Prem College in Ludhiana at 11:30 a.m. and walking to the bus stop when she was followed by two men on a scooter. Both men were in civilian dress. As she reached the bus stop, the two men stopped her, saying, "We know you. You are uselessly running away as we are police officials." When she told them that she did not believe them, they showed her their I.D. cards. One of them was Havinder Singh, of the Saddar police station, and the other was Bhola Sen, an employee of the Housing Board. They said to her, "We know you are Gurmeet's sister of Ghawadi village." They told her she had to come with them to the police station. When she refused, they said to her, "If you don't we'll pick you up and take you there." When she got on the scooter, they took her to a house in Abdullahpur Basti, belonging to a woman named Sushma Rani. She was then taken to the Housing Board Colony in Jamalpur, house no. 169, which belonged to Amarjit Singh, a real estate dealer. Baljit told Asia Watch:

They told me I should tell them where Gurmeet was or they would mistreat me and rape me. I told them I didn't know where he was, and they told me to take off my clothes. When I refused, they tore my clothes off and Havinder Singh raped me. Then they both left the room, locking me in. A while later they came back with some food and liquor. There was a third man who was in uniform with them, constable Major Singh from police post 6. They ate and drank in the other room, and then all three of them raped me one by one. At about 7:30 p.m. they took me to police post 6. Havinder Singh and Major Singh went inside, and when they came back out they told Bhola Sen to take me to my village. I tried to insist that they let me go inside the police post but they refused and made me leave with Bhola Sen. When he tried to take me to another village I jumped off the scooter and hurt myself. He made me get back on, but I jumped off again. Then he took me to Chawnta Miani, a village about 30 kilometers from Ludhiana. He brought me to the house of a Harijan<sup>139</sup> family and told them he was a constable. I tried to tell them that I had been abducted, but Bhola Sen told them I was a constable too and that

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<sup>139</sup> See footnote 104.

I was only joking and that we had come for a raid. I stayed there that night, and in the morning Bhola Sen put me on the bus to Ludhiana. When I arrived, my mother was at the bus stand looking for me. We went to a lawyer, who applied for a medical examination. On May 22 I had an examination at the civil hospital in Ludhiana, and on May 25 I filed a complaint in the magisterial court for the district of Ludhiana against all three men.

The court assigned the case to another magistrate, Amarjit Singh Kataria, who directed the Saddar police to conduct an inquiry. On the basis of the medical report, an FIR was lodged against the three men on charges of rape. At the time of the Asia Watch interview, all three men were out on bail. The family told Asia Watch that every time a court date has been scheduled and they go to give evidence, the inquiry has been postponed. According to the family, the magistrate had not recorded Baljit's testimony because he had been threatened by the police. At the time of the Asia Watch interview, no statements had been recorded.

On May 28, police inspector Balbir Chand Tiwari of Samrala district, Ludhiana, told Hardev in the presence of local MP Rajender Kaur Bulara that Gurmeet had been killed in a gunfight between rival gangs in Ropar. He did not say when the incident occurred. Hardev told Asia Watch that since then the police have continued to come to the house in search of him.

Throughout Asia Watch's interview with the family, a policeman kept watch outside the home, and another was posted on the roof of a neighboring house.

• **Dr. Rajinder Singh Khalsa.** Dr. Rajinder Singh Khalsa, 27, told Asia Watch that on November 11, 1990, he was arrested at his home just after he returned from work at the Mohan Dai Oswal Cancer Treatment and Research Foundation in Ludhiana, shortly after 8:00 p.m. Accompanied by an acquaintance from the hospital, Dr. Sucha Singh, he was about to enter his room on the hospital grounds when two men in plainclothes, one of whom carried a pistol, approached and said they wanted to talk to him. Then 10-15 men, some in police uniform, attacked him -- punching and beating him with their rifle butts on his head and other parts of his body. He fell unconscious and when he revived, he found himself in police jeep with an ASI of the Punjab police, a head constable and several other policemen, all heavily armed. When he asked them where he was being taken, the ASI told him that if he did not keep quiet he would be shot. Dr. Sucha Singh, who

had also been beaten, was with him in the jeep. Both men had their hands tied with their turbans.

When they reached the Sandheval police station in Ludhiana, Dr. Khalsa was taken into a room where the Majitha SSP, Paramjit Singh Gill, and DSP Detective Gurmit Singh from the Mal Mandi interrogation center asked him if he had ever treated Dil Sher Singh, a militant leader with the Khalistan Commando Force. When he told them he knew nothing about Shera, they ordered him to undress. He removed his outer clothing but not his *kirpan*, *kara* or *kach*.<sup>140</sup> The police told him to remove these too, saying, "You are not pious." Then they told him he had two minutes to tell them Shera's whereabouts. He was made to sit on the ground while Paramjit Singh Gill and Gurmit Singh were joined by five or six policemen.

Dr. Khalsa's hands were tied behind his back, his head was pulled back by his hair and his undershirt was tied over his mouth to muffle his screams. A large wooden roller was placed on his thighs and two policemen stood on either end of it. The SHO of the Sanheval police station (who was drunk) came into the room and punched Dr. Khalsa in the head more than 50 times. After 15 minutes he lost consciousness, and when he came to they gave him some water and his legs were pulled wide apart while two policemen punched him in the thighs and groin. Afterwards they again pressed the roller over his thighs. A person was brought into the room, hooded except for his eyes. The person identified Dr. Khalsa as the doctor who had treated Shera. SSP Gill told Dr. Khalsa that they only wanted Shera. Then the SHO punched the doctor several times in the chest, saying, "I will take Shera from your chest by breaking your ribs."

By this time Dr. Khalsa had been in the police station for about two hours. He heard the police say that as he was not talking, he would be taken to the Mal Mandi interrogation center. As he got dressed, the ASI said to him, "We are only the copies compared to the butchers you will meet in Mal Mandi." Dr. Sucha was then called in. He was blindfolded. The police asked him whether he had ever provided treatment for any "terrorists". Dr. Sucha was not tortured.

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<sup>140</sup> The *kirpan* (dagger), *kara* (silver bracelet) and *kangha* (comb) are three of the five sacred identifying marks of a Sikh. The other two are the *kesh* (uncut hair and beard) and *kach* (breeches worn under the outer clothes).

Both doctors were sent to Mal Mandi. Dr. Khalsa was brought to the office of Gurmeet Singh, known as "Bhai" ("brother"), a retired DSP now working as a special police officer at Mal Mandi. Paramjit Singh Gill, DSP Gurmit Singh and several senior police officers all observed. Dr. Khalsa was ordered to undress, and Gurmeet struck him repeatedly across the face with his fists. His hands were tied behind his back with a piece of cloth and a rope which was attached to a pulley. He was made to stand on a chair which was then pulled away, leaving him suspended in the air. While he was raised to the ceiling two policemen pulled on his legs. He was suspended in this way for about 20 minutes. When he told them he might vomit, Gurmail Singh told him, "If you vomit you will eat it."

They made him sit on a chair and his feet were tied to the legs. His hair was pulled back and his hands tied behind him. A heavy wooden roller of wood was placed on his thighs and two policemen sat on either end of it. An electric wire was attached to a toe of his left foot. One officer said:

Now we are going to start, so its time for you to tell us where Shera is. Otherwise we will kill you and throw your dead body in the Beas River. There won't be any post mortem.

They applied the current to his genitals, abdomen, chest, right ear lobe and different parts of his head. Dr. Khalsa told Asia Watch that each time they touched the wire to his body they held it for a few seconds and the entire chair shook. He could not speak and felt like he was going to lose consciousness. The electric shock continued for about 15 minutes. When they brought him a glass of water one of the policemen said, "Give him just a drop, no more." When he told them that he could stand it no longer and that it would be better to shoot him instead, the police said, "We will not kill you that easily."

Afterwards, the police ordered him to get dressed, but since he was not able to move his arms or legs, one of the policemen dressed him. The next afternoon he was again given electric shocks for about half an hour. (Meanwhile, Dr. Sucha was beaten with canes and then released.)

On the third day, the beatings continued. Dr. Khalsa told Asia Watch,

When I asked if I could buy a cup of tea or water, an inspector came and beat me with his cane. When I told them that I am a doctor and should not be treated like this, the inspector told me

that what had happened so far was "nothing" and at the very least I would be detained under the National Security Act.

On the fourth day, a friend of Dr. Khalsa's approached SSP Gill and asked to see the detainee, but Gill refused, saying he "was not in a fit condition to be shown." On the eighth day Dr. Khalsa was taken from Mal Mandi to Gill's residence, where his mother and brother were waiting. Gill told them, "I have a feeling that he will become another Dr. Sohan Singh."<sup>141</sup> Before he left Mal Mandi, the inspector told him that he should leave Punjab, otherwise he "could be killed." He was released at 8:30 p.m.

As a result of the beatings and electric shock Dr. Khalsa's right ear drum was perforated; he has lost hearing in that ear and bears the marks of burns and other injuries from the beatings. He cannot bend his legs without great difficulty.

• **The Family of Bhajan Singh.** Bhajan Singh, a farmer from Maksudra, 55, told Asia Watch that the police have repeatedly harassed and detained him and other members of the family because they are looking for his two sons, Bhagwan Singh and Balwant Singh, whom they accused of being militants. In May 1990, another son, Jasbir Singh, was arrested and killed by the police in what they claimed was an encounter.<sup>142</sup> The two other sons, and a family friend, were detained at the same time and tortured. Asia Watch obtained a copy of Balwant Singh's affidavit in which he described their detention.

The policemen first beat us up, then tying our hands and feet, threw us in the [car]. We were all taken to Police Station, Sahnewal, where I and Bhagwant Singh were thrown in a lockup while our brother Jasbir Singh was separated from us.... The next day, the police took us all to Police Station Dehlon.... We were kept there for four days. My brother and Kuldip Kaur were tortured in front of me.... Their legs were stretched apart at 160 degrees; their hands were tied at their backs and they were suspended in the air with a long rope tied at the one end to their hands and the other to a hook on the ceiling; a 95 kilogram roller

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<sup>141</sup> Sohan Singh is the head of one of the Panthic Committees controlling a number of the militant organizations.

<sup>142</sup> For more on this incident, *see* discussion beginning on p. 77.

was rolled over their thighs and they were severely beaten with straps.

Bhagwant Singh has stated in his affidavit that this was done in the presence of SHO Balbir Chand Tiwari and Assistant Superintendent Chattopadhyaya. He also stated that his brother Jasbir Singh, who had been shot in the leg, was similarly tortured and was not given any medical treatment for his wound. After five days, Balwant Singh was separated from the others. he was taken to the Payal police station where he was told to identify a "terrorist" from his village. He told them that he could not name anyone.

They got furious and started putting my genital organ over the burning match sticks. Because of the tremendous pain, I fell unconscious. The process was repeatedly applied whenever I regained consciousness.

After that, Balwant was charged with harboring a local militant leader, and jailed for seven months. After he was released on bail, he was immediately detained for one day at the Focal Point police station and for another night at the Payal police station, until the village panchayat intervened and secured his release. Bhagwant Singh was released on bail on February 8, 1990. Bhajan Singh told Asia Watch that since then, Bhagwant Singh and Balwant Singh have only returned home at night, for fear of the police.

After Jasbir's killing the police returned frequently at night. Dalip Singh, a brother-in-law and his family, was arrested in early November 1990. On November 25, 1990, the police arrested Bhajan Singh. He told Asia Watch,

The police walked into the house, dragged me outside, slapped me on the back of my head, tied me with my turban and dragged me to the van and took me away. When I asked why I was being taken, they slapped me and said, "Who are you to ask why?"

While in police custody, Bhajan Singh was beaten by the *havaladar*, an officer below subinspector and above constable.

• **Hardev Singh.** Hardev Singh, 28, resident of Nandpur and an inspector at a government sugar mill in Budhewal, Ludhiana, told Asia Watch that in 1986 he had gone to Ferozepur with a classmate, Balwinder Singh, for a job interview. As soon as they arrived in Ferozepur they were taken into custody and brought to the

police station in Mallalwala, Ferozepur. They were kept in custody for four days. The police interrogated them; after four days they were charged under Section 382 of the Indian Penal Code,<sup>143</sup> remanded to police custody and taken to the Focal Point police station in Ludhiana, where they were kept for four more days.

The police tied my hands behind my back while two policemen on each side pulled apart my legs. A wooden roller, six inches in diameter, and five feet long, was rolled over my legs while four policemen stood on it. They did this until I fell unconscious and when I came to, they would start again. They made me lie on my stomach, and then they placed the roller on the back of my knees and bent my legs back, crushing them against the roller. The police repeated this about six times.

After four days Hardev was taken to the Payal police station in Ludhiana, where he was charged with theft and extortion. He was detained there for three days and similarly tortured. Hardev was then charged with murder.

Hardev was imprisoned for one year in Ludhiana, then transferred to Nabha jail in Patiala. He was released on September 17, 1987, only to be immediately rearrested by the Nabha police. He was held at the main police station in Nabha for one day, then sent to Sahnewal police station and finally transferred the next day to the Payal police station. At Payal the Nandpur panchayat leaders gave the police a statement in writing that they would take responsibility for Hardev's actions. Hardev was released on September 21, 1987. The theft and extortion charges were dropped; the murder charge was still pending.

After Hardev's release, the police came to his house regularly. In one year, the police came 20-30 times, sometimes detaining him for up to four days at the police station.

On March 17, 1989, as Hardev was leaving a court hearing in Ludhiana, a police van came from behind him at Fountain Chowk near the court buildings, and the police arrested him and Sukhdev Singh, a clerk who worked with another lawyer in the courts. Their hands were tied behind their backs and they were blindfolded and thrown into the van. They were taken to the police station Kaup Kalan in

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<sup>143</sup> Section 382 of the IPC defines as a crime: "Theft after preparation made for causing death, hurt or restraint in ... the committing of the theft."



Sangrur district, where they were kept blindfolded with their hands tied for four to five hours. They were then taken to Lohat Baddi police post, in Ahmedgarh, Sangrur district, where they were kept for five days. While they were detained at Lohat Baddi, Hardev's legs were pulled apart, he was tortured with the roller, and his hands were tied behind his back with a rope and then suspended from the ceiling. After the fifth day they were taken to the CIA staff office in Sangrur, Bahadur Singh Wala, Ladha Kothi. Hardev told Asia Watch,

They locked me into a wooden frame ten feet long with holes for the feet. It could hold up to four people at a time. They kept me there for two days, and only released me when I needed to relieve myself. After that the police suspended me by my hands from a pole and turned on a water tap full force into my mouth until I choked. They did this three or four times.

Hardev was questioned about a bank robbery that had taken place in Budewal on March 10, and about a man also charged in the previous cases who had jumped bail. The SSP, the SP Operations and the special police detective supervised the interrogation.

When he was taken to Ladha Kothi, about ten policemen rode in the van, including Subinspector Babu Satpal. Many of the policemen were drunk. They fired into the air and said, "Now we are going to shoot you dead." The van stopped beside a canal. Sukhdev Singh, the clerk, blindfolded and with his hands tied, was made to get out of the van. The police then fired shots in the air and made Sukhdev lie down on the ground. They took Hardev out of the van, and, pointing at Sukhdev, they threatened Hardev, saying, "We have killed him and are going to throw him in the canal. Tell us all you know about the bank robbery and your co-accused or we will kill you and throw you in the canal." Hardev was pulled by the hair, beaten and kicked. They took his kirpan, kangha and kara and threw them away and then blindfolded him and tied his hands with his turban.

Hardev was next taken to Lohat Baddi police post, where he was kept for 15 days before being transferred to Ahmedgarh. He was never produced before a magistrate. He was held in Ahmedgarh for one week, and only released when the village panchayat came with his uncle, a subinspector from the Malerkotla police station, who gave a guarantee in writing that Hardev would be produced again, if needed. The police also demanded that the panchayat leaders guarantee that Hardev would not be medically examined. On April 12, 1989, Hardev was released.

Twelve days later, police from the Sahnenwal police station again arrested Hardev. For the first five days his hands were tied and he was blindfolded continuously. Again he was made to lie down while a roller was pressed on his legs and his legs were pulled apart while he was interrogated. Hardev was released after ten days.

In June and again in August, Hardev was arrested and detained for more than a week, but was not tortured. The police accused him of "giving shelter to militants." On October 30, 1989, the Sahnawal police again detained him for four days and accused him of harboring militants. He was again tortured with the roller and his legs were pulled apart. He has been detained on a number of occasions since then but not tortured again. Out of fear of the police, he has stopped sleeping at his home.

• **Jagjit Singh Sandhu.** Jagjit Singh Sandhu, 52, a farmer from Ludhiana, told Asia Watch that on July 9, 1985, the police accused his son Sukhminder Singh Sandhu of attempting to kill a policeman, SSP A.P. Pandey. That night, a CIA police party of about 15 armed, uniformed men headed by Inspector Santa Singh raided his home. When they could not find Sukhminder, they arrested Jagjit at about 1:00 a.m. and took him to the Jagraon police station, 40 kilometers away near the family farm. At the farm, they searched unsuccessfully for his son and arrested instead the tractor driver, Kartar Singh, and the farm manager, Malagar Singh. All three were taken to CIA Headquarters, Ludhiana, and then to Jagraon at around 4:00 p.m. on July 10.

At around midnight, the interrogation began. First Kartar Singh was taken out of the room. When he returned half an hour later, he was limping. Jagjit was then taken to a room where he was tortured for about half an hour with the roller, having his hair pulled, and having his legs pulled apart. The police questioned him about Sukhminder's whereabouts, to which he replied that he did not know. He told Asia Watch that although he could hardly walk afterwards, the police ordered him to run and threatened to beat him with sticks if he did not. Malagar Singh was not tortured. All three men were released on July 12 at about 8:00 p.m.

About 15 days later, Jagjit was again arrested by DSP Raj Kishan Bedi, who told him that the police suspected that Sukhminder was hiding in the Golden Temple. They ordered Jagjit to accompany them to the Golden Temple to identify Sukhminder. When they could not find Sukhminder at the Golden Temple, the police took Jagjit to Taran Taran to search for Sukhminder at the Barbar Saheb Temple, but again they did not find him. They then returned to Ludhiana. For the

next year, Jagjit's house was raided by the police two or three times every month until Sukhminder left for the United States on July 10, 1986.

In June 1986, Jagjit and Sukhminder's younger brother, Haramjit Singh, 12, were arrested by a police party from the CIA staff in Ludhiana led by Raj Kishan Bedi. Haramjit was taken to a dark room and interrogated. Bedi slapped the boy and made him sit on a beehive. Jagjit was again tortured by having his legs pulled apart. Both were released that evening.

In January 1987, Jagjit was again arrested from his home and charged under sections 107 and 151 of the Code of Criminal Procedure for "breaking the peace." He was detained for 15 days. On May 14, 1987, Sukhminder Singh Sandhu and Ranjit Singh Gill were arrested for illegal entry in the United States. Since then, the family has not been harassed.<sup>144</sup>

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<sup>144</sup> As of August 1991, the two men were still detained in New York pending a court decision on a request from the government of India that they be extradited. Lawyers for the detainees have argued that the court entertaining the extradition request must also consider the mens' claims for asylum. In September 1990, the extradition order was blocked after it was discovered that a confession submitted by the government of India as evidence against the men had been fabricated. Immediately following the ruling, however, the government of India initiated new extradition proceedings. See P. L. Wyckoff, "Extradition of Sikhs Nabbed in Jersey is Denied," *Star-Ledger* (Newark), September 29, 1990.

• **Baldev Singh.** Baldev Singh, a resident of the village of Shahpur in the district of Amritsar, and a salesman in a local cooperative, was arrested by Inspector Mohinder Singh from the Mehta Chowk police station on April 19, 1989.<sup>145</sup> After learning that the police had detained Baldev in a private house about 100 yards from the police station, Baldev's brother, Malkiat Singh, filed a habeas corpus petition in the Punjab and Haryana High Court on June 4, 1989. According to the lawyer who investigated the case, the police responded to the court order by denying that they had Baldev in custody. The court then appointed a warrant officer to find Baldev and produce him.<sup>146</sup> On June 6, Malkiat Singh and the warrant officer attempted to search the house, which reportedly belonged to the head of the village council, but found it locked. Malkiat Singh then called out Baldev's name, and when they heard some sound from inside the house, climbed into the house and found Baldev lying in a greatly weakened state and unable to move. Malkiat Singh carried him out of the house. Although Baldev stated that he had been locked into the house by the police, the SHO denied any knowledge that Baldev had been detained there and Inspector Mohinder Singh stated that Baldev was not wanted in connection with any case.

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<sup>145</sup> Asia Watch interviewed the PHRO lawyer who investigated the case and obtained copies of the PHRO report of the incident.

<sup>146</sup> Although the courts are empowered to appoint warrant officers in such cases, they rarely do so.

The next day, Baldev was again arrested by Inspector Mohinder Singh who took him, along with Malkiat Singh, from the home of a relative. Malkiat Singh was dropped off along the way. For the next two months the family was unable to locate Baldev. On August 9, Baldev's father, Jagir Singh, filed a second petition stating that he believed Baldev was detained at a CRPF rest house outside Amritsar. The warrant officer discovered Baldev at the rest house, describing him as "too weak to walk and ... a skeleton."<sup>147</sup> The CRPF claimed that the local police had brought Baldev to the camp and that they had no responsibility for him. In response to the High Court order that Baldev be produced in court, on August 11 the SHO of the Mehta Chowk police station denied any knowledge of Baldev's detention. Baldev was finally produced in court on August 25 and released on the order of the court. The High Court also ordered medical treatment for Baldev for broken legs and other injuries. According to a report published in *India Today*, police officials claimed that Baldev's detention was a case of "mistaken identity."<sup>148</sup> To Asia Watch's knowledge, no action was taken against the police officials involved.

- **Amrit Pal Singh.** Amrit Pal Singh, 22, the owner of a general store in the neighborhood of Jandiala Guru on Grand Trunk Road, told Asia Watch that in 1988, he worked collecting and delivering milk. A boy named Sarabjit Singh, "Shidu," originally from Batala, had assisted him. Around August 13, a policeman named Harcharan Singh Suri from police station Jandhala arrested Shidu at Amrit Pal Singh's house in Jandiala Guru at about 9:30 p.m. When Amrit asked why the boy was being arrested, the police told him he was wanted in connection with a bomb blast. Two days later Amrit was summoned to the police station. He went with his father, who was sent home after the police told him they only wanted to ask Amrit some questions and that they would then release him.

Amrit was sent to the CRPF interrogation center at Mal Mandi, where he was tied to a chair with his arms back and his legs tied to the legs of the chair. The police attached a wire to his foot and gave him electric shocks to his head, near his eyes, on his lips and cheeks and to his genitals. Amrit told Asia Watch that the wire would be held in place for 30-45 seconds at a time. He was beaten with leather straps and had a roller pressed on his legs. He was suspended from the ceiling with weights tied to his feet. He stated that when he asked for water the police would

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<sup>147</sup> See Amnesty International, *India: Human Rights Violations in Punjab: Use and Abuse of the Law*, May 1991, AI Index: ASA: 20/11/91, p. 16.

<sup>148</sup> See Kanwar Sandhu, "Uniformed Brutality," *India Today*, p. 27. Baldev reportedly claimed that the police who had detained and tortured him had acted on behalf of a rival at the cooperative whose candidate for appointment as salesman had lost out to Baldev. See *Indian Express*, September 5, 1989 [cited in Amnesty International, *ibid*, p. 17.]

only give him very little. The interrogation continued for 18 days, and he was tortured every day for two to four hours at a time. While he was being tortured, the police accused him of "harboring militants" and of "raising slogans in support of Khalistan." Amrit Pal told Asia Watch that throughout the interrogation, a retired DSP, "Bhai" Gurmeet Singh, was always present in the room. At one point the officer who had arrested him, Harchand Singh Suri, demanded that Amrit pay him Rs. 40,000 [about U.S. \$2,200]. About September 2, Amrit was transferred to judicial custody in Amritsar Security Jail. On May 5, 1989, he was released on bail.

Five months later, Amrit Pal traveled to Bhandala village, about four kilometers away from Jandiala Guru, with a friend, Kamaljit Singh, to visit another friend, Nirmal Singh, who was ill with jaundice. They stayed the night there. Early in the morning, about seven or eight armed Jandiala Guru police, headed by SHO Swaran Singh, raided the place and arrested all three men. Their hands were tied and they were blindfolded with their turbans. The men were taken to Jandiala Guru police station and interrogated. They were given electric shocks, suspended from the ceiling and beaten with straps and canes for up to an hour and a half every day. They were detained there for four or five days, and then transferred to Mal Mandi where they were held for another three days before being returned to Jandiala Guru for another six or seven days. All three were charged with possession of a pistol and with trying to avoid arrest. In February 1990, they were released, and the charges of possession were dropped. In his decision, the judge stated that the detention was illegal.

Amrit told Asia Watch that since then, the police detain him whenever the militants call for a strike. Since February 1990, he has been arrested several times.

• **Harbans Kaur.** Harbans Kaur, 38, a staff nurse at the Employee State Insurance Hospital, was married to Charanjit Singh Channi, a village panchayat member and an AISSF activist.<sup>149</sup> Channi had been inside the Golden Temple during Operation Bluestar in June 1984, and did not return home afterwards. In the weeks that followed, the police harassed Channi's family -- coming to their house frequently during the day and night, insulting family members, and taking Harbans to the police station, even during working hours at the hospital. Although she was pregnant at the time, Harbans was made to sit on the floor night and day while she was interrogated about the whereabouts and activities of her husband. At this time there was no case yet registered against Channi.

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<sup>149</sup> For more on the encounter killing of Channi, *see* discussion beginning on p. 75.

In August 1985 the Punjab police charged Channi with conspiring to kill the Sikh leader, Sant Longowal.<sup>150</sup> Channi then went underground. After that, police visits to Harbans' house increased. In March 1987, Harbans' younger sister Jasbir Kaur, 22 at the time, came for a visit with her husband and child. All three were detained for three days, along with Harbans, who was detained with her child. The two children were then both about three years old at the time. Harbans told Asia Watch,

The police used to threaten to kill the children if we did not produce Channi. They beat the children, and none of us were allowed to eat for three days. The police officials got drunk and kicked Jasbir and threaten to rape us. We pleaded with them that we were not on good terms with Channi and did not know his whereabouts but the police did not believe us. They subjected Jasbir to all sorts of humiliation. After three days Jasbir Kaur and the children were released. From then on Jasbir left her children with me.

After that, Jasbir left home and her whereabouts are unknown.

In November and December 1988, Harbans was again detained by police officials in Raikot, Ludhiana, this time without her children. She told Asia Watch,

They used to make me stand for the whole night, insult me and beat up other people in front of me. They threatened to beat me in the same way. After four days they brought me to the Saddar police station in Ludhiana. They held me there for three days. They gave me nothing to eat and threatened to kill my children.

She was released after officials of the hospital employee union met police officials and appealed on her behalf.

In December 1988, Channi's sister, Simranjit Kaur, 34, was arrested by Raikot police in village Talwandi. She was detained for two days; the police threatened to rape her if she did not tell them where her brother was. While she was detained, the police haunted the family home, where they stole money, destroyed

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<sup>150</sup> Channi's uncle Jagdev Singh Talwandi, president of another faction of the Akali Dal, had opposed the Rajiv-Longowal accord. For more on the accord and Longowal's assassination, see p. 22

furniture and prevented the family from cultivating their land. The police also threatened Harbans that they would not allow her to work. Finally Harbans fled the house, taking shelter with another relative. She stayed there for seven months, returning only after she learned that Channi had been killed on June 2, 1989.

After his death, the police came once more to Harbans' house and accused her of harboring terrorists. Her supervisor at the hospital appealed to her neighbors to tell the police that she was not involved in anything illegal. Finally, the police stopped coming and allowed the family once again to cultivate the land.

• **Piara Singh.** Channi's uncle, Piara Singh, 68, a resident of the village of Rattan, in the district of Ludhiana was first arrested in August or September 1986, and was detained for a month in Haldwani, Uttar Pradesh state. Throughout his detention, he was questioned about Channi. Three months later, he was again detained for a week. During his interrogation, the police pulled his legs apart, pressed a heavy steel roller on his thighs, and suspended him from the ceiling. Before he was released, the SHO of the Sudhar police station, Joginder Singh, warned him that if he did not produce Channi within 15 days, he would be subjected to worse treatment. After the 15 days had passed, Piara was again detained and subjected to the same forms of abuse. In an affidavit, Piara described the effects of the torture on his body:

This time my detention being longer, the condition of my arms and legs was so damaged that I could hardly walk. I was unable to eat with my own hands.... During this detention, the policemen used to feed me with their own hands, as I was unable to use my own hands.

Since his release, Piara stated that he has been detained "more than 50 times," and that many members of his family, including his mother-in-law, his sons and daughters-in-law, have also been detained.

• **Takhat Singh Jathedar.** Takhat Singh Jathedar, a resident of Ludhiana, was arrested on September 1, 1989, by police from the CIA staff in Ludhiana, led by Inspector Shiv Kumar. In a petition to the director general of police dated October 2, 1989, Takhat Singh stated that on the orders of the SSP, Sumedh Singh Saini, he was stripped naked and beaten with fists. Saini and Shiv Kumar accused him of "speaking ill" of the police at the bhog ceremony for Channi. He was again beaten and his legs were pulled apart. Then he was taken to another room where a Sikh youth was lying. He stated that the youth had been tortured so severely he



could not move. Saini told Takhat Singh that the youth was a militant named Nishan Singh Bhaini. Afterwards, Takhat Singh was taken to another room where Saini threatened to detain his wife and daughters and subject them to the same treatment.

On the intervention of city leaders, Takhat Singh was released on September 3. He was treated at the civil hospital for contusions on his legs and chest. Shortly after his release he read a newspaper report that Nishan Singh Bhaini had been killed in an encounter near Khammon on the night of September 3.

• **Torture and Assault in Thaniwal.** In some cases, entire villages have been subjected to harassment and assault during sweep operations. Asia Watch investigated one such incident that took place on August 29, 1990, after a bomb blast damaged a CRPF vehicle on the road near Talwandi, Phuwan, in Gurdaspur district. According to local residents, no one was injured in the blast. At around 6:30 p.m., CRPF police from the Tenth Battalion headquarters in Thriawal village arrested two men, Satnam Singh and Karar Singh, on the outskirts of Thaniwal. The next day, the CRPF forced their way into the gurdwara while readings were going on and, over the public address, ordered all male villagers between the ages of 14 and 75 to assemble immediately in front of the primary school.

Gurtaj Singh, a life insurance agent and resident of the village, told Asia Watch that the CRPF conducted a house-to-house search until 9:30 a.m. The men were kept at the school until the search was over, and then about 65 of them were taken to the battalion headquarters. When the women tried to stop the police from taking the men, the CRPF police threatened to shoot.

Malik Singh, the sarpanch of the village, quoted the police as saying, "These young men are killing our forces, so we will shoot them." At the CRPF headquarters, the men were tortured and interrogated about the bomb blast and about the whereabouts of militants. The officer behind the interrogation was Rattan Singh, the subinspector of the Kathunangal police station; the commander of the Tenth battalion supervised. Malik Singh told Asia Watch, "Rattan Singh accompanied the CRPF, and whenever he was at headquarters, the torture became worse."

On August 31, about 35 women and about 70 elderly men from the village came to the CRPF headquarters at around 10:30 a.m. to demand the release of the men. The CRPF threatened to shoot them if they did not leave. During this time, the

CRPF continued to patrol the village and interrogate residents about whether they had given shelter to the militants.

Malik Singh told Asia Watch that most of those detained were beaten with a belt (in some cases filled with nails), branches of eucalyptus and rifle butts. Some of the men were given electric shocks. When detainees asked for water, they were refused. Malik stated that most of the men were released by 4:00 p.m. Four of the men were taken to the Kathemangal police station: Sucha Singh, 21, was released after 2 days; Sarabjit Singh, 15, and Navinder Singh, 35, after five days; and Sulakhan Singh after 18 or 19 days.

Sarabjit Singh, a textile worker, told Asia Watch,

When I arrived at CRPF headquarters, there were about 80 other people sitting on the ground. I could hear the cries of men who were being beaten. Then I was taken by two policemen into a room where there were another 10-12 CRPF. They pushed me to the wall, then made me lie on the ground. Four or five policemen stood on my legs and arms and neck while one policeman beat me with a leather belt with nails in it, about 70-80 lashes. It cut me in the back. One policeman put his fingers into my mouth and pulled my lips apart. Another policeman kicked me in the back and in the head about 10 times, punched me in the head and twisted my arm. The beatings continued for about half an hour. I fell unconscious for some time, and when I came to the police took me to another room where two other men from my village were lying unconscious. One of them had a broken arm from being beaten. I stayed in that room until about 5:30 when I was taken to the police station. I was held at the police station for five days before being released.

Garib Singh, 20, a laborer, told Asia Watch that he was similarly beaten at CRPF headquarters.

A CRPF policeman dragged me into the room where there were 10-12 CRPF policemen. I was thrown on the floor and 4-5 policemen stood on my body while another policeman beat me with a belt about 100 times on my back. I was kicked 15-20 times. During the beatings the police said to me, "Tell us about the people of your village who are terrorists." Two policemen

pulled my legs out at a 180 degree angle, while another policeman took a six inch knife and stabbed me in the groin. The wound was a half inch deep and three inches long. The police also beat me on the back of the neck and the legs with a cane. I was made to sit in a chair and given electric shocks to my abdomen and to my right knee for about ten minutes until I lost consciousness. When I came to I was in another room where there were two other men from my village. I was released at 1:00 p.m.

Kashmir Singh, 25, a farmer, told Asia Watch,

At 8:30 I was taken to CRPF headquarters, where I was made to sit in an open yard until 2:30 p.m. when I was dragged into another room. I was made to lie on the ground while four CRPF policemen stood on me and one policeman beat me on the back with a belt and a cane for about 40 minutes. Then I was made to sit in a chair, and a wire from a plug on the wall was placed on the inside of my left elbow and held there for about two minutes. They kept saying to me, "Tell us about the terrorists who come to your village," but I told them I didn't know anything. Then they beat me some more, kicking me in the ribs and punching me in the neck. I lost consciousness, and when I came to they kicked me and put me in another room. I was released about 3:30 p.m.

When Asia Watch interviewed Kashmir Singh in early December, 1990, a burn mark that had apparently been made by the wire was clearly visible.

Sulakhan Singh, 65, a farmer, told Asia Watch that when he was taken to CRPF headquarters, he was not beaten, although the police pulled out parts of his beard. At 7:00 p.m., he was taken to the Kathunangal police station, and the next day he was transferred to Lopoke police station in Amritsar where he was kept chained to a window for six days. While he was there he was given only one meal a day. He was interrogated about his son, whom the police accused of being a militant. Then he was transferred to Kotwali police post near Lopoke in district Majitha. He was again kept in chains in a room for 12 or 13 days before he was released. No charges were ever brought. Sulakhan had been arrested a year earlier. At that time, he was detained at the police station for one month, and in Amritsar Central Jail for another month.

• **Charan Kaur and Manjit Kaur.** Charan Kaur, about 40, the widow of Beant Singh, from Mahal, in district Amritsar, and her daughter, Manjit Kaur, about 20, told Asia Watch that on May 17, 1990, at 9:00 p.m. they noticed a motorcycle parked in front of the house. At 4:30 a.m., a dozen or so policemen in uniform entered the house while the two women were asleep. They took Charan Kaur to the main police station in Amritsar. Two hours later after a fruitless search of the house for arms, they returned and brought Manjit in as well.

At the police station, Charan was slapped by Subinspector Balkaar Singh in the presence of two subinspectors, one head constable and four constables. They asked her whose motorcycle was outside her house, but she told them that she did not know. Manjit was then taken to the residential quarters of the police officials that was located next to the station. She was interrogated by five or six men, two in uniform. Her legs were pulled apart, and she was tortured with the roller by Balkaar Singh. Her hands were tied behind her back and she was suspended from the ceiling by a rope. This continued from 11:00 a.m. to noon. When she began to cry, the policemen left her alone. After that she was brought to the police residence where she and Manjit were left together in the same room for the rest of the day without further questioning. A female constable stood guard.

The women remained in that room for four more days and were not questioned or mistreated during that time. On the morning of May 21, a policeman slapped them and warned them not to tell the judge or magistrate what had happened. At 2:30 p.m. that afternoon they were brought before the court and remanded to the police for further interrogation for two days. At the hearing the police claimed that on May 20 they had found Charan concealing the motorcycle. They also stated that they were charging Manjit with possession of five live cartridges that they claimed to have found in the house.

After the hearing the two women were brought back to the police residence. For two more days, the police threatened to kill them if they did not reveal who had parked the motorcycle. The women were sent to judicial custody on May 23. Three weeks later they were released on bail.

On August 13, 1990, while charges against them were still pending, Charan Kaur and Manjit Kaur were rearrested. At around midnight a group of some 20-25 police from the main station in Amritsar, some in uniform, arrested them along with Charan Kaur's son Surjit Singh, 22, and his wife, Harmit Kaur, 18 or 19, who lived in the same house. (Charan Kaur's younger son Gurmit, age 15 or 16, escaped to a neighbor's house.) While they were being taken, Charan called out to

her brother-in-law, Kabal Singh, for help, but the police threatened to arrest him too.

Upon arrival at the police station in Amritsar, Charan was brought to the same room where she had been detained previously. For two hours she was again beaten, kicked and tortured with the roller. She told Asia Watch,

After two hours I fell unconsciousness and my mouth tightened so that my teeth were clenched. The police tried to open my mouth with a spoon to revive me and they cut my mouth. Then they accused me of feigning unconsciousness.

Charan was moved to the main police station, joining the other three.

After that, Surjit Singh was taken to the interrogation room where he was tortured with the roller and by having his legs pulled apart. Harmit Kaur was made to lie on her stomach and beaten with a leather strap. She told Asia Watch that the police accused Surjit Singh of kidnapping her, saying she was not his real wife. Manjit was slapped on the face and her hair was pulled.

The next day village leaders came to the police station and secured the release of Surjit Singh and Harmit Kaur at 5:00 p.m. Charan and Manjit remained in detention where they continued to be interrogated about the motorcycle. The police accused them of allowing weapons to be hidden in the house, threatening to kill them if they did not confess.

On August 16 the police contacted the village leaders and asked them to take the women home. Charan Kaur continued to suffer chest pains and bleeding in her mouth.

• **Harcharan Singh.** Harcharan Singh, a student at the Polytechnic College in Amritsar, was first arrested in May 1986. He was charged with possession of a revolver and was jailed for 11 months, first at Amritsar central jail, and then at Nabha jail in Patiala. He was released on bail in April 1987.

Nine months later, on January 17, 1988, police from the CIA staff in Patiala raided the home of Harcharan's two sisters in Chandigarh and arrested another relative, Ranjit.<sup>151</sup> The sisters were told to produce Harcharan Singh if they

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<sup>151</sup> Not his real name.

wanted Ranjit released. On January 19, their father brought Harcharan to the CIA staff in Patiala where the police said that Harcharan was wanted because he had purchased a car and was planning to go to Pakistan. Ranjit was released.

Harcharan was kept at the CIA staff in Patiala for ten days. According to a family member, after his release ten days later, his legs were swollen and he could not walk. He told his sisters he had been given electric shock. No charges were brought against him, and he was never brought before a judge or a magistrate.

At about 6:00 a.m. on July 15, 1988, 15 to 20 Chandigarh and Punjab police conducted a search of the sisters' house and questioned them about Harcharan Singh's whereabouts. The police arrested the father from the house and took him to the Sector 19 police station. From there he was taken to the central police station in Amritsar where he was detained until July 20, when he was released on orders to produce Harcharan. Later that day, family members brought Harcharan to the Chheretta police station in Amritsar. Harcharan was accused of stealing a scooter and was detained there for five days. He told his family that while in custody he was suspended upside down, beaten with canes and leather straps, a heavy roller was pressed over his thighs, and he was given electric shocks on the back of the neck. He was released on bail in December 1988.

Harcharan was married in June 1990. At 7:00 a.m. on August 11, he and his wife, Paramjit Kaur, were arrested from their home in Dadu Majre, Chandigarh, by police from the CIA staff in Chandigarh and were taken to the police station in Sector 39. When Harcharan's father learned of the arrests, he sent Harcharan's cousin to tell Harcharan's sisters in Chandigarh. When the cousin returned to the village, both he and the father were arrested and taken to the Sector 39 police station in Chandigarh.

At 11:00 a.m. police came to the sisters' house in Chandigarh, grabbed Ranjit and beat him with their fists and slapped him; they also searched the house. The police confiscated clothing and papers from a second-floor apartment rented by two students attending Chandigarh University. They also took video cassettes of a family wedding and audio cassettes of songs and religious hymns, alleging that the cassettes contained terrorist propaganda. The police also took all the women's jewelry, the family's wrist watches, and Rs. 2,500 [about U.S. \$140] in cash. They ordered the family's tenants not to pay rent.

The police arrested Ranjit and told the family that they were taking him to Ropar. The family was ordered not to leave the house without permission from the

police. After a few minutes, the police returned and asked one of the sisters where she worked. When she told them she worked for a lawyer, they ordered her to come with them. The police blindfolded her and Ranjit and took them to the Sector 39 police station in Chandigarh. At the police station they were separated from each other, and she was kept alone. Ranjit was detained with the father and a cousin. Harcharan and his wife, Paramjit Kaur, were also detained separately.

The sister was blindfolded and accused of being involved in a bank robbery. She was also interrogated about Harcharan's activities. She told Asia Watch that while she was being questioned she could hear the cries of Harcharan and Paramjit Kaur. After four hours her blindfold was removed, and Paramjit Kaur was brought into the room for a few minutes. She was walking with difficulty. The women were not allowed to talk. At about 6:30 p.m., Paramjit Kaur was again brought into the room, and she and the sister were permitted to talk. Paramjit Kaur told her sister-in-law that she had been beaten with canes and leather straps on the soles of the feet, her legs had been pulled apart and the police had pressed a heavy wooden roller over her thighs. After that she was blindfolded and taken to the room where Harcharan was detained. The police told Harcharan that they would molest Paramjit in front of him if he did not disclose the names of terrorists he was harboring.

The next morning the police brought the sister to the room where Harcharan was detained and also threatened to rape her and charge her with a crime. Harcharan could not move his hands and had difficulty standing. After 10 minutes, the sister was taken back to the other room where she and Paramjit Kaur were asked for the names and addresses of relatives and friends whose photographs were in the album the police had taken from the house.

Half an hour later, the women were transferred to the Sector 26 police station in Chandigarh. Later that day their father, the cousin and Ranjit were also brought there. On August 13 at about 4:30 a.m. a neighbor, Satinder Singh, 19, was arrested and brought to the police station. He was taken to an adjoining room; the sister and Paramjit Kaur heard him cry out. When Paramjit was taken to the room, she saw Satinder lying on the ground, his legs pulled apart; a policeman was pulling his hair, and blood oozed from his nose and mouth.

After the August 11 raid, policemen remained posted outside the family home. A number of other relatives and family friends were arrested on August 12, including two relatives and the brother of Balcharan Singh, a friend of Harcharan, and another friend named Paramjit Singh. The two relatives were released on the

intervention of a DSP, who happened to be related to the family. The police told Balcharan's family to produce Balcharan if they wanted to secure the release of his brother. The family brought Balcharan to the police station on August 14 and Balcharan's brother was released. The other family members -- the sister, the cousin, the father and Ranjit -- were released at 10 p.m. on August 15. Harcharan, Paramjit Kaur and Balcharan remained in custody. The police demanded that the family pay Rs. 50,000 [about U.S. \$2,780] for the release of Paramjit Kaur, claiming that the money was to compensate for what had been stolen in the bank robbery. On August 16, the family went to the Sector 26 police station and gave police officials Rs. 10,000 [about U.S. \$560].

On August 17, Harcharan, Paramjit Kaur, and Paramjit Singh were charged with possession of a stolen car and explosives. The police claimed that Paramjit Kaur and Paramjit Singh had come in a stolen car to Sector 36 and were digging up the explosives they had buried there when they were caught "red-handed" on August 16. Harcharan, Satinder Singh and Balcharan Singh were charged with bank robbery and arms possession. The police claimed that the three had been coming in a car from Dadu Majra when they were intercepted at a checkpoint and that a search of the car had revealed an AK-47 rifle, revolvers and cartridges.

On August 18 or 19, the family went to their village house in Dadu Majra and found that furniture, clothing, utensils, and a scooter had been taken. Neighbors told them that the police had brought a truck and removed everything on August 12. The father told Asia Watch that every 15 days after his release, he has been called to the police station in Sector 19 and ordered not to collect rent from his tenants and to provide information about all persons visiting the house. Out of fear of the police, all of the tenants left.

Paramjit Singh and Paramjit Kaur were sent to Burail jail in Chandigarh on August 18. Harcharan and Balcharan were sent on August 29, and Sarabjit was sent some time before August 29. The police also accused Kuldip Singh, a lawyer, of allowing the family to use his telephone to communicate with militants. When he told them that all long distance calls must be booked through the postal department, and the police could easily check the records there, the police ordered him to stop helping the family.

• **Pradip Singh.** Gurnam Singh, a resident of Chandigarh, told Asia Watch that in 1988 he learned from a newspaper report that his son, Pradip



Singh,<sup>152</sup> had been arrested by police from the Samana police station in Patiala and charged with two counts of murder and with possession of a hand grenade. Twenty days after he learned of the arrest, Gurnam saw Pradip in the Faridkot jail. Pradip told him that while he had been detained in the Samana police station, he had been beaten.

At end of June or beginning of July, 1989, police from the Payal police station, including the subinspector, one ASI, and several constables, came to Gurnam's house. They arrested Gurnam and took him to the Payal police station where he was stripped and forced to lie on his stomach with his hands above his head. A wooden roller was placed on the back of his knees and his legs were pulled up against the roller. After that, Gurnam's hands were tied behind his back and his legs were pulled apart. The police also pulled his hair and beard. Gurnam told the police that Pradip was in Faridkot jail, but the police refused to believe him. He then told them that Pradip was in a house in Sector 27, and the police stopped beating him. At 2:00 a.m. the police took Gurnam to the house of Surinder Singh, who had been detained at Faridkot jail with Pradip. Surinder's father showed the police a letter from jail in which Surinder said that Pradip was detained with him.

The police then took Gurnam back to the Payla police station, where he was detained for another three days and released after his daughter told reporters that he had been kidnapped by the police. He was released on the condition that he come again after one week but when he did, he quarrelled with the subinspector until one of the head constables asked him to leave. In January 1990 Pradip was released on bail. Six months later on June 4, he was arrested again. When he had been missing for four days, the family made inquiries with officials at the police stations in Chandigarh, to no avail. On June 6, Gurnam sent telegrams about the arrest to the governor of Punjab and to the inspector-general of police.

On June 12, Gurnam met with Harmohan Dhawan, a former member of Parliament, who telephoned the Chandigarh SSP, R. P. Singh. R. P. Singh said there had been some arrests but he did not know whether Pradip was among them; he would look into it. On June 13, Dhawan again telephoned the SSP who said that "the matter was very serious, as the police had recovered a lot of arms and ammunition from Pradip and Surinder Singh." Later that day, Gurnam met with R. P. Singh in the police station and was told to come in the evening to the Sector 11

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<sup>152</sup> Gurnam Singh's oldest son Sukhdip was killed in an "encounter" in 1987. For more on the incident, *see* the discussion beginning on p. 82.

police station to see Pradip. When Gurnam saw Pradip, he was limping and had a wound on his right ankle. Both of his feet were swollen. Pradip told Gurnam that he had been charged with arms possession, robbery and intent to rob a bank.

The next day, Gurnam met with Pradip again and gave him some ointment for his wound. Later that day, Pradip was transferred to the Sector 11 police station. After several weeks in police custody in Mohali and Kharar, Pradip was sent to Sangrur jail. He was granted bail in the two cases of extortion, and as of December 1990 was imprisoned in the Burail central jail in Chandigarh. Gurnam told Asia Watch that he continues to be harassed with frequent arrests.

• **Ravinder Singh, Turlochan Singh and Avtar Singh.** Karamjit Kaur, 22, a resident of village Chunni Kalan in district Ropar, told Asia Watch that on the afternoon of November 11, 1990, her husband, Ravinder Singh, along with Turlochan Singh and Avtar Singh were riding a tractor when they were arrested. The detention was announced over the public address system of the gurdwara. Another police party came to the village at 6:00 p.m. and arrested Karamjit's sister-in-law, Sukhwinder Kaur, and an uncle, Choga Singh. In the jeep, the police beat Sukhwinder and Choga with canes. That night the police returned to the house, releasing Choga and Sukhwinder but arresting Karamjit and Maha Singh, another uncle. Karamjit had a four-month old baby; they were both taken to the Kharar police station. The police told Karamjit they wanted her to talk to her husband; once at the police station, however, she was not permitted to see him. She was not searched, and the police did not tell her why she was detained.

On November 13 Karamjit was produced in court and charged with possession of 25 live cartridges and was sent to the central jail in Patiala, along with her baby. She was released on bail on November 16.

Harband Singh, 65, the father of Turlochan Singh, told Asia Watch that when he first learned of his son's arrest he went to Chandigarh along with another son, Sucha Singh, and the father of Avtar Singh. In Chandigarh, they went to the office of the newspaper *Tribune* where they reported the arrest. Inquiries at the police stations were fruitless. At 8:00 a.m. on November 12, Harband was told that the men were being held at the Sirhind police station. With the intervention of an inspector and the policeman from the Patiala police station, Harband was permitted to see Ravinder Singh, Turlochan Singh, and Avtar Singh -- from a distance. He told Asia Watch that all three men were sitting in one room and that Avtar was ordered to sign some papers. He said that when Avtar left the room, he limped.

On November 13, a report published in the Punjabi edition of the *Tribune* stated that the three men had been charged under the Arms Act after an encounter with the police in the village of Nandpur, Kalor, Patiala, alleged to have taken place on the night of June 12. On November 17, Maha Singh filed a petition with the governor, the district commissioner and the director-general of police requesting an inquiry into the incident.

On November 28, Harband was permitted to meet the men. They told him that they had been tortured by having their legs pulled apart, being hung from a cane placed under their arms across the back and having an iron roller pressed on their legs.

None of the men had been arrested before. At the time of the Asia Watch visit in December 1990, there had been no official response to the request for an inquiry.

- **Atinder Pal Singh.** Atinder Pal Singh was arrested on September 9, 1988, in Patiala as he was traveling on a motor scooter. The police falsely recorded his arrest as happening on October 4, 1988. In an affidavit submitted to the Supreme Court of India, Atinder Pal Singh stated that for the first four to five days he was in custody, he was interrogated as he was handcuffed, with leg irons and a black hood over his head. He was beaten with canes, and because he was hooded, he could not tell who beat him or when he might be struck. The police accused him of being part of the conspiracy to assassinate Prime Minister Indira Gandhi and of being involved in a series of bomb explosions in New Delhi in September 1988.

I could just feel the pain after receiving *lathi* ("cane") and as I turned my head towards the side from which the blows were coming some other blows came from the other side.... I was made to sign 50-60 blank papers.

Throughout much of his detention, Atinder Pal Singh was kept in solitary confinement. In addition to being beaten he was subjected to other forms of torture which he described as follows:

I was made to sit on the floor and after stretching my waist, I was tied to a pillar and thereafter my both hands were also tied to the pillar in the manner as someone hugs somebody.... Two policemen caught hold of my legs and stretched them. After that a heavy iron pipe was kept on my thighs and three policemen mounted on the said iron pipe and they started

rolling that pipe with their feet from knees up to my hip joints.... My mouth was stuffed with cloth pieces so that I could not scream ... as a result of this, the flesh and nerves in the upper portion of legs as well as my sexual organs have been completely benumbed and destroyed.... [Then] I was made to lie straight on the floor on my stomach; my hands were stretched forward by two policemen and a heavy log in the cylindrical shape was placed on my knee-joints; my legs were stretched downwards and then folded, and in order that my legs should touch my buttocks, one policeman sat on my folded legs, and two policemen (one on either side of the leg placed in between the knee joints of my leg) mounted, and they started swinging upwards and downwards like children swing in a seesaw game.

As a result of this treatment, Atinder Pal Singh was unable to walk. Afterwards he was again tied to a pillar, this time by his hair.

Thereafter, my legs were pulled straight and then stretched to a 45 degree angle from each other and then they started gradually increasing the gap between my legs ... by increasing the gap they clave out the buttocks. This process was repeated twice and when the police people again repeated the same process the third time, the flesh of my buttocks was torn and a profuse bleeding started.

The injuries required stitches. Afterwards the police continued the torture.

They tied my hands with a thick rope by stretching my hands on my back side and then they hung me by the ceiling and thereafter they started pressing downwards the back portion of my neck continuously and then pulling my legs downwards while my body was hanging.... I fell unconscious ... and in order to ascertain whether I had really fallen unconscious or I was just acting by pretending to be unconscious, they scratched the flesh of my ankles and then they applied salt and chili powder on the wound.

As a result of having been suspended from the ceiling in this manner, Atinder Pal Singh suffered two dislocated ribs. He was also subjected to beatings on the soles of his feet, breaking several toes, and he was beaten with chains and given electric shocks to his penis, chest and temple. He was also deprived of food and sleep. After several days' reprieve, the torture resumed.

My both legs were stretched out and on both sides of my sexual organs, on the joints of my thighs, a boiling hot wax was poured ... the police people inserted red chilies inside my rectum ... [saying] "This will now give you trouble for the rest of your life...." [Then they] applied petroleum on my anus. This gave me such a bitter pain I was yearning for my death to come.... During the course of my torture I was unclothed and kept completely naked.

Throughout this torture, Atinder Pal Singh testified that senior officers of the Intelligence Bureau, Central Bureau of Investigation and Delhi police, among others, were present. Atinder Pal Singh, who had been elected to Parliament in the November 1989 elections, was released from jail on July 7, 1990. All charges against him were withdrawn.<sup>153</sup>

#### **Arbitrary Arrest and Detention without Trial**

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<sup>153</sup> "Atinderpal Released from Jail," *Telegraph*, July 8, 1990.

Thousands of persons<sup>154</sup> have been detained in Punjab and held without charge for periods ranging from a day to several months or longer. In some cases persons have been held for more than a year under either the National Security Act (NSA) or the Terrorist and Disruptive Activities Act (TADA). Both laws permit administrative detention without due process on broadly defined grounds. However, the National Security Act only provides for administrative detention. The TADA specifies criminal charges; a person charged under TADA, if tried and convicted, may be sentenced to a prison term ranging from three years to life imprisonment, or even death. In some cases, the two laws have been used sequentially. In 1987, then Director General of Police, Julio Ribeiro, stated, "We have put 52 such persons away for two years under the National Security Act. Then we will try them under TADA and that should keep them in custody for another year or two."<sup>155</sup> Detainees have also been tried under the Terrorist Affected Areas Act, which, like TADA, provides for *in camera* trials and permits the identity of witnesses to be kept secret.

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<sup>154</sup> According to a Punjabi lawyer who has conducted an extensive study of prison conditions in Punjab, as of late 1990 of the 20,000 persons in jail in Punjab, more than 10,000 had been charged under anti-terrorism legislation. In May 1991, Home Secretary A. S. Chatha stated that there were 1,300 youths detained in Punjab, of which the government planned to release 250 against whom there were "no serious charges." According to one press report, however, senior police officials acknowledge privately that the actual number of detainees is in the thousands. See Monimoy Dasgupta, "Punjab Govt to Release 250 Youths," *Telegraph*, May 12, 1991. In May 1991, the government of India informed Amnesty International that "1,000 to 3,000" persons are arrested under the Terrorist and Disruptive Activities Act every year. The government did not say how many were detained at that time.

<sup>155</sup> As quoted in Amnesty International, "India: A Review of Human Rights Violations," August 1988, AI Index: ASA 20/02/88, p. 6.

Many of those detained have been held for interrogation because they are suspected of engaging in militant activity, harboring militants or merely sympathizing with the militant cause. Many others have been detained without charge or on charges sufficiently vague to cover the peaceful exercise of the rights of free speech and assembly.

Several treaties have established applicable international standards with respect to administrative detention. The International Covenant on Civil and Political Rights (ICCPR), to which the government of India is a party,<sup>156</sup> states:

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<sup>156</sup> As quoted in U.S. House of Representatives, Committee on Foreign Affairs, Human Rights Documents (1983) at 658, the government of India qualified its ratification of the International Covenant with the following declaration:

II. With reference to article 9 of the International Covenant on Civil and Political Rights, the Government of the Republic of India takes the position that the provisions of the article shall be so applied as to be in consonance with the provisions of clauses (3) to (7) of article 22 of the Constitution of India. Further, under the Indian Legal System, there is no enforceable right to compensation for persons claiming to be victims of unlawful arrest or detention against the State.

This declaration detracts from India's obligation to comply with Article 9, clauses 2 (right to be informed of charges at time of arrest), 3 (right to be brought promptly before a judge for trial within a reasonable time) or 5 (right to compensation for unlawful detention) of the International Covenant on Civil and Political Rights. In addition, the United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Punishment, adopted by consensus by the General Assembly, guarantees the

No one shall be subjected to arbitrary arrest or detention.... Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.... Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."<sup>157</sup>

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right to be informed of charges and the right to appear before a judicial authority. Asia Watch urges the government of India to reconsider its qualified ratification of the ICCPR.

<sup>157</sup> International Covenant on Civil and Political Rights, Article 9.



The ICCPR also mandates public trials before independent and impartial tribunals, as well as a number of safeguards to ensure that trials are fair. These include the presumption of innocence, the right to be informed promptly of the charges, the right to prepare a defense, the right to be tried without undue delay, the right to have counsel and to be present at trial, and the right to examine witnesses.<sup>158</sup> Governments may take measures derogating from these protections where a "public emergency" exists "which threatens the life of the nation and the existence of which is officially proclaimed." However, such measures may derogate only "to the extent strictly required by the exigencies of the situation."<sup>159</sup>

In addition, the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by consensus by the United Nations General Assembly on December 9, 1988, sets forth standards which are universally applicable.<sup>160</sup> The principles reiterate many of the protections provided in the ICCPR and also state:

Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is being kept in custody. (Principle 16)

It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against another person. (Principle 21)

No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement. (Principle 21)

Asia Watch gathered numerous eyewitness testimonies which confirm that government forces in Punjab have consistently and flagrantly violated these standards. Persons detained in Punjab are frequently held for prolonged periods in police custody without being informed of the charges against them. They may be

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<sup>158</sup> International Covenant on Civil and Political Rights, Article 14.

<sup>159</sup> International Covenant on Civil and Political Rights, Article 4.

<sup>160</sup> U.N. General Assembly Resolution 43/173.

detained anywhere and frequently are not permitted any contact with lawyers or family members unless they are remanded to judicial custody and transferred to prison, and only then if the family on its own is able to locate the detainee.

Security forces routinely employ methods of torture, severe beatings and other forms of mistreatment and threats to induce detainees to sign statements of confession or to identify suspected militants. Both the TADA and the National Security Act have facilitated these abuses by suspending ordinary safeguards against arbitrary arrest, incommunicado detention and torture.

### **The National Security Act**

India's National Security Act of 1980 permits the detention of persons without charge or trial for up to one year. The act was amended in 1984 to permit detention for two years in Punjab. Under the act, the government may detain persons engaged in behavior "prejudicial to the defence of India, the relations of India with foreign powers, or the security of India."

The original act of 1980 provided for an advisory board made up of persons who had been, or were qualified to be, judges of a High Court, all of whom were to be appointed by the government. In most cases, the National Security (Amendment) Act of 1984 grants officials four months and two weeks before they are required to notify the advisory board of the grounds for detention.<sup>161</sup> After reviewing the case, the Board is to determine whether there is sufficient cause for the person to remain in detention. The National Security (Amendment) Act of 1984 extended from seven weeks to five months and three weeks the period before which the Board is required to report to the government its opinion as to whether there is sufficient cause for continued detention. If the Board finds the grounds for detention insufficient, the Government is to revoke the detention orders and release the detainee "forthwith." Even so, a person may have been detained under the Act for nearly six months before that decision is reached.<sup>162</sup> Furthermore, the detainee

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<sup>161</sup> The National Security (Amendment) Act of 1984 extended this period in cases where the person was detained "with a view to preventing him from acting, in any disturbed area, in any manner prejudicial to the defence of India; or the security of India; or the security of the State; or to the maintenance of public order; or the maintenance of supplies and services essential to the community."

<sup>162</sup> Justice V. M. Tarkunde, "A Legal Commentary," *Black Laws 1984*, People's Union for

has no right to appear before the advisory board, and the findings of the advisory board are confidential.

A detainee held under the act has virtually no opportunity to file a habeas corpus petition until the grounds for detention are communicated to him. Because the amended act extends the period before which a detainee must be informed of the grounds for his detention from 10-15 days, it effectively prolongs the period before which a detainee has recourse to habeas corpus.

The amended act also revises Section 14 (2) of the 1980 National Security Act which had required that a fresh detention order could only be issued if new facts arose. Under the amended Act, detention orders may be renewed on the original grounds, provided the total period of detention does not exceed 12 months.

#### **The Terrorist and Disruptive Activities (Prevention) Act (TADA)**

The TADA has been widely used in Punjab against persons suspected of having ties with militant groups. The act (as amended in 1987) authorizes administrative detention without formal charge or trial for up to one year. The TADA virtually criminalizes free speech. Under the TADA, anyone who "knowingly facilitates the commission of any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to a term of life and shall also be liable to fine." A disruptive activity is defined as

any action taken, whether by act or by speech or through any other media or in any other manner whatsoever,

(i) which questions, disrupts or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India; or

(ii) which is intended to bring about or supports any claim, whether directly or indirectly, for the cession of any part of India or the secession of any part of India from the Union.

The lengthy one-year period of permissible detention before trial violates Article 9 of the International Covenant which provides, "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."<sup>163</sup>

Under ordinary law a detainee may be held in police custody after remand by the court for a maximum of 15 days before being transferred to judicial custody. (Remand may be renewed.) However, under section 20 of the TADA, a detainee may be held in police custody for up to 60 days. The extended period of police remand substantially increases the risk of torture. In addition, under the TADA a detainee need not be produced before a judicial magistrate, as is the case under ordinary law, but instead may be produced before an "executive magistrate" -- that is, an official of the police or administrative services who is not answerable to the High Court.

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<sup>163</sup> In addition, Principle 11 of the U.N. Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment provides:

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial officer or other authority.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefore.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Similarly, Principle 32 of the U.N. Body of Principles provides: "A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful."

Trial procedures under the TADA violate international standards of due process. As noted above, although the fair trial and due process guarantees contained in the ICCPR may be suspended during a time of officially declared emergency, the wholesale nature of such suspensions in Punjab and the broad use of anti-terrorist legislation to arbitrarily detain political opponents of the government indicate that such derogations have not been limited "to the extent strictly required by the exigencies of the situation."

Among the deficiencies in the trial process provided for in the TADA are the following:

- Under the TADA, all proceedings before a designated court shall be conducted in secret "at any place other than [the court's] ordinary place of sitting." Article 14 of the ICCPR states:

In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

- The TADA in section 16(2) permits the designated court to keep the "identity and address of any witness secret." This provision is in direct contravention of Article 14, section 3(e) of the ICCPR, which guarantees each defendant the right "[t]o examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him." In circumstances of internal armed conflict, Common Article 3 of the Geneva Conventions provides: "(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples" shall be "prohibited at any time and in any place." Accordingly, if there is a war underway, the TADA violates the Geneva Conventions; if there is not a war, it violates the ICCPR.

- The TADA reverses the presumption of innocence, placing the burden on the accused to prove he is not guilty. This is a violation of international standards and of Indian law. Section 21 of the TADA states that in cases of persons accused of terrorist acts where arms or explosives are recovered or where "there is reason to believe that such arms or explosives ... were used, or where fingerprints are discovered," or where "a confession has been made by a co-accused," or the accused has made a confession to someone other than a police officer, then the court "shall presume, unless the contrary is proved, that such person has committed the offence." In cases in which a person has been accused of conspiracy in or abetting in any way the commission of a terrorist act, if the person is accused or "reasonably suspected of providing financial assistance" for the commission of the act, the person shall also be presumed guilty.

- In addition to the above measures, the TADA effectively amends India's Criminal Procedure Code and the Indian Evidence Act<sup>164</sup> to allow the introduction into evidence of extra-judicial confessions made to a police officer "not lower in rank than a superintendent of police and recorded by such a police officer either in writing or on any mechanical device like cassettes, tapes or soundtracks ... [as] admissible in the trial of such person for an offence under this act ... [if the police officer] has reason to believe that it is being made voluntarily." This provision substantially increases the risk of torture.

Moreover, section 19 of the TADA limits the right of the accused to appeal until the very end of trial and then only to the Supreme Court, effectively eliminating the High Court as an appellate review body. For many persons the financial burden of seeking Supreme Court review are prohibitive.

In September 1990, the government of Punjab issued guidelines to senior police officers which included requirements that cases under the act could only be registered on the orders of a senior superintendent or superintendent of police, and that the senior officer of the police station concerned must "personally examine the

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<sup>164</sup> Section 162 of the Criminal Procedure Code states, "No statement made by any person to a police officer in the course of an investigation ... shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof ... or any part of such statement or record, be used for any purpose ... at any inquiry or trial in respect of any offense under investigation at the time when such statement was made." Section 25 of the Indian Evidence Act, 1872, states, "No confession made to a police officer shall be proved as against a person accused of any offense." Section 26 of the act states, "No confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person."

merits of the case within seven days from its registration" to "ensure that the provisions of the Act were correctly applied."<sup>165</sup> Asia Watch's information indicates that these guidelines have done little to protect persons from arbitrary arrest under the act.

#### **The Terrorist Affected Areas (Special Courts) Act**

The Terrorist Affected Areas (Special Courts) Act of 1984 (TAAA) provides for special courts to try persons charged with specified offenses in areas designated by the government as "terrorist affected." The TAAA includes many of the provisions of TADA. Under the act, it is mandatory for special courts to sit *in camera*; courts may sit in jail, and the identity of witnesses may be kept secret. The act further amends the Indian Evidence Act so that when a person accused of committing an offense can be shown to have been in an area when firearms or explosives were used against the security forces, he is presumed guilty of the offense, and must rebut that presumption at trial.

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<sup>165</sup> "Govt Guidelines to Punjab Police," *Indian Express*, September 20, 1990.

Under the TAAA, a terrorist is defined as "a person who indulges in wanton killings of persons or in violence or in the disruption of services or means of communications essential to the community or in damaging property," if he does so with a view to "putting the public or any section of the public in fear; or affecting adversely the harmony between different religious, racial, language or regional groups or castes or communities; or coercing or overawing the Government established by law; or endangering the sovereignty and integrity of India." Thus, under this broad definition, workers may be labeled terrorists for participating in peaceful strikes, if their actions affect a service "essential to the community."<sup>166</sup>

Like the TADA, the TAAA provides that a person detained in a "terrorist-affected area" may be produced before an executive magistrate, who is an official of the police or administrative services who is not answerable to the High Court.

The act also amends Section 167 of the Criminal Procedure Code to extend the time period during which a person may be held in custody pending investigation of the alleged offense from 90 days to one year. Thus, a person arrested in a "terrorist-affected area" may be held in custody for up to one year before a charge-sheet is filed against him. The act also restricts provisions for bail and provides that no accused person shall be released on bail unless the court is satisfied that there are reasonable grounds for believing that he is not guilty -- and further, that he is not likely to commit any offense while on bail.

Many of the cases discussed earlier in this report describe incidents of arbitrary arrest in which the victims have later been reported as killed in encounters, have disappeared or have been tortured. The cases below describe other incidents of arbitrary arrest and prolonged detention in Punjab. In some cases, the detainees have been charged under either the TADA or the NSA; in others, they have been held for interrogation without charge or trial.

As one lawyer of the district courts in Ludhiana told Asia Watch:

In every case there is misuse of power by the authorities. They ignore the law that requires that a person taken into custody must be produced before a magistrate within 24 hours. During interrogation, detainees are commonly tortured by having their legs stretched out, having hands tied behind back and being suspended from the ceiling, given electric shock. Habeas corpus

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<sup>166</sup> Tarkunde, p. 9.



petitions are ineffective because for many people it is expensive to hire a lawyer. A habeas corpus petition may cost Rs. 5,000-7,000 [about U.S. \$280-390]. The petitioner must also name the place of detention, and then the police frustrate the process by not responding to petitions, or removing them from the police station. The security forces regularly refuse to acknowledge the detention of persons in custody. I know of no instances when the security forces have been prosecuted for torture.

Although telegrams sent by family members are considered admissible as habeas corpus petitions, in many cases, the family's receive no response from the court or from government officials to their telegrams.<sup>167</sup>

• **Ranjit Singh.** Ranjit Singh, a student at Khalsa college in Amritsar, was first detained in mid-1987, along with his brother Balkar, following a raid on the campus. The police accused both brothers of being involved in a bank robbery, and demanded Rs. 15,000 [about U.S. \$840] from Ranjit's family for his release. When the family paid the money, the police released Ranjit, but claimed that Rs. 13,000 [about U.S. \$730] was money from the robbery that they had recovered from Balkar. Balkar was then sent to judicial custody. Some time later he was released on bail and the charges against him were dropped.

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<sup>167</sup> In acting on a habeas corpus petition, the court sends a notice to the detaining police station, and the SSP or SP must file an affidavit in court stating the whereabouts of the detainee. According to human rights lawyers in Punjab, in most cases, the police respond by claiming they do not have the detainee in custody or that he has been killed in an encounter. In response to a formal habeas corpus petition naming the police station where the person has been detained, the court may appoint a warrant officer with the power to search the station for the detainee; however, such appointments are extremely rare. According to one lawyer, "Whether the warrant officer finds the detained depends on whether the police have moved quickly enough to shift the detainee to another police station." Interview with lawyer in Chandigarh, December 5, 1990.

In an affidavit submitted to the Punjab and Haryana High Court, Ranjit stated that he was re-arrested on February 10, 1988, and detained at the main police station in Amritsar for seven to eight days, then transferred to police post Vijay Nagar. On March 9 he was transferred to police post Sultanwind. In response to a habeas corpus petition filed by the family's lawyer on March 9, the court appointed a warrant officer to locate Ranjit. After inquiring at a number of police stations in Amritsar, on March 10 Ranjit's uncle and the warrant officer located Ranjit at the Sultanwind police post. A policeman on duty told the warrant officer that Ranjit had been brought to the police station on March 9, but when Subinspector Gurmit Chand reached the station, he claimed that Ranjit had been arrested earlier that day, in connection with an FIR filed on July 27, 1987 regarding a bank robbery. That version was repeated by Inspector Gurdev Singh.

Subsequently, on the basis of the warrant officer's report, Inspector Gurdev Singh, along with two assistant subinspectors, Swaran Singh and Mohinder Singh, were charged with illegal detention. All three were found guilty and fined Rs. 10,000 [about U.S. \$560], which they were ordered to pay to Ranjit. In his judgment, Justice Ujagar Singh noted that,

It is surprising that right from 27-7-1987 till 9-3-1988 the respondents did not take any step, according to their version, either to arrest the detenu ["detainee"] or to get non-bailable warrants from the court.... In this country, arrest on suspicion or otherwise is not uncommon. It is also not uncommon to eliminate certain individuals in false encounters.... Till the arrest of the detenu they were trying to find an opportunity to take the detenu to an unknown place and do whatever they liked and thereafter make an entry [in the books] and some sort of explanation for his having disappeared.... The police had the intention to deal [with] the detenu in a manner which cannot be said to be legal.... The respondents are Government servants and it looks like they acted on some secret instructions from the higher authorities to arrest the detenu and keep him in detention so long as it was possible or maybe to eliminate him if possibly there was an opportunity by showing some sort of false encounter.<sup>168</sup>

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<sup>168</sup> *Charanjit Singh v. Inspector Gurdev Singh and ors*, *Recent Criminal Reports*, 1989, vol. 2, pp. 536-540.

The fines were never paid. Shortly afterward, Gurdev Singh was promoted to DSP at the main police station in Amritsar.

On November 27, 1990, the police came to the family's house at about 9:00 p.m., arrested Ranjit Singh and his cousin, Baljit, and took them to the main police station in Amritsar. There Ranjit's hands were tied behind his back and his legs were pulled wide apart, he was beaten with leather straps, and he was suspended by a rope hanging from the ceiling. Baljit was not tortured.

The police demanded that they pay back the Rs. 10,000 fine [about U.S. \$560], with Rs. 5,000 interest [about U.S. \$280], and that they hand over their pistol. Ranjit and Baljit denied possessing any pistol. The police also demanded that their two brothers, Manjit and Balkar Singh (who had been released on bail two years previously) be produced. Ranjit and Baljit told the police that they would need 15 days to bring their brothers, but the police demanded the brothers be brought immediately.

Through another police official acting as an intermediary, the family paid Rs. 10,000, and Ranjit Singh was released at 6:00 p.m. on November 30. On December 1, the family paid an additional Rs. 10,000, and at 5:30 p.m. Baljit Singh was released, but only after the police threatened him that if he told anyone about what had happened, he and his family would face "dire consequences." The police also told him that they would continue to look for Balkar and Manjit Singh, but that they would leave Ranjit and Baljit Singh alone.

• **Manjit Singh.** On February 27, 1990, Manjit Singh, who had been released on bail in connection with a case pending against him since 1987, attended a hearing in a magistrate's court in Amritsar. As he emerged from court, he was apprehended by plain clothes policemen from the CIA staff at the Majitha police station who, according to witnesses, covered his mouth and shoved him into a waiting car. Manjit Singh's father, Santokh Singh, witnessed the abduction, as did bystanders who, according to the press report, "mistook the policemen for terrorists."<sup>169</sup>

On March 6, Santokh Singh filed a petition with the DIG of the CIA in Amritsar, stating that he feared that Manjit might be killed in a false encounter. The police FIR dated March 14, 1990, stated that Manjit had been arrested at 4:30 p.m.

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<sup>169</sup> "Plainclothesmen 'Kidnap' Punjab Undertrial," *Times of India*, February 28, 1990; "Youth Kidnapped from Court," *Tribune*, February 28, 1990.

on March 14 by a police party which had captured him along a river bank between the village of Marian and Majitha. The police claimed that they found a pistol on him and charged him under the Arms Act and the TADA. At the time the FIR was filed, the police officer who signed it stated that Manjit was detained in the Majitha police station.

• **Ravail Singh.** Ravail Singha, resident of the village of Jabbowal in the district of Amritsar, was arrested from his house at 3:00 p.m. on June 16, 1990, and detained at the Jandiala police station. In an affidavit submitted to the High Court, his wife, Kulwant Kaur, stated that she had witnessed the arrest, along with three friends of the family, and sent telegrams appealing for intervention to the governor, the chief justice of the High Court and the DGP. Afterwards, she went to the Jandiala police station, but officials there denied that Ravail Singh was in their custody. On July 14 she wrote again wrote to the governor, DGP and the chief justice.

She, together with the other witnesses to the arrest, Balbir Singh, Bhajjan Singh and Dharampal Singh, continued to make inquiries to the SSP Majitha, but he denied knowing her husband's whereabouts. On July 17, she and her husband's cousin, S. Taja Singh, met again with the SSP who asked if she had moved a habeas corpus petition at the High Court. She replied, "As the police is not disclosing the whereabouts of my husband ... I moved telegramms [sic] to the High Court which was [sic] treated as a writ petition habeas corpus." The SSP then admitted that Ravail was in custody, but told her that they would only acknowledge the arrest if she would first dismiss the habeas corpus petition. She refused to do so.

Dharampal, a resident of a neighboring village of Muchhal, stated in an affidavit that Ranail Singh was detained by the SHO of the Jandiala police station after the police conducted a raid on the house. He stated that the police took nothing else from the house.

• **Jasdev Singh.** Human rights lawyers have also been detained because of their work. Asia Watch interviewed Jasdev Singh, 32, a lawyer who has been practicing in the subregional level courts of the district for ten years who is also a member of a local civil liberties organization. In that capacity, he frequently takes on human rights cases in a pro bono capacity. Jasdev Singh told Asia Watch that because of his work, the police have harassed him and have accused him of "harboring terrorists." In 1987 he was charged under section 212 of the Indian Penal Code and sections 3 and 4 of the TADA, and was detained for 33 days. He was released on bail, then acquitted of all charges. He told Asia Watch,

Since then the police have raided my house more than 100 times.

Two months ago when I was visiting my in-laws in Ganganagar, Rajasthan, about 300 miles away, I received a telephone message that the police had come looking for me. I telephoned the station house officer and told him that I could not come right away because it is so far, so they arrested my father, Devinder Singh, who is 52 years old. They took him to the station in Khanna and kept him there the whole night. I reached the place about 3:00 p.m. Then they arrested me and released my father. I was jailed under sections 107, 151 of the Criminal Procedure Code for "breaking the peace." After three days I was released on bail and later the charges were dropped. However, my photograph is still hanging in the police station, giving name and address and naming me as a "harborer of terrorists." It has been hanging there since 1987.

In 1985, Jasdev defended two young Sikh men on charges of murdering Pisham Prakash, the president of the Congress (I) in Khanna district. The two defendants were acquitted, but five years after the acquittal, Jasdev was charged with the murder. He was jailed for 20 days, and then released on bail. In early 1990 he was acquitted. While he was in jail, the police asked him, "Why are you so interested in this case? Why are you against the police?" The district superintendent of police, Parampal Singh Dhaliwal, warned him, "If you want to live in peace you should stop. Otherwise you will face the consequences."

The government has taken other steps to suppress criticism, resulting in the restriction of freedom of speech and assembly.

- General Narinder Singh, a resident of Chandigarh and a member of the Punjab Human Rights Organisation, told Asia Watch that on November 24, 1990, he was arrested from his home in Sector 26 at about 4:00 p.m. by two police officers of the Chandigarh police, Sector 26 police station. The police told him that they had been ordered to arrest him by the Chandigarh administration in connection with a convention in Anandpur Sahib organized by a number of top Sikh leaders. He was taken to Burail jail. The subdivisional magistrate remanded him and several others to police custody under section 107/151 of the IPC for "apprehension of breaking the peace." The remand was first extended until November 30 and then until December 5. General Narinder Singh was not subjected to any mistreatment. Also arrested were Dr. Baljit Gill, who was released after two nights, and Dr. Ajit

Singh Sarhadi, 85, who was released after 24 hours because of protests from the bar association that his health was too poor for him to be detained. A writ was filed in the High Court on behalf of Inderjit Singh Jajji, a former member of the Punjab legislative assembly, and General Narinder Singh. Both detainees were to be produced in court on December 4, but were released on December 3.

When questioned about the reason for the arrests, the director general of police stated,

There are people who create the climate conducive to terrorist activity. They have to be removed from the scene. And we have to arrest them. But this particular thing was done to prevent the convention because it was felt that the level of subversive activity would go up.<sup>170</sup>

Governor Verma provided a similar justification.

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<sup>170</sup> "Coping with New Factors," (Interview with K.P.S. Gill, DGP), *Frontline*, December 8-21, 1990, p. 13.

They have been arrested on the basis of intelligence that they had planned to pass an anti-national and secessionist resolution demanding a separate Sikh state not aligned to India or Pakistan.... They had also invited the militants, although I prefer to call them terrorists. Their intention was to propagate anti-national feelings. Therefore, there was no point in letting such a meeting take place where such resolutions were to be passed.<sup>171</sup>

In an earlier incident on November 1, 1990, General Narinder Singh and Dr. Baljit Gill of the Punjab Human Rights Organisation, were invited to take part in a celebration in the township of Muktsar commemorating the birthday of Guru Nanak, the founder of Sikhism. Posters advertising the event stated that the purpose of the event was to "enlighten the people about what the Sikhs should do under the present circumstances." On the evening of November 1, General Narinder Singh and Dr. Gill reached Muktsar and were going to the homes of various residents to spend the night. At about 8:30, the general's car was stopped by two jeeps of police who asked him who he was and where he was going. The general told them he had come from Chandigarh. The DSP then ordered one of the policemen to drive the car to the Muktsar police station, where the general was detained. A number of other persons who had come to attend the celebration had already been detained, including Inderjit Singh Jajji. At 9:30 p.m. a police posse raided the local gurdwara where the celebration was to be held the next day and arrested nine more people. The inspector told them that there had been orders "from the top" to arrest them. When one of the detainees, Kumar, told the inspector that the arrest was illegal, the inspector replied, "Yes, I am aware that it is illegal but I have my orders." When Kumar asked if he could contact his lawyer, the inspector refused.

Fourteen detainees were put in a room about 15 feet by 10 feet. At 8:00 a.m. the next day, the fourteen were transferred to a rest house in Malout, about 20 miles away. At 10:00 a.m., Baljit Gill, of the Punjab Human Rights Organisation and Colonel Pratap Singh were also arrested and brought to the rest house.

Local residents were warned not to attend the celebration. Police patrolling the neighboring villages threatened that anyone who participated would be arrested and that the police would be prepared to beat them. A member of the

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<sup>171</sup> "The Administration is Not Effective," (Interview with Governor Virendra Verma), *Frontline*, December 8-21, 1990, p. 11.

human rights organization told Asia Watch that a shop owner had been warned by the police not to send out faxes from the group.<sup>172</sup>

- Members of the Punjab Lawyers Association told Asia Watch that on October 11, 1990, they founded a group called the Punjab Sangharsh Morcha with the stated purpose of "bringing Hindus and Sikhs together and to force the police to address human rights issues." The group was headed by Ranjit Singh Sarhad, a former minister in Punjab, a former advocate general in the Punjab Lawyers' Association and G. S. Grewal, president of the Punjab Lawyers' Association.

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<sup>172</sup> Interview with human rights activist in Chandigarh, December 5, 1990.



On October 28 at 11:00 a.m., a public hearing on human rights abuses sponsored by the lawyers' association was held in Chandigarh. The CRPF and the Punjab and Chandigarh police locked the hall, Lajpat Rai Bhavan, where the hearing was to be held and would not let anyone inside. When questioned about why they were banning the hearing, they replied that there was tension in the village of Maloia, 15 kilometers from Chandigarh, because of the anniversary of the death of Beant Singh.<sup>173</sup> The lawyers' association moved the hearing to a nearby house where they were able to proceed.

On November 3, the lawyers' association sent a letter to then Governor Verma stating the purpose of the inquiry. A press statement released by the organization announced that the next hearing would be held on November 11, the same day that president's rule was to be extended in the state. On November 9, the deputy commissioner of Chandigarh banned all public hearings. According to a report in the *Tribune*, the administration feared that open hearings "would identify police officers who would then become targets for reprisal attacks."<sup>174</sup>

The All-India Sikh Students' Federation (AISSF) called a general strike in Chandigarh on November 13. On November 12, Gurdev Singh and Gurtej Singh, a former official of the IAS, were detained under the Code of Criminal Procedure which provides for preventive detention "if there is apprehension of a breach of peace."<sup>175</sup> Later that day, Gurdev was produced before a magistrate and charged with membership in the Akali Dal (Mann) and the AISSF -- but these are not banned organizations, and furthermore, Gurdev does not belong to either of them. He was released on November 14, and the charges were dropped.

A third meeting was scheduled at Anandpur Sahib on November 26. At 4:00 p.m. on November 25, the police came to arrest Gurdev Singh at his house, but he was not there. Two other members of the Punjab Lawyers' Association, Ajit Singh Sodhi and Thorbershan Singh, and a member of the Punjab Human Rights Organisation were arrested under charges of "apprehension of breach of peace."

### **Freedom of the Press**

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<sup>173</sup> Beant Singh was executed in 1988 after he was convicted of conspiring to assassinate Prime Minister Indira Gandhi.

<sup>174</sup> "Punjab Morcha Flays Ban on Public Trials," *Tribune*, November 12, 1990.

<sup>175</sup> Sections 107, 150 and 151.

Article 19 of the International Covenant on Civil and Political Rights guarantees:

the right to freedom of expression; this right shall include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.<sup>176</sup>

Government authorities in Punjab have threatened and harassed journalists, resulting in restrictions on the press which extend beyond those permitted under international law.<sup>177</sup>

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<sup>176</sup> Governments are permitted to restrict these rights "[f]or the protection of national security or of public order;" however, such restrictions "shall only be such as are provided by law and are necessary." In addition, in time of officially declared emergency, governments may derogate from these rights, but only "to the extent strictly required by the exigencies of the situation." ICCPR, Article 4(1).

<sup>177</sup> The Indian constitution allows for certain restrictions on the press. "The Indian Constitution of 1950, which guarantees freedom of speech and expression to all citizens, has been held to guarantee press freedom as well. However, press freedom in India is not absolute; the Constitution allows for 'reasonable restriction ... in the interest of the security of the State, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.'" Article 19, *World Report 1988* (New York: Random House, Inc., 1988), p. 135.

- On January 16, 1991, the Chandigarh offices of two newspapers, the *Indian Express* and the *Tribune*, were raided by the Chandigarh police and put under a partial censorship which bans the publication of "objectionable material." In a statement on January 17, Governor Malhotra expressed "regret" at the incident and stated that such incidents would not be repeated.<sup>178</sup>

*Ajit*, the most influential Punjabi newspaper in the state, which regularly publishes press statements from militant groups and advertisements for the bhog ceremonies of militants and civilians killed by the security forces, has been a particular target of the government's actions. Copies of the paper have been seized, and the editor has been charged with sedition.<sup>179</sup>

- On January 17, 1991, journalists at *Ajit* and the *Times of India* were accused of accepting press statements from the militants and charged under the Code of Criminal Procedure with "publishing seditious material." Cases against both newspapers were also registered under the TADA. Following public protests, the charges were dropped later that day.<sup>180</sup>

- On February 20, 1991, the government invoked section 95 of the Criminal Procedure Code which empowers officials to "prevent publication of objectionable material." In response, representatives of local and national newspapers staged a protest in Chandigarh against what they criticized as "undeclared censorship."<sup>181</sup>

- On February 27, 1991, police again raided the Chandigarh offices of *Ajit*, seizing 64,000 copies of the newspaper and the printing plate of the front page

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<sup>178</sup> See "Censorship on Chandigarh Papers," *Hindustan Times*, January 18, 1991; "Cases Against 2 Dailies Being Withdrawn," *Tribune*, January 20, 1991.

<sup>179</sup> See Kanwar Sandhu, "In a Bind," *India Today*, March 31, 1991, p. 41; Vipul Mudgal, "Sedition Gaffe," *India Today*, August 31, 1988, p. 32.

<sup>180</sup> *Ibid.*

<sup>181</sup> See Kanwar Sandhu, "In a Bind," *India Today*, March 31, 1991, p. 41; "Punjab Govt Orders Seizure of Papers," *Hindustan Times*, February 21, 1991.

which carried a statement by one of the militant organizations, the Zaffarwal Panthic Committee. Vehicles used to distribute the newspaper were impounded. The police also raided the offices of two other Punjabi newspapers, *Akali Patrika* and *Aaj Ki Awaaz*. Again on March 3, police seized 5000 copies of *Ajit*.<sup>182</sup>

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<sup>182</sup> "Printing of Three Dailies Stopped," *Times of India*, February 28, 1991; "Police Seize 5000 Copies of Punjab Daily," *Telegraph*, March 4, 1991.

## V. VIOLATIONS BY MILITANTS

Virtually all of the militant groups in Punjab have pursued their campaign for a separate state through acts of violence directed not only at members of the police and security forces<sup>183</sup> but also at specifically targeted Hindu and Sikh civilians. While the civilian toll may never be known, after a decade of conflict the killings certainly number in the thousands.

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<sup>183</sup> Militants have also killed and wounded members of the security forces operating in Punjab -- the Punjab police, the CRPF, BSF and others, including the Indian army. Though they are violations of domestic law, these killings do not also constitute violations of the laws of war if they occur in combat or ambush and are not the result of perfidy. In so far as members of the security forces have combat duties and are actively engaged in hostilities, they are legitimate military targets under the laws of war and are therefore subject to direct attack. Although policemen, customs agents and other government personnel authorized to bear arms are excluded from the definition of "armed forces" and are not proper military targets, policemen with combat duties are proper military targets. *See* Report of Working Group B, Committee I, March 18, 1975 (CDDH/I/238/Rev.1; X,93), in Levie, Howard S., ed., *The Law of Non-International Armed Conflict*, (Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1987), p. 67. The Punjab police, BSF, CRPF and other national security forces routinely engage in conflict with militants. In many situations, they are, in effect, acting in lieu of army soldiers to perform purely military functions. Under international humanitarian law applicable in internal armed conflicts, the government may try members of guerrilla forces for sedition, treason and murder in violation of state laws, but must afford them due process.

Most of the militant groups in Punjab trace their origins to Sant Bhindranwale,<sup>184</sup> a charismatic Sikh preacher who rose to prominence in the mid-1970s and gained a reputation early on as a fiery orator and rigid fundamentalist. By 1978, he had gained the backing of Congress (I) political leaders who saw in him an opportunity to discredit the Akali Dal - Janata Party coalition government then in power in Punjab.<sup>185</sup>

The extent of Bhindranwale's organization became clear after the assassination on September 9, 1981, of Lala Jagat Narain, the chief editor of the *Hind Samochar* chain of newspapers. The papers had been highly critical of the preacher and his militant organization. Suspecting Bhindranwale's hand in the assassination, the Punjab police arrested him. In the days that followed, members of his organization embarked on a campaign of violence that included attacking Punjabi Hindus, hijacking an Indian Airlines plane and derailing trains. Following his release on October 14, 1981,<sup>186</sup> Bhindranwale's power grew.

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<sup>184</sup> He was born as Jarnail Singh in 1947 and took the name of the village of Bhindran, near his home village of Rode, because the Sikh missionary movement he promoted was founded there. See Mark Tully and Satish Jacob, *Amritsar: Mrs. Gandhi's Last Battle*, (London: Jonathan Cape Ltd., 1985), pp. 53-54.

<sup>185</sup> Following the defeat of the Congress (I) in the 1977 elections, a coalition government of the Akali Dal and the Janata Party came to power in Punjab. Under the direction of Sanjay Gandhi and Zail Singh, the Congress (I) courted Bhindranwale in order to discredit the Akali Dal leadership. The Congress (I) administration which came to power in Punjab in 1980 was headed by Darbara Singh, a rival of Home Minister Zail Singh who was bitterly opposed to Bhindranwale's tactics. See Tully and Jacob, pp. 55 ff.

<sup>186</sup> Central government politicians reportedly ordered his release. See Tully and Jacob, pp. 69-71.

Seeking to attract Bhindranwale's following, in 1981 the Akali Dal courted his support, bringing the powerful All India Sikh Students Federation (AISSF) under his control.<sup>187</sup> By late 1982 the Akali Dal and Bhindranwale had fallen out, permanently alienating Akali leaders under then party chief Longowal. After that, Longowal sought the support of another militant group, the Babbar Khalsa.<sup>188</sup> On April 23, 1983, Deputy Inspector-General of Police Atwal was assassinated in broad daylight on the steps of the Golden Temple, apparently on the orders of Bhindranwale. In the aftermath of the killing, Bhindranwale's power was virtually unchallenged and violent attacks by his followers increased.

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<sup>187</sup> See Tully and Jacob, p. 81.

<sup>188</sup> See Tully and Jacob, p. 110.

In an event that was seen as a turning point in the confrontation between Bhindranwale and Prime Minister Indira Gandhi, on October 5, 1983, six Hindu bus passengers in Kapurthala district en route to Delhi were shot dead by Sikh militants. It was the first of many such massacres in the years to come. The next day, president's rule was imposed on Punjab, and shortly thereafter Bhindranwale moved into the Akal Takht, the most sacred shrine in the Golden Temple. Over the next seven months, Bhindranwale's forces stepped up their attacks on Punjabi Hindus, rival militant leaders and prominent political figures, assassinating among others Romesh Chandra, the son and successor of editor Lala Jagat Narain, on May 12, 1984.<sup>189</sup> Three weeks later, the Indian army stormed the Golden Temple and Bhindranwale was killed.<sup>190</sup>

Since Bhindranwale's death, the number of militant groups operating in Punjab has grown. The precise number is not known, nor is the strength of any particular organization. While some authorities claim that there may be no more than 1,700 armed militants, many journalists believe there may be five times that number.<sup>191</sup>

The militants are organized into at least seven major groups -- all theoretically operate under the authority of one of a number of Panthic Committees which function as decision-making bodies and issue instructions. How much control the committees exert is not clear; however, it is clear that at least some of these groups take independent action as well. According to one journalist,

Militants are refusing to carry out orders from above. This, sources say, is an indication that the top leadership -- the Panthic Committee, which is based in Pakistan -- has virtually no control over the militants operating beyond the Beas [River]<sup>192</sup>. Ever

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<sup>189</sup> See Tully and Jacob, p. 123.

<sup>190</sup> See discussion of assault beginning on p. 18.

<sup>191</sup> Interview with journalists in Amritsar, December 3, 1990. In late 1990, the governor of Punjab, Virendra Verma, claimed that there were 229 'hard-core' militants, 941 'non-hard-core' militants and about 5,000 'unlisted' militants. See Dinesh Kumar, "Militants Call the Shots in Punjab," *Times of India*, November 28, 1990. In July 1991, Director General of Police Mangat stated, "At present there are 145 big and small groups of militants active in which there are about 1,700 listed members, out of which 219 are hard-core and 1,500 non-hard-core. Those who are not listed, their numbers are not known." *Tribune* (Punjabi), July 14, 1991.

<sup>192</sup> The Beas River divides the western third of Punjab from the rest of the state. The districts that lie west of the Beas, Amritsar and Gurdaspur, also border Pakistan and are considered to be militant strongholds.



since the Panthic Committee split into three groups, inter-gang rivalries have increased.<sup>193</sup>

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<sup>193</sup> Gajinder Singh, "Gang Wars May Finish Terrorists," *Telegraph*, July 7, 1990.

The Panthic Committee headed by Dr. Sohan Singh is historically the most powerful and is supported by a number of factions headed by militant leaders: the Khalistan Commando Force (Panjwar faction), Babbar Khalsa, Khalistan Liberation Force (Budhisingwala), Bhindranwale Tiger Force of Khalistan (Sangha) and the Sikh Students Federation (Bittu). The Panthic Committee headed by Gurbachan Singh Manochahal is supported by the Bhindranwale Tiger Force (Manochahal), All-India Sikh Students' Federation (Manjit) and the Khalistan Commando Force (Rajasthani group). The Zaffarwal Panthic Committee is supported by the All-India Sikh Student's Federation (Mehta Chawla) and the Khalistan Commando Force (Zaffarwal). One observer argues that with "the emergence of so many factions the Panthic Committee has lost its significance."<sup>194</sup> By June 1991, factions associated with the Manochahal committee were contesting the National Assembly elections.<sup>195</sup>

In addition to these groups, there are perhaps dozens of other groups, some representing splinter factions under the control of such militant leaders as Usmanwala, Nishan Singh and Lakhwinder Singh Lakha.<sup>196</sup> Other groups operate as loosely-organized armed gangs. As is the case throughout India, party leaders in Punjab may recruit such groups to eliminate rivals or carry out other acts of violence for political purposes.

The relationship between the militant organizations and the various factions of the Sikh political party, the Akali Dal, has been characterized by short-lived alliances and murderous infighting. Sikh leaders who have challenged militant positions on a political settlement have been assassinated. One of the most famous victims of the infighting was Sant Longowal, who forged an agreement with then Prime Minister Rajiv Gandhi only to be gunned down a month later. SGPC leaders who have attempted to prevent arms from being brought into the Golden Temple have also been assassinated.

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<sup>194</sup> See Monimoy Dasgupta, "Militants are Getting Tired of Fighting: Taksal," *Telegraph*, February 17, 1991; and Ibid, "Doctor May Plan Militants' Strategy," *Telegraph*, April 25, 1991.

<sup>195</sup> Monimoy Dasgupta, "Punjab May Turn into Battlefield as Militants Gun for Each Other," *Telegraph*, May 8, 1991.

<sup>196</sup> Shekhar Gupta, "Many Arms," *India Today*, December 31, 1990.

Indian authorities have long claimed that Sikh militants receive arms and training from Pakistan. As long-time observers of Indian politics have noted, over the years of the conflict

[a]rms were regularly smuggled across the border, and it is more than likely that President Zia [of Pakistan] turned a blinder eye than usual. It is certain that he did not object to Bhindranwale's terrorists crossing the border to seek temporary refuge from the police....

They note, however, "Zia adopted a very cautious attitude to the Punjab crisis,"<sup>197</sup> an opinion shared by another journalist who adds that "the level of assistance to the guerrillas from Pakistan's government appears to be lower than in Kashmir ... some guerrillas say that they conduct their own training and only cross into Pakistan to purchase weapons."<sup>198</sup> In fact, security forces on both sides reportedly have a hand in the arms smuggling:

A lone Indian border guard looks the other way if properly bribed. So do Pakistani rangers on the other side, who also provide occasional covering fire for such groups as the Bhindranwale Tiger Force of Khalistan slipping across the frontier for another night of mayhem.<sup>199</sup>

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<sup>197</sup> Tully and Jacob, p. 212.

<sup>198</sup> Steve Coll, "'India, Pakistan Wage Covert Proxy Wars,'" *Washington Post*, December 8, 1990.

<sup>199</sup> James Clad, "Terrorism's Toll," *Far Eastern Economic Review*, October 11, 1990, p. 34.

Since they first emerged in the early 1980s, the militant organizations operating in Punjab have repeatedly violated international human rights and humanitarian law by engaging in acts of violence against civilians. These groups have assassinated civil servants, politicians, journalists, businessmen, other prominent individuals and ordinary Hindu and Sikh civilians. Militant groups have also engaged in indiscriminate attacks apparently designed to cause extensive civilian casualties, in some cases firing automatic weapons into residential and commercial areas, derailing trains and exploding bombs in markets, restaurants and other civilian areas. Some of these attacks have occurred outside Punjab in neighboring states and in New Delhi.<sup>200</sup>

The motives for the attacks vary. Moderate Sikh political leaders have been assassinated for opposing the militants. Other leaders have been killed as a result of militant group rivalries. A number of militant groups have attempted to impose a Sikh fundamentalist ideology, issuing directives that stipulate appropriate conduct for Sikhs and prohibiting the sale of tobacco and liquor. Failure to obey these orders has meant punishment, including death. In late 1990 and early 1991, militant groups issued "codes of conduct" for journalists which also carried a death penalty for those who dared to disobey. Sikhs belonging to minority sects which advocate practices perceived as heretical by orthodox Sikhs have also been murdered.

In some cases, attacks on civilians have been claimed as acts of retaliation for government violence. Other killings appear to represent executions of suspected collaborators or informers. According to one observer, in some cases militants associated with certain groups have been rewarded with promotion for the number of people they kill, civilians or otherwise.<sup>201</sup>

Militants have also kidnapped civilians for extortion, frequently murdering their victims when their demands were not met. Threats have been made against the minority Hindu population in an effort to drive them out of Punjab.<sup>202</sup> As a result, thousands of Hindus have fled the state over the last seven years.

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<sup>200</sup> For example, bombs hidden in gunny sacks in outdoor markets in Delhi and Haryana killed at least 74 people and injured 200 between June and September, 1988.

<sup>201</sup> Interview with journalist in Amritsar, December 2, 1990. Asia Watch interviewed a local activist sympathetic to some militant groups who acknowledged that militants did commit mass killings of civilians, sometimes in retaliation for attacks by members of those communities on Sikhs.

<sup>202</sup> Hindu migrant laborers, known as *purbeas* ("easterners") from eastern states of India, particularly Bihar, have been the victims of some of these killings. These migrants have

The proliferation of militant groups and the bitter rivalries which characterize relationships among them makes it impossible to fix responsibility for many acts of violence. In some cases, militant organizations have claimed responsibility, frequently through the Punjabi newspaper *Ajit*. Many more acts of violence go unclaimed.

Asia Watch was not in a position to investigate many of the hundreds of such attacks which have taken place. Most of those described below occurred in 1990 or 1991 and represent only a small portion of the abuses for which militant groups are believed responsible. In each incident, militants killed, wounded or threatened civilians. Such acts directly contravene Common Article 3, which prohibits acts of violence against civilians.

### **Executions of Civilians**

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traditionally provided labor for Sikh farmers. The motive for their killing appears to be both an attempt to terrorize the minority population and to drive out competing labor. See Susanne Rudolph, "Why India's Militant Sikhs Keep Fighting," *Christian Science Monitor*, March 8, 1989.

Sikh militants in Punjab have flagrantly violated Common Article 3, which prohibits violence to life and person of those taking no part in the hostilities. Killings of civilians by such groups increased substantially in 1990.<sup>203</sup> Throughout the year, militants engaged in targeted assassinations of politicians and political candidates, primarily from factions of the Akali Dal, the Communist Party of India (CPI) and independents. Journalists were also frequent targets; several were murdered in 1990 and early 1991. Militants also stopped vehicles along roadsides and, after identifying Hindu passengers, executed them. On a number of occasions, militants opened fire indiscriminately in Hindu neighborhoods and commercial districts, killing civilians. In June 1991, militants opened fire on two passenger trains in Punjab, killing at least 110 civilians. Militants also planted bombs and launched grenade attacks on civilian government buildings, restaurants, markets and buses. Since these are not military targets, such actions constitute gross violations of international humanitarian law.

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<sup>203</sup> According to press reports, in 1988 an estimated 2,500 persons were killed by militants and security forces, and in 1989, 3,000. Estimates of the total number of persons killed in 1990 range as high as 4500. In the first half of 1991 an estimated 2,000 civilians were killed. *See* footnote 3

A number of killings in predominantly Hindu villages were accompanied by threats warning the villagers to leave Punjab. Common Article 3 also prohibits "cruel treatment and torture" and "outrages upon personal dignity, in particular humiliating and degrading treatment." Explicit threats to kill are barred by this provision.<sup>204</sup> In some cases, villagers were beaten or tortured before being executed.<sup>205</sup>

#### **Massacre in Islamabad, Amritsar**

On November 20, 1990, Sikh militants rampaged through Islamabad, a predominantly Hindu neighborhood of Amritsar,<sup>206</sup> shooting indiscriminately into

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<sup>204</sup> In addition, Article 13 of Protocol II provides, "Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited."

<sup>205</sup> Following the May 1988 offensive against militants inside the Golden Temple, government officials reported the discovery of the bodies of at least 50 men, women and children tortured to death inside the temple complex. Among those killed were persons believed to have been informers and persons who had refused to comply with the militants' demands for money.

<sup>206</sup> Although both Sikhs and Hindus live in Islamabad, Asia Watch was informed that much of the Hindu population in Amritsar lives in Islamabad. According to local residents, Hindus make up more than 90% of the neighborhood's population. Although Asia Watch was not able to confirm this figure, it is clear that an attack such as the one that took place on November 20, 1990, would be likely to kill a greater number of Hindus.

shops along the street. Twelve civilians were killed. Eight of the victims died along a street in an area of Islamabad known as Krishna Kot. Four of the victims were killed about 500 yards away, in an area of Islamabad known as Chota Haripur. The street leading from Krishna Kot to Chota Haripur cuts through a busy commercial center.

Asia Watch spoke to a number of witnesses who described the attack. Around 7:30 p.m., four men wearing shawls over their faces and armed with AK-47 automatic weapons appeared on the main street. The owner of a shop at the beginning of the street was sitting inside an adjoining shop when he was gunned down by the first burst of machine gun fire, hit in the forehead, chest and leg. He was taken to the emergency ward of a nearby hospital, where he died shortly afterwards.

The owner of a snack shop and his brother Ramaj were inside their store when one of the armed men appeared. The owner dove to the floor as a burst of gunfire rang out. Two customers in the shop, Kimti Lal, 23, and Jivan Lal, 28, were killed.

Twenty-five yards down the street, Karvan Lal, 55, a retired railway worker, was shot in the street as he left a shop. About 25 yards farther down the road, Ragubir Singh, the owner of another snack shop, was gunned down in his store. Approximately 50 yards further along, Raj Kumar, the owner of a video cassette shop, and a 12-year-old Sikh student, who was a customer in the shop at the time, were killed in the machine gun fire. (A color television and a video cassette recorder in the store were also destroyed.) The gunmen then fired into a sweet shop 100 yards down the road, missing a 12-year-old boy who had hidden behind a counter, but killing a customer, Baldev Raj, 55. Gunfire also injured several persons, including a six-year-old boy and Krishan Lal, a retired sub-inspector of the Border Security Force, both of whom were shot in the leg.

Upon reaching the end of the street in Krishna Kot, the gunmen turned the corner and continued firing as they entered the Chota Haripur neighborhood. In a candy shop halfway down the street, the gunmen shot dead Kali Lal, 25, and wounded his father, Rattan Lal. Also killed were Shabo, an eight-year-old girl; her brother Toti, 20; and a young unidentified laborer from Gurdaspur.

When Asia Watch visited Islamabad in early December 1990, bullet holes were visible in the walls and floor boards inside the shops and in the outside walls along the streets in both neighborhoods. Merchandise inside the shops, including



pottery, clothing and foodstuffs, had also been damaged by the gunfire. According to a local journalist, a statement from the Khalistan Commando Force claiming responsibility for the killings was published in *Ajit*.<sup>207</sup>

### **Killings in Bhikhiwind**

- The villages of Bhikhiwind and Patti in Amritsar district were the site of a series of militant kidnappings and murders in late 1990 -- apparently to terrorize the Hindu population and to extort ransom payments from wealthy families. According to some sources, the attacks were also said to be in retaliation for the killing of a large number of militants by the security forces in the area over the previous month. Shortly before the attacks, the Khalistan Commando Force had issued an order to all Hindus to leave the area within three days. The ultimatum was posted throughout the villages. In addition, messengers were sent from house to house to tell the residents to leave. In some places, shops remained closed for 24 days.<sup>208</sup> The attacks, which also occurred in a number of neighboring villages and towns, drove hundreds of refugees into the city of Amritsar.<sup>209</sup> Some also fled to New Delhi and other cities. In Amritsar, many of the families took refuge in the Durgiana Mandir Temple.

Ram Lubhaya, 40, a shopkeeper, and Prem Kumar, 42, a shopkeeper and member of the CPI,<sup>210</sup> both residents of Bhikhiwind, told Asia Watch that on November 22, 1990, some 450 persons left Bhikhiwind following the murder by Sikh militants of three prominent residents. Two hundred and 50 took refuge in the

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<sup>207</sup> Militants routinely publish statements taking responsibility for their killings of both civilians and security force personnel in *Ajit*. Interviews with journalists in Amritsar, December 2 and 3, 1990. See also "Attack by Punjab Gunmen Kills 13 and Wounds 15 at a Market," *New York Times*, November 21, 1990.

<sup>208</sup> Interview with journalist in Amritsar, December 3, 1990.

<sup>209</sup> According to a report published in *India Today*, at least 1,500 families fled the area in November and December 1990. See Shekhar Gupta, "Dangerous Upsurge," *India Today*, December 31, 1990, p. 29.

<sup>210</sup> Some CPI leaders have been outspoken in their opposition to the militants in Punjab.

Durgiana Mandir temple in Amritsar and another 200 fled elsewhere. When Asia Watch visited the temple in early December 1990, some fifty persons were still living inside the compound. They related the following account.

In the early evening of November 19, 1990, five or six men armed with AK-47s boarded a bus on a road three kilometers from Bhikhiwind and dragged Sanjiv Kumar, a resident of Bhikhiwind, about 17, into the town. In view of town residents (many of whom had gathered on rooftops), the men brought Sanjiv Kumar to the center of the town, beat him and ordered him to locate two Hindu residents of the town, Jaikpur Korma and Eqbal Chand. At about 8:30 p.m., the militants used ladders to climb into the houses of Korma and Chand. The two men were taken from their houses along with Kumar. When family members appealed to the militants to release the men, the militants told them that the men would be released only upon payment of Rs. 50,000 [about U.S. \$2780] each. Chand and Korma were the joint owners of a rice mill in town, and apparently had been targeted by the militants because of their wealth.

Chand, Korma and Kumar were then beaten up in full view of town residents by ten or eleven armed men. The militants beat Chand and Korma with an iron bar, breaking both men's legs and arms. The three men were then taken to a bridge just outside of town (a site approximately 200 yards from a police post.) The next morning, villagers found the bodies of the men there. Each had been shot in the face.

Two days later, armed men returned to the town and abducted another resident, Sadhu Ram. They beat him, then shot him and left him in the road. Militants returned again that night, but left after residents confronted them with guns. After that incident, many Hindus fled the town. The threats continued for the next week. Residents stated that one poster that appeared in the village on November 26 had a bullet through it.<sup>211</sup> In late November, posters also appeared in the nearby village of Pulighar, warning Hindu residents to leave Punjab.<sup>212</sup>

The villagers told Asia Watch that about a month prior to the murders, heavily-armed militants kidnapped Hans Raj, 20, a local member of the CPI, and Sashi Kumar, 20, both residents of Bhikhiwind. The kidnapers demanded that the families pay ransom for their release. While they were held, the kidnapped men were compelled to name other Hindus from wealthier families in the village. Hans

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<sup>211</sup> "150 Families Flee Amritsar Areas," *Indian Express*, November 28, 1990.

<sup>212</sup> "Hardcore Militant Among 18 Killed," *Indian Express*, December 2, 1990.

was slapped several times on the side of the head. Both were released, Hans after one day, Sashi after four days, following payment of Rs. 30,000 [about U.S. \$1670] to the kidnapers.

#### **Other Killings and Threats to Hindu Punjabis**

Asia Watch interviewed other Hindu migrants who have fled Punjab in recent years. According to official figures, some 15,000 Hindu families have sought refuge in relief camps in Delhi since 1986. Camp officials claim that the number is much higher and that the Piragarhi camp alone shelters 38,000 families. Asia Watch was told that in 1990 10,000-11,000 new families came to the camp.<sup>213</sup>

- Santosh Kumari, 35, formerly of Taran Taran, came to New Delhi on August 12, 1990 with six family members. Her husband's elder brother, Om Prakash, 55, a shopkeeper also originally from Taran Taran, was approached on July 14, 1990, by two unidentified men who came to his provisions shop at about 7:00 p.m. and told him to leave the area or they would kill him. Om Prakash told them he would not leave. On July 18 at about 2:00 p.m., as Om Prakash was walking home after closing his shop in Shepa, he was shot dead. CRPF policemen found the body and took it to the Chabball police station. Gurdip Singh, 50, Om Prakash's mother-in-law, overheard police saying that an unidentified body had been found, so she sent a servant to the police station who recognized the body. At 9:00 a.m. the next day, the mother-in-law, accompanied by Om Prakash's wife and other family members, went to the police station and saw the body. It had two bullet wounds, one on the right side and one in the center of the chest. The top of the head was bloody. The Punjab government paid Rs. 20,000 [about U.S. \$1,100] to the family in compensation, as is customary in the case of victims of militant attacks.

- Ashok Kumar, 24, formerly of Barnala in Amritsar district, moved to New Delhi in February 1990. In Barnala he had been a shopkeeper, selling grain. His relatives were important money-lenders -- two cousins and two uncles also owned a large grain shop near his. In July 1989, Keher Singh and Meher Singh from the neighboring village of Khara, both of whom had joined a militant group in 1984, came to the house of Ashok Kumar's father, Margat Ram. The men carried pistols and demanded Rs. 50,000 [about U.S. \$2,780]. After Ram told the men that he would give them Rs. 20,000 [about U.S. \$1,100] but no more, they left. In August they returned, and he paid them Rs. 10,000 [about U.S. \$560] and pleaded for his life. Again they left.

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<sup>213</sup> Interview with camp president, Piragarhi relief camp, Delhi, December 20, 1990.

On January 21, 1989, Ashok was at his uncles' house, which is connected to their shop, discussing a family marriage. When the discussions ended at about 6:30 p.m., the elder uncle, Tara Chand, 35, left along with two Sikh friends to go to his home about 20 meters away. As he left the house, four unidentified men accosted them. According to family members who witnessed the shooting, two of the gunmen wore masks. They did not wear turbans, but all wore yellow cloths tied to their heads and had long beards. One put a revolver to Tara Chand's head and demanded that he hand over the gold ornaments that he had brought for the wedding under discussion. The two Sikh friends accompanying Tara Chand pushed the gunman and he fired, hitting Tara Chand in the forehead and killing him instantly. The Sikh friends cried out for help and the other relatives came out. Two of the four assailants, including the gunman, ran away while the other two fought with the family members. After other villagers joined the fight, the two men ran away. Then a fifth unidentified man arrived carrying a long sword with which he threatened the group gathered outside the house. Ashok Kumar was slashed with the sword; he received a wound one foot long in his left thigh. Raju, a 13-year-old cousin, had his left foot cut off. Then the man with the sword ran away.

By that time, CRPF police had arrived and took the two injured men to the hospitals in Patti and Amritsar. Tara Chand's body was taken to the hospital in Patti for post mortem. Tara Chand had been a prominent figure in the community and was expected to be chosen as sarpanch in the next election. The family believes that militant Sikhs did not want a non-Sikh to be elected. The current sarpanch, a Sikh, had held the office for five years.

- Lazar Masih, 50, formerly a poultry farmer from Batala, Gurdaspur, told Asia Watch that he came to Delhi with his family in April 1990 because of an incident in his home village. There, in Batala, in 1988, the militants gave out an order demanding all meat, poultry and wine shops to close.<sup>214</sup> Signs to that effect were posted throughout the town over the next two years. Then one night in April 1990 at 8:30 p.m., four armed men with their faces covered came to the home of Lazar Masih's neighbor, Pak Masih, 30, a money-lender and a prominent figure in Batala. Without saying anything, the gunmen shot Masih dead. The men then escaped. Several days later, unidentified men came to Lazar's door and knocked. He did not open the door out of fear. A few minutes, his poultry farm was set on fire. The gunmen then went to the house of a neighbor, Amded Masih, whose windows were open, and told him to tell Lazar that if he opened a poultry business

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<sup>214</sup> Fundamentalist Sikhs prohibit the consumption of liquor and tobacco; some also advocate vegetarianism. Both Sikh and Hindu shopkeepers selling such goods have been attacked.

again, they would kill his son. The farm was completely destroyed, leaving some 2,000 chickens dead. The family left for Delhi shortly afterwards.

- P. Kumar, 22, told Asia Watch that he had owned a provisions shop near the Golden Temple in Kathian Bazaar, Amritsar. He received threats from four unidentified men on two occasions in May 1990 who told him to close his shop and leave the Golden Temple area. The men were armed and wore hoods over their faces that left slits for their eyes. P. Kumar closed his shop soon afterwards.

After a few weeks, P.'s mother decided to reopen the shop. She did so on June 17, and at about closing time, 8:30 p.m., four armed men wearing turbans and masks came to the shop. They fired four shots, hitting her in the right shin. One of the men said to her, "We have already told you not to open shop. So why have you done so?" Then they fired again. As P. Kumar was in the shop at the time, she begged the men, "Please spare my son! We will close the shop and leave the area." She ran from the shop with her son. They left for New Delhi, reaching there 12 hours later with her entire family. P. Kumar reported the threats at the Kotwali police station, but the police refused to file a report on the incident without further evidence.

- Vijay Kumar, 28, originally from Makhu, district Ferozepur, once owned a sweet shop in front of the railway station there. He told Asia Watch that he came with his family to the Piragarhi relief camp in Delhi in October 1990 "because of the terrorist activity." He said that two or three months prior to his departure there had been 2,500 Hindu families in Makhu, but by October 1990 there were none. Vijay's cousin, Lahori, 38, a money-lender, was shot dead by militants in the first week of October at the Makhu family sweet shop. Nine turbaned, armed men with their faces covered came into the sweet shop at about 5:00 p.m. and shot dead Lahori and four waiters, named Prakesh Kumar, Harbans Lal, Kuku and Pappy. The gunmen said nothing before they opened fire. Lahori had 25 bullet holes in his body; the other victims had five or six bullet holes each.

- Lakhvinder Singh, 30, who had served as a special police officer (SPO) in the Gharinda police district in Amritsar since August 1989 told Asia Watch that at 9:00 p.m. one day in early 1990, six men wearing turbans and carrying AK-47s and pistols kidnapped him from the home of his relatives when he went to visit them in Hoshiarnagar, Amritsar. Lakhvinder was taken to the road where the men told him to resign as SPO. He lied, telling them he had already resigned, but they asked to see the registration papers he would have given the authorities. Lakhvinder then ran away; the gunmen shot at him as he ran but missed, and he escaped to a nearby

police post. On March 8, 1990 Lakhvinder resigned as SPO and came to New Delhi with his family. On February 28, the head constable, Lakhvinder's former superior, was visited by 15 armed militants at his home who told him to resign; he did as well.

- Vijay Kumar, 40, originally from Dharam Kot, Ferozepur, told Asia Watch that he had lived with his father-in-law, Ram Prakash, 58, a former constable in the Punjab police who had retired in February 1990 after 32 years. On March 26, 1990, at about 9:40 p.m., the family was watching television when there was a knock at the door and someone called out Ram Prakash's name. When Ram opened the door, he saw four Sikh men standing there, two of whom opened fire, killing Ram with a shot through the eye and one in the abdomen. The men got into a jeep and drove away. As they left the men called out, "You all must leave this area or we will kill you!" All of the families in the area except one were Hindu. Ram had never received any threats before the shooting.

- Krishna Wanti, about 50, originally from the village of Wadaich, Batala, told Asia Watch that her son, Chhinder Bal, had run a shop in Wadaich with a neighbor, Gulzari Lal, 20. The shop was next door to Krishna's house. One day in April or May 1990 at about 4:00 p.m., two armed men came to the shop and shot Gulzari Lal. As the two gunmen fled, they were caught by people from that village and nearby villages, both Hindu and Sikh, who beat them to death. Afterwards, the village leader told Krishna Wanti that the village could not protect her and her children and it was advisable for her to leave. Ten days later she left Punjab and came to the Piragarhi relief camp in Delhi. Theirs was the last Hindu family to leave the village. (Gulzari Lal's wife and children had already left.)

- Surinder Pal, 32, formerly a farmer in Jodiya Nangal, Dera Baba Nanak in district Gurdaspur, came to New Delhi on November 18, 1990. He told Asia Watch that in his village one evening in February 1990 at about 7:00-8:00 p.m., several armed men came to the house of Daljit Singh, a farmer who was about 36 and had been the village sarpanch for the past six or seven years. Daljit's house was about 200-300 yards away from Surinder's. The men knocked at the door and called out for Daljit. When he opened the door they fired two or three shots, killing him. Surinder told Asia Watch that everyone in the area stayed in their houses all night out of fear. At about 9:00 p.m., the BSF and the police took the body away and returned it after the post mortem. When Surinder examined the body the next afternoon, she saw that there was one bullet hole in the forehead and another in the chest. Daljit had earlier been threatened by militants who told him he drank too much liquor and warned him to stop.

- Kashmir Kaur, 35, formerly from Verka in district Amritsar came to New Delhi in July 1990 after her brother-in-law was killed. She told Asia Watch that in Varka around midnight on July 14, 1990, as the family slept in the courtyard, four men wearing turbans and black cloths covering most of their faces broke into her house. Two of the men carried Sten guns and two had revolvers. The men woke up Kashmir, her mother-in-law, and her brother-in-law Tarsem Singh, 40, a farmer from Makhanwind in district Amritsar, who was visiting the family. The gunmen asked for Kashmir's husband, a truck driver. When told that he was not there, the gunmen demanded the family valuables. The family told them that they had none. The gunmen then threatened to kill Tarsem Singh. Ignoring the family's pleas to spare him, the four men took Tarsem outside the front door of the house and, as he tried to run away, they opened fire, hitting him in the back of the head, the right arm and the right leg, killing him. The gunmen then fled. Tarsem was a Sikh, as were Kashmir's husband and father-in-law, but because they kept their hair and beards trimmed, they may have been seen as opposed to fundamentalist Sikhs.<sup>215</sup> Kashmir Kaur's family left Punjab shortly after the murder.

- Nirmala Rani, 45, was formerly a resident of Samrah, Batala, where her husband, Joginder Nath Sharma, 50, owned a general store about 15 yards from their house. On February 24, 1989, two men came into the shop and said they wanted to buy some peanuts. As Joginder Nath bent down to put the peanuts in a bag, the gunmen opened fire. They fired 12 shots in all, three of which hit him in the head, chest and right side. He died instantly. His daughter saw the two men run away after the murder. After hearing the gunshots, Nirmala ran to the shop and found Joginder's body. The body was taken by the BSF and the Punjab police in the presence of the village sarpanch. The sarpanch saw the BSF take a letter from Joginder Nath's pocket, which the family believed might have identified the killers. However, the police claimed it was just a blank piece of paper.

- Gulshan Kumar, 32, formerly a shopkeeper in Ajnala in district Amritsar, told Asia Watch that on May 12, 1988, at about 10:00 p.m. 14-15 young Sikh men broke into his house. All of them were masked and carrying assault rifles. They said to him, "Hindus! Go away! Don't you know Khalistan has been created? What are you doing here?" The men woke up Gulshan's brother, Ravi Kumar, 26, a shopkeeper, and shot him dead. Then they shot dead his father, Kartar Chand, 65, and a neighbor, Bhima, 32. Gulshan heard the shooting from an adjoining room, and managed to escape. After killing the three men, the intruders shouted, "Long

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<sup>215</sup> Fundamentalist Sikhs believe that the hair and beard should be left uncut.

live Khalistan!" and then ran away into nearby fields. After about half an hour, Gulshan returned to the house with the CRPF and the Punjab police. All three men had been shot in the chest and the abdomen; Bhima had also been shot in the mouth. The family had never received threats previously.

After that incident, in June 1988, the Punjab police were stationed at the house for the family's protection. On August 14, 1988, at 7:40 p.m., ten police were inside when militants fired at the house. Gulshan fired back, and the shooting continued for 35 minutes. In September 1988, Gulshan left Punjab and moved to Delhi.

- Ram Lubhaya, 42, an excise clerk at a manufacturing company, left his home in Khapar Kheri in Amritsar district and came to New Delhi in 1989. He told Asia Watch that on January 1, 1989, at about 9:30 p.m., he and his father, Ram Richppal, were working on the family farm in Khapar Kheri when a servant came and told them that three men with their faces covered had come to the house looking for the father. When the grandmother, Pritam Devi, told them that Ram Richppal had gone to the farm, the men looked around the house, but touched nothing. Then one of the men said, "Let's leave her," but the other said, "No, let's not go away empty-handed," and they shot and killed Pritam Devi and then left. Pritam Devi was hit in the forehead and the abdomen.

In 1987 the family had received two letters telling them to leave Rs. 200,000 [about U.S. \$11,100] in a specified place, and threatening that if they failed to do so, the family would be killed. The family did not leave the money. They believed that the letters, which had been printed with the letterhead of the Khalistan Liberation Force, had been sent by a former friend who had joined the militants. The amount of money, the place the money was to be left and the family's name were the only things written in the letters. Both were signed, "General Labh Singh, Panjwar, Amritsar." Ram Lubhaya came to New Delhi on January 23, 1989. His father remained in the village.

- Prem Chand, 36, originally from the village of Marhi Panvan, Srihargobindpur, Batala, told Asia Watch that one night in February 1988 at about 11:00 p.m. three intruders jumped over the outside wall of the courtyard and entered the house next door, which belonged to Prem Chand's uncle. Two wore turbans and had long beards; the other was clean-shaven. One man wore a mask. The intruders separated the men in the house from the women and locked them in different rooms and searched the house. Then they went into the room where the men were and shot dead Prem Chand's uncle, Shankar Das, and his two sons, Dhari Lal, 25, and Bharat



Bhushan, 19. All three were shot in the chest; Dhari Lal was also shot in the head. (Shankar Das was a gas station attendant; his sons were shopkeepers.) The three gunmen then left on foot.

On hearing the shots next door, Prem Chand and his family ran from their house. Three hours later they returned, bringing with them the CRPF and the Punjab police. By that time the women had broken open the door and had come out and found the bodies of the men lying in a pool of blood. The police recovered 11 empty bullet shells from the site.

A month before the killings, Shankar Das' family had received two handwritten letters signed by "Surjit Singh Penta." The letters said that if they did not leave the area, the entire family would be killed. In Operation Black Thunder<sup>216</sup> six months later, Surjit Singh Penta was listed among the militants killed and his photograph was published in the newspapers. The women in the house identified Surjit Singh Penta as one of the three men who had killed Shankar Das and his two sons.

On August 2, 1988 between 9:15 and 10:00 p.m., six men came to Prem Chand's house and the two adjoining houses of his relatives. The men had their faces covered. They opened fire on the house killing Prem Chand's elder uncle Sain Dass, 65, and his cousin Ajit Pal, 27, a truck-driver. Two others were injured, including a cousin, Surinder Kumar, 45, and his wife Satya Devi, 40, both of whom were hospitalized for a month recovering from their injuries. A nephew, who had been a soldier in the army, lay down on the floor when the gunmen opened fire, then ran into a nearby room and fired back at the intruders. They exchanged fire until after a while the gunmen left. Fifteen to 20 days later, Prem Chand left with his family and moved to New Delhi.

#### **Attacks on Journalists**

- On November 22, the Panthic Committee headed by Dr. Sohan Singh issued a "code of conduct" for journalists, editors, columnists and others associated with the press. Effective December 1, 1990, the code required all journalists to refer to

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<sup>216</sup> Operation Black Thunder was conducted by commandos of the Indian army to flush out militants from the Golden Temple in May 1988.

all those struggling for the establishment of 'Khalistan' ... as militants, Khalistani freedom fighters or Khalistani mujahidins<sup>217</sup> and not terrorists, extremists or alleged terrorists.... The Panthic Committee should not be addressed as 'Pakistan-based Panthic Committee' but Panthic Committee as such.

The code also required journalists to report more "from the land of Khalistan," omit the prefix 'so-called' or 'self-styled' before the rank of militant commanders, and use 'Sant'<sup>218</sup> in any reference to the militant leader, Bhindranwale. Those who violate the code "shall meet with memorable punishment," possibly death.<sup>219</sup>

Journalists Asia Watch interviewed stated that they felt compelled to obey the directive. As one reporter observed, "If you have to work in the worst-affected areas, you have to take certain precautions and make some compromises."

Common Article 3 to the Geneva Conventions expressly prohibits "cruel treatment and torture" and "outrages upon personal dignity, in particular humiliating and degrading treatment." Explicit threats to kill noncombatants are barred by these provisions. Article 3 of Protocol II provides, "Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population are prohibited."

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<sup>217</sup> *Mujahidin* is a Muslim word literally meaning those who fight a *jihad*, or "holy war."

<sup>218</sup> The word designates a holy man or religious leader.

<sup>219</sup> Panthic Panel's Code for Scribes," *Indian Express*, November 23, 1990.

• On December 6, 1990, at approximately 9:50 a.m., **R.K. Talib**, the station director for All-India Radio in Chandigarh and a respected poet, was shot outside his home by unidentified gunmen. He had previously been threatened and had a police subinspector assigned to guard him. Talib, confined to a wheelchair since birth, was sitting in his front yard with the subinspector, Balwant Singh. Two youths approached Talib, who then sent his son Rajiv to bring chairs for the visitors. After Rajiv left, the men fired three shots into Talib's head, killing him, and then fled on a scooter parked across the street.<sup>220</sup>

Family members told Asia Watch that the subinspector was not armed -- and according to press reports, Balwant Singh was subsequently suspended from duty. Although a police station was located no more than 200 yards down the street from Talib's house, police did not arrive on the scene until some 15 to 20 minutes had passed. On December 21, police officials in Chandigarh claimed to have apprehended the assailants and stated that Balwant Singh had in fact cooperated with the militants in the murder of Talib.<sup>221</sup>

In a press statement released on December 10, the Babbar Khalsa (Panjwar), Khalistan Commando Force, Khalistan Liberation Force, Sikh Students' Federation and Bhindranwale Tigers Force of Khalistan claimed responsibility for Talib's murder.

In the statement, the militants said that the killing was part of the first phase of "Operation Mother Language." The statement called for all broadcast media in the state and in Chandigarh to broadcast all programs in Punjabi and added that the second phase of the operation "would put a big dent in the citadel of the enemies of the Punjabi language."<sup>222</sup> Editors were also warned against abbreviating or otherwise changing statements issued by the militants. "All the dailies have discovered that the letters and press releases issued by the militants have to be published *in toto*, without a comma left out."<sup>223</sup>

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<sup>220</sup> "City AIR Chief Shot Dead," *The Tribune*, December 7, 1990.

<sup>221</sup> "Talib's Killers Held, Eight More Killed," *Times of India*, December 22, 1990.

<sup>222</sup> "Five Militant Units Admit Killing Talib," *Indian Express*, December 11, 1990.

<sup>223</sup> Suneet Vir Singh, "Hands Up for the Punjab Press," *Times of India*, December 9, 1990.

In February, the Zaffarwal Panthic Committee issued a second nine-point "code of conduct" which ordered that, beginning March 18, all journalists should boycott government-sponsored events, refrain from publishing "government material" or any news that could be considered "objectionable, derogatory and misleading" about the militants. The committee's statement warned that it "may award the death penalty" to those who did not obey the code.<sup>224</sup>

The Sohan Singh Panthic Committee issued a similar directive, published in *Jantak Paigam*, which warned,

If after 1st February 1991 the militants get hold of any English typewriter in any office the concerned officers of that department will be inflicted [sic] strict punishment.

The directive also listed government civil servants and faculty members at schools and universities in Chandigarh, threatening,

On the above-mentioned officers, employees, [and] professors the intelligence agencies of the Khalsa are maintaining special surveillance [and] keeping track of their activities ... therefore these persons should think about their activities.

In a letter to the governor of Punjab, published in *Jantak Paigam*, the Panthic Committee (Sohan Singh) stated,

All the staff of the Home Ministry (Punjab and Chandigarh) will face our anger.... The offices of the PTI [Press Trust of India] and UNI [United News of India] will be closed.... We hope that you will not take any step which will endanger the lives of your family, children and relatives.<sup>225</sup>

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<sup>224</sup> "Sikh Militants Announce Media 'Code of Conduct,'" *Agence France Presse*, February 27, 1991, as cited in Foreign Broadcast Information Service, FBIS-NES-91-040, February 28, 1991, pp. 52-53.

<sup>225</sup> Asia Watch obtained a translation of the letter and the directive.

In response to the militants' threats, the state information department switched to using the word "militant" (instead of terrorist) and began issuing all press statements in Punjabi.

Hindi and Urdu newspapers got few or no government advertisements and the government departments throughout the state stopped buying the non-Punjabi dailies.... Even the [television] announcers adhered to the dress code specified for women.<sup>226</sup>

Even before the codes were issued, journalists operated at considerable risk in Punjab. Those associated with the *Hind Samochar* group of newspapers,<sup>227</sup> have been a particular target of attack. According to the newspaper's chief editor, with the murder of Amarnath Verma (see below), 60 persons associated with the newspaper had been killed by Sikh militants since Lala Jagat Narain was assassinated in 1981.<sup>228</sup> Another observer has noted that the chain has lost "journalists and paper vendors ... but the paper is still coming out of an office that looks like a besieged fortress."<sup>229</sup>

- On February 8, 1991, **Amarnath Verma**, 55, a correspondent for the *Hind Samochar* chain of newspapers, was shot and killed in Amritsar by two unidentified gunmen on a motorbike who drove up alongside him and fired three bullets into his head.<sup>230</sup>

- **Bhag Singh Khela**, a correspondent for the *Hind Samochar* chain based in Jagraon was assassinated on September 23, 1990.<sup>231</sup>

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<sup>226</sup> "Official Media First to Wilt in Punjab," *Telegraph*, February 17, 1991.

<sup>227</sup> Including *Punjab Kesari*, *Jagbani Punjab*, and *Hind Samochar*.

<sup>228</sup> Deepak Sharma, *Associated Press*, February 8, 1991. In July 1989 seven vendors for the newspaper chain were gunned down by militants. It is believed that one of the reasons Lala Jagat Narain was assassinated was because he had appeared as a witness in a case against Bhindranwale. In recent years, the newspaper has reportedly run a charity fund for the families of victims of militant attacks. See Pankaj Pachauri, "Killing the Messengers," *India Today*, August 15, 1989, p. 37.

<sup>229</sup> Ajit Bhattacharjea, "Agonising Choice Before Media," *Indian Express*, December 19, 1990.

<sup>230</sup> Deepak Sharma, *Associated Press*, February 8, 1991.

<sup>231</sup> "Journalist Among 22 Shot Dead in Punjab," *Telegraph*, September 24, 1990.

- On November 13, 1990, **Balbir Singh Saggu**, a correspondent for a leftist Jalandhar Punjabi daily and a member of the CPI was shot and killed outside the campus of Khalsa College in Amritsar. The Khalistan Commando Force (Panjwar) claimed responsibility for the killing.<sup>232</sup>

### **Indiscriminate Attacks on Civilians**

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<sup>232</sup> Interview with journalist in Amritsar, December 3, 1990.

- At about 9:30 p.m. on June 15, 1991, gunmen opened fire inside two passenger trains which were stopped outside Ludhiana, killing at least 75 passengers. According to press reports, the attacks appeared to be coordinated, as both trains were stopped about a mile from the station by having their emergency cords pulled. Survivors stated that on one of the trains, Hindu passengers were identified before being shot. On the second train, the firing was indiscriminate, and many Sikhs as well as Hindus were killed. Although no group claimed responsibility for the attacks, they were believed to have been carried out by groups opposed to the elections scheduled for June 22.<sup>233</sup>

At least 35 civilians were killed in a series of attacks by Sikh militants in November 1990. In each case, the militants stopped buses, identified Hindu passengers, ordered them off the buses and executed them. According to a local journalist, the Bhindranwale Tiger Force (BTF) was believed responsible for many if not all of the bus attacks -- which the group apparently carried out in retaliation for the killing of BTF leader Sukhminder Singh Sandhu in Taran Taran on November 3.<sup>234</sup>

- On November 22, unidentified gunmen stopped three buses traveling to Chandigarh, ordered the Hindu passengers -- many of whom were government civil servants returning to their homes in Chandigarh<sup>235</sup> -- into one bus and then fired into the bus with automatic weapons. Some 25 passengers were killed and at least 12 wounded. Police officials stated that many of the victims had been shot in the head.

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<sup>233</sup> Barbara Crossette, "Police in India Put Toll in Train Attacks Between 76 and 126," *New York Times*, June 17, 1991; "Sikh Gunmen Kill 110 Aboard 2 Punjab Trains," *Washington Post*, June 16, 1991; Kanwar Sandhu, "Floundering Move," *India Today*, July 15, 1991, p. 33.

<sup>234</sup> Interview with journalist in Amritsar, December 3, 1990.

<sup>235</sup> "Sikh Militants Slay at Least 13 in an Attack on Buses in Punjab," *New York Times*, November 23, 1990; "Militants Stop Three Buses, Mow Down 25," *Telegraph*, November 23, 1990.

Militants also stopped a bus traveling from Amritsar to Moga, forced two Hindu passengers to disembark and then shot them dead.<sup>236</sup>

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<sup>236</sup> "Punjab ASI Among 15 Shot," *Telegraph*, November 24, 1990.



- On November 15, seven bus passengers were killed near the village of Kotwara when militants stopped a bus traveling from Ferozepur to Dharamkot, forced the Hindu passengers to disembark and then shot them. Four of the dead were reportedly identified as Vijay Kumar, Surinder Pal, Sanjit Kumar and Tirath Ram.<sup>237</sup>

- On November 17, gunmen stopped a bus traveling near the village of Fattuwal in Amritsar district, forced one passenger, Ashok Kumar, to disembark and then opened fire, killing him.<sup>238</sup>

- At about 7:30 p.m. on March 22, 1991, a bus carrying some 30 factory workers from Ratil Majra to Bhareli in Ropar district was stopped by gunmen who ordered all the passengers to disembark. They were then made to line up along the side of the road and were shot dead. The militants then set fire to the bus.<sup>239</sup>

- In the late evening of November 4, militants placed road blocks and stopped vehicles on the Gurdaspur-Tibri road three kilometers from Amritsar. Seventeen persons identified as Hindu were shot. In a report published in the *Tribune* on November 6, the police reportedly recovered a note on Bhindranwale Tiger Force letterhead which stated that the killings were in retaliation for the killing of Sukhminder Singh Sandhu. According to the report,

a gang of men with muffled faces stopped passersby coming from Gurdaspur ... and asked for i.d., when they found Sikhs they let them go.... One eye-witness, Balkar Singh, said that by then the gang had stopped 12 cyclists and scooters and lined them up on the side of the road. A truck driver who was signalled to stop did not slow down and they opened fire and killed him.... 10 of the persons at the roadblock were made to walk into fields behind a small orchard, 20 meters from the road. All were shot there. Eyewitnesses said the shooting continued for 20 minutes.

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<sup>237</sup> See "Terrorists Kill 7 on Punjab Bus," *Telegraph*, November 16, 1990.

<sup>238</sup> "11 Punjab Jawans Among 32 Killed," *Telegraph*, November 19, 1990.

<sup>239</sup> "Terrorists Mow Down 30 Ropar Factorymen," *Telegraph*, March 23, 1991.

According to the report, those who tried to escape were gunned down by the militants.<sup>240</sup>

- A similar attack occurred on the road outside of the village of Bhikowal, six miles northeast of Hoshiarpur, on January 28, 1991. After stopping cars and trucks passing on the road, the militants identified 13 Hindu travelers and, after forcing them to line up on the side of the road, shot them. At least eleven were killed.<sup>241</sup>

- On November 25, Sikh militants drove through the town of Jalandhar, firing automatic weapons along the street, killing fifteen. Police officials stated that they believed the attack may have been in retaliation for the arrests of some 300 Sikh politicians earlier that day.<sup>242</sup>

- On November 29, five militants traveling in a van through Ludhiana opened fire at several street crossings, a hotel, and the city income tax office, killing two civilians -- Ashok Rattan, a stenographer and Kanta Parsad, a hospital watchman. A constable with the traffic police was also among those killed. Several others were injured.<sup>243</sup>

- At 3:30 p.m. on November 20, 1990, a bomb exploded on a passenger train near the Ghagiayah railway station, derailling the train and injuring six passengers. According to a local journalist, the Khalistan Commando Force claimed responsibility.<sup>244</sup>

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<sup>240</sup> "Massacre Leaves Trail of Misery," *Tribune*, November 6, 1990.

<sup>241</sup> "Sikh Militants Shoot Dead 11 in Punjab Ambush, Police Say," Reuters, January 29, 1991.

<sup>242</sup> "Punjabi Town Put Under Curfew After 15 Hindus Die in new Strife," *New York Times*, November 27, 1990.

<sup>243</sup> "6 Gunned Down in Ludhiana," *Tribune*, November 30, 1990.

<sup>244</sup> *Tribune*, November 21, 1990. Interview with journalist in Amritsar, December 3, 1990.

- On July 8, 1990, a bomb exploded in the Sabzi Mandi commercial district of Batala, killing two persons and injuring 35. Among those killed or injured were residents who had gathered outside a television shop to watch a popular program based on the Hindu epic, the *Mahabharata*. The bomb reportedly had been attached to a bicycle parked in the market.<sup>245</sup>

- On April 3, 1990, a bomb blast near a Hindu religious procession in Batala killed 32 people and injured at least 20 others. The procession had reached a crowded vegetable market when the bomb, which had been attached to a bicycle, was detonated. Sikh militants were believed responsible.<sup>246</sup>

#### **Assassinations of Political and Religious Leaders**

Political and religious leaders, including village *sarpanches* and leading members of rival Sikh organizations have also been killed.

- On July 10, 1990, **Balwant Singh**, 61, a former finance minister who had helped broker the Gandhi-Longowal accord, was traveling by car in Chandigarh. Gunmen, who followed in another vehicle, forced Balwant Singh's car to swerve off the road and then opened fire with automatic weapons. Balwant Singh was killed, along with two bodyguards and the driver. On July 12, the militant groups aligned with the Sohan Singh Panthic Committee claimed responsibility for the murders.<sup>247</sup>

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<sup>245</sup> "Blast, Violence Kill 25 in Punjab," *Telegraph*, July 9, 1990.

<sup>246</sup> See Sanjoy Hazarika, "30 Killed in Bomb Blast at Hindu Rite in Punjab," *New York Times*, April 4, 1990; "Sikh Extremists Kill 32 with Bomb in Punjab," *Washington Post*, April 4, 1990.

<sup>247</sup> "Sikh who Promoted Truce is Shot Dead," *New York Times*, July 11, 1990; Sunrita Sen, "Balwant Singh Gunned Down in Chandigarh," *Telegraph*, July 11, 1990; "Nine Terrorists Shot in Punjab," *Telegraph*, July 13, 1990.

- On September 4, 1990, militants entered the home of SGPC member **Sant Swaran Singh** in the village of Thua in Patiala district and shot him dead. Sant Swaran Singh was an aide to the SGPC leader G.S. Tohra<sup>248</sup> and the tenth SGPC member to be killed.<sup>249</sup>

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<sup>248</sup> Tohra was reelected head of the SGPC in December 1990. He had been a leading figure in Akali Dal politics since the 1970s. He was previously elected president of the SGPC in 1979.

<sup>249</sup> "Tohra Aide Shot Dead in Punjab," *Telegraph*, September 5, 1990.

- On October 21, 1990, **Shishpal Singh**, a leading Akali Dal (Badal) member and a former minister of public health and animal husbandry in the Punjab government during the Barnala administration, was shot dead by unidentified gunmen in his farmhouse near the Rajasansi airport in Amritsar.<sup>250</sup>

- Also on October 21, **Barket Masih**, a sarpanch of the village of Motle in Majitha district and the president of Ajnala Tahsil Agricultural Worker's Union aligned with the CPI (M), was shot dead by unidentified gunmen outside his home.<sup>251</sup>

- On November 17, three unidentified gunmen on motorcycles shot dead **Balwant Singh** -- a preacher and head of the breakaway Sikh sect of Nanak Dukhbhajan Satsangh Ghar -- and five of his disciples as he was delivering a sermon in a tent in Hoshiarpur district.<sup>252</sup>

- On December 2, four gunmen shot and killed **Darshan Singh**, the head of the Congress (I)'s Dalit<sup>253</sup> branch in the district, outside his home in Bimri, Ludhiana district.<sup>254</sup>

- On April 19, 1991, **Kidar Nath Mahajan**, the district president of the Bharatiya Jananta Party (BJP), was shot and killed in his shop in Mansa Mandi in Bhatinda district by unidentified gunmen. Another party member, Bhagirat Lal, was injured in the attack.<sup>255</sup>

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<sup>250</sup> "Akali Leader Shot, Mob Blocks Train," *Telegraph*, October 22, 1990.

<sup>251</sup> "Akali Leader Shot, Mob Blocks Train," *Telegraph*, October 22, 1990.

<sup>252</sup> "Sikh Militants Ignore New Premier's Plea for Peace," *New York Times*, November 19, 1990; "11 Punjab Jawans Among 32 Killed," *Telegraph*, November 19, 1990.

<sup>253</sup> Dalit ("the oppressed"), a term used for "untouchables," may also cover other low-caste or tribal groups.

<sup>254</sup> "Cong (I) Leader, 7 Militants Killed," *Tribune*, December 3, 1990.

<sup>255</sup> "BJP Leader Among 24 Shot in Punjab," *Telegraph*, April 30, 1991.

- On May 1, **Mahant Kewal Das**, general secretary of the rural Ludhiana district Congress (I), was shot and killed by unidentified gunmen in Raikot.<sup>256</sup>

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<sup>256</sup> "Congman Shot in Punjab," *Telegraph*, May 3, 1991.

In the weeks before the national and state assembly elections in May and June 1991, 24 candidates in Punjab were assassinated.<sup>257</sup> The circumstances surrounding a number of these killings are described below. In some cases, those assassinated were members of political parties perceived as opponents of some militant factions, particularly the Akali Dal (Mann), the Akali Dal (Badal), the CPI and independents. A number of militant factions also fielded candidates, some of whom may have been assassinated by other militant groups.<sup>258</sup> Some groups posted signs in Ludhiana threatening to cut off the index finger of anyone daring to vote. (The index finger is inked to prevent persons from voting more than once).<sup>259</sup> On April 14, a conference of some of the militant organizations called for a boycott of the elections and warned that "anyone trying to cash in on the sacrifices of the Sikh youths" by participating "would be dealt with accordingly."<sup>260</sup>

- On April 27, **Malkiat Singh**, an Akali Dal (Mann) candidate campaigning from Moga and Baghapurana, was shot and killed by unidentified gunmen.<sup>261</sup>

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<sup>257</sup> The elections were originally scheduled for May 20-26, but following the May 21 assassination of Congress (I) candidate Rajiv Gandhi at an election rally in Tamil Nadu, completion of the polling in all states but Assam and Punjab was postponed until June 12 and 15. The Assam polls took place on June 6. The Punjab polls were scheduled to be held on June 22. No election was held in Jammu and Kashmir.

<sup>258</sup> "The AISSF (Manjit) and sundry factions of the Akali Dal ... were the hardest-hit in the assaults by the militants: most of those killed were their candidates." See Kanwar Sandhu, "Floundering Move," *India Today*, July 15, 1991, p. 33.

<sup>259</sup> *Ibid.*, p. 32.

<sup>260</sup> Monimoy Dasgupta, "Candidate Elimination Plan in Punjab," *Telegraph*, May 15, 1991.

<sup>261</sup> *Ibid.*

- At about 1:30 a.m. on May 6, **Ajmeer Singh**, a candidate for the Akali Dal (Panthic), was shot and killed by four gunmen who broke into his home in Lod Badhi in Sangrur district.<sup>262</sup>

- On May 8, **Darbara Singh**, an Akali Dal (Badal) candidate, was shot and killed by unidentified gunmen in a school in Longowal village in Sangrur district.<sup>263</sup>

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<sup>262</sup> Akali Dal Nominee Shot Dead," *Telegraph*, May 7, 1991.

<sup>263</sup> "Punjab DIG, Akali Dal Candidate Gunned Down," *Telegraph*, May 19, 1991.



- On May 10, **Sikkatar Singh Pandori**, an Akali Dal (Panthic) candidate was assassinated by unidentified gunmen in his shop in Dakha in Ludhiana district.<sup>264</sup>

- On May 11, the body of **Kamaljit Singh**, who had been campaigning as an independent candidate, was found on the outskirts of Jalandhar. He had been reported missing earlier that day.<sup>265</sup>

- On May 15, **Baljinder Singh**, who had been campaigning as an independent candidate from Adampur, Jalandhar, was shot and killed by unidentified gunmen.<sup>266</sup>

- On May 16, **Balwinder Singh**, who had been campaigning as an independent candidate from Sherpur was shot dead by unidentified gunmen as he was traveling in Barnala.<sup>267</sup>

- On May 17, **Pritam Singh Cheema**, an AISSF (Manjit) candidate, was shot and killed by unidentified gunmen.<sup>268</sup>

- On May 27, **Inderpal Singh Gill**, who had been campaigning as an independent candidate, was shot and killed in Ludhiana. Gill had been supported by the AISSF.<sup>269</sup>

- On May 27, **Amritlal Goel**, an Akali Dal (Longowal) candidate, was shot and killed by two militants at his petrol station in Malerkotla.<sup>270</sup>

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<sup>264</sup> "Another Akali Candidate Shot," *Telegraph*, May 11, 1991.

<sup>265</sup> "Independent Killed, Polls Put Off in Jalandhar," *Telegraph*, May 14, 1991.

<sup>266</sup> "Independent Killed in Punjab," *Telegraph*, May 16, 1991.

<sup>267</sup> "One More Candidate in Punjab Shot," *Telegraph*, May 17, 1991.

<sup>268</sup> "Candidate Shot," *Telegraph*, May 18, 1991.

<sup>269</sup> "Independent Shot," *Telegraph*, May 28, 1991.

<sup>270</sup> "More Election Candidates Shot," Foreign Broadcasting Information Service (FBIS-NES-91-102), May 28, 1991, p. 27, citing All India Radio Service of May 28, 1991.

- On May 27, **Jaswant Singh**, an independent candidate from Muksar, was shot dead by two armed youths on a motor-scooter.<sup>271</sup>

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<sup>271</sup> Ibid.

- On June 2, **Dalbir Singh Ranike**, Akali Dal (Badal) candidate from Attari Assembly was killed by unidentified assailants.<sup>272</sup>
- On June 4, **Baldev Singh Lang**, an Akali Dal (Mann) candidate from Samana was killed when unidentified gunmen opened fire on his car.<sup>273</sup>
- On June 7, **Amolak Singh**, a CPI candidate from Panjgrain, was killed when armed men fired automatic weapons into his car, killing him and four civilians who were in the car.<sup>274</sup>
- On June 8, **Jagga Singh**, an Independent candidate from Sangrur, was shot dead by unidentified gunmen near the village of Jolian.<sup>275</sup>
- On June 9, **Birendra Kumar Gagagn**, a CPI-M candidate from Nakodar, near Jalandhar, three of his security guards, and a party worker were gunned down by unidentified gunmen near the village of Litran.<sup>276</sup>
- On June 18, **Shaminder Singh**, an Akali Dal (Badal) candidate from Faridkot, and **Dayal Singh Sandhu**, an Akali Dal (Badal) candidate from Muksar were killed by a bomb that exploded in Sandhu's home.<sup>277</sup>

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<sup>272</sup> "Candidate Shot," *Telegraph*, June 2, 1991.

<sup>273</sup> "Two More Candidates Shot, Killed in Punjab," Foreign Broadcast Information Service, (FBIS-NES-91-109), June 6, 1991, p. 38, citing All India Radio report of June 4, 1991.

<sup>274</sup> "CPI Nominee Among 33 Shot Dead in Punjab," *Telegraph*, June 8, 1991.

<sup>275</sup> "Independent Shot in Punjab," *Telegraph*, June 9, 1991.

<sup>276</sup> "No Change in Punjab Polls; Candidate Killed," Foreign Broadcast Information Service, (FBIS-NES-91-111), June 10, 1991, p. 56, citing All India Radio report of June 9, 1991.

<sup>277</sup> "Akali Dal Candidate Killed in Bomb Blast," *Telegraph*, June 19, 1991.

- On July 4, **Balwant Singh**, an Akali Dal (Mann) candidate from Verka, a friend of his, and two of his security guards, were abducted from Balwant's Singh's home in Gumtala and then killed by four unidentified gunmen.<sup>278</sup>

Suspected police informers have also been murdered.

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<sup>278</sup> "Nominee Shot in Punjab," *Telegraph*, July 5, 1991.

- In late April, 1991, **Anokh Singh**, the sarpanch of the village of Lalu Ghunam, about 12 miles south of Amritsar, was shot and killed in the village gurdwara. According to villagers, a tribunal of Sikh militants had sentenced him to death because they believed he had informed the police of the whereabouts of a militant leader, Hardev Singh Jaursinghwale, who was killed in an "encounter" after being apprehended by the police in January.<sup>279</sup>

- **Jyoti Sandhu**, a correspondent, was killed on November 27 in Amritsar. Unidentified gunmen kidnapped her and her husband from their house. The next day their bodies were found on the outskirts of the city. Each had a bullet wound in the head and appeared disheveled. Militants had alleged that she, her husband and her brother were police informers.<sup>280</sup>

### **Kidnappings**

Many militant groups kidnap civilians, including the relatives of security personnel, for ransom. If the families cannot pay, the victims are murdered and their bodies left as a warning to others. As one observer has noted, "Some militants operate a secondary market, buying and selling kidnap victims from other gangs."<sup>281</sup> In some cases, kidnap victims are held as hostages by groups attempting to secure the release of captured militants. Common Article 3 prohibits the "taking of hostages." The International Committee of the Red Cross commentary on Protocols I and II of the Geneva Conventions defines hostages as persons

detained for the purpose of obtaining certain advantages. This means that hostages are persons who find themselves, willingly or unwillingly, in the power of the enemy and who answer with their freedom or their life for compliance with the orders of the latter and for upholding the security of its armed forces.

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<sup>279</sup> Arthur Max, "Sikh Violence Terrorizes Village Caught Between Militants, Police," Associated Press, April 26, 1991.

<sup>280</sup> Interview with journalist in Amritsar, December 3, 1990.

<sup>281</sup> James Clad, "Terrorism's Toll," *Far Eastern Economic Review*, October 11, 1990, p. 34.

The kidnapping of civilians for the purpose of obtaining the release of detained colleagues is outlawed by this provision.

- **Devan Munjal**, the 12-year-old son of a relative of R. L. Bhatia, a former general secretary of the Congress (I) in Amritsar, was abducted on February 13, 1991, by militants who demanded the release of imprisoned colleagues. According to official sources, the child was released "unconditionally" on March 19 on the Grand Trunk road about 25 kilometers from Amritsar after police arrested the relatives of some of the militants.<sup>282</sup>

- On March 6, 1991, **Bhupinder Kaur**, a close relative of senior Congress (I) leader and former Home Minister Buta Singh, was abducted from the campus of the Punjab Agricultural University by four armed men. On the same day, **Paramjit Kaur** and **Palwinderjit Kaur**, the two daughters of a CRPF commander, were kidnapped from their home in Chandigarh. Five militant organizations -- Babbar Khalsa, Khalistan Commando Force, AISSF (Daljit) Bhindranwale Tiger Force and Khalistan Liberation Front -- claimed responsibility for the abduction of Bhupinder Kaur; the Babbar Khalsa claimed responsibility for the abduction of the other two and demanded the release of Bhai Raminderjit Singh, a Babbar Khalsa activist, in exchange for the release of the three women. After the police and CRPF detained Bhai Raminderjit's father and other members of his family, Paramjit Kaur and Palwinderjit Kaur were released on March 9. Bhupinder Kaur was released on March 12. It is not known whether Bhai Raminderjit's relatives have been released.<sup>283</sup>

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<sup>282</sup> "Congman's Kin Freed, 15 Killed in Punjab," *Telegraph*, March 20, 1991.

<sup>283</sup> "Buta's Kin Abducted," *Hindustan Times*, March 7, 1991; "Congress Pressure to Free Ultra," *Times of India*, March 11, 1991; "Buta's Kin Freed by Militants," *Times of India*, March 12, 1991; "CRPF Officer's Daughters Abducted," *Times of India*, March 8, 1991; *Punjab Kesari*, March 10, 1991.

## VI. CONCLUSIONS AND RECOMMENDATIONS

As this report went to press, a new government, under Prime Minister Narasimha Rao, had just taken office in India. His government, like the two that preceded it, is a minority government, one that may find itself too preoccupied with its own survival to diverge from established policy in Punjab. If that is the case, it will be tragic for Punjab and for India. Ten years of failed government policy has fostered a culture of violence and lawlessness in the state; only genuine human rights reforms will restore the rule of law and provide protection for the civilians who have been the most frequent victims of the violence.

India's central government, the Sikh political leadership and the militants all bear responsibility for the current catastrophe in Punjab. Committed to maintaining a climate of terror, the numerous militant groups - and the criminal gangs they have spawned -- have been willing to go to any lengths to undermine efforts that would lead to a restoration of political processes in the state, killing countless civilians. At the same time, the government's policy of repression has resulted in an escalation of violence and a criminalization of the police forces. The combination has all but negated the possibility for a political settlement.

The legacy of the Punjab crisis has also altered debate on human rights in India, silencing many by portraying the conflict in terms of national security and branding those who would criticize that policy as militant sympathizers. Rather than investigate reports of human rights violations, the authorities attack those who bring the charges, signaling a tolerance for the abuses and a willingness to accept a different standard of behavior for those members of the security forces involved in a fight against terrorism -- even when that behavior includes murder and torture. That cynicism is reflected in the attitudes of senior government officials. As one government spokesman observed:

We are committed to human rights as such. But where human rights are abused as a protection for those who are anarchists, who are terrorists, who don't believe in democracy, we have other solutions. You see, human rights must be used democratically for democratic purposes by people who believe in democratic ends.<sup>284</sup>

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<sup>284</sup> Interview with Abid Hussain, ambassador from India to the U.S.. This report was

Acts of violence by militant groups cannot justify the security forces resorting to such abuses themselves. Their doing so only breeds further terror and undermines India's commitment to democracy and the rule of law. In order to restore respect for human rights and bring an end to the cycle of violence, the government of India and the militant organizations operating in Punjab must undertake the following:

- Militant organizations operating in Punjab should abide by the provisions of Common Article 3 which prohibit killings or other attacks on persons taking no part in the hostilities. Asia Watch condemns acts of violence by these groups against members of the civilian population and calls upon all militant organizations to adhere to the laws of war in conducting hostilities.
- Militant organizations operating in Punjab should refrain from issuing threats against members of ethnic or religious groups, journalists, government employees and other civilians. Asia Watch condemns the issuance of such threats and calls upon all militant organizations to respect freedom of expression and of the press.
- The government of India should establish independent, impartial commissions of inquiry into all reports of encounter killings, reprisal killings and other forms of extrajudicial execution carried out by the army and the security forces. Members of the army and the security forces found responsible for murder should be prosecuted and punished. Family members should be paid compensation.
- The government of India should establish independent, impartial commissions of inquiry into all reports of torture, rape and assault committed by the army and the security

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forces. Members of the army and the security forces found responsible for murder should be prosecuted and punished. Victims should be paid compensation.

- The government of India should instruct its security forces in non-lethal methods of crowd control, and repeal legislation such as the Punjab Disturbed Areas Act and the Punjab Special Powers Act which grant the security forces to power to shoot to kill. Provisions immunizing the security forces from prosecution for abuses should be eliminated.
- The government of India should repeal the Terrorist and Disruptive Activities Act (TADA) as its provisions are so broad as to virtually criminalize legitimate political dissent and free speech.
- The government of India should amend the National Security Act to ensure that it may not be used to curb legitimate political dissent and free speech.
- The government of India should strengthen and enforce the safeguards existing in Indian law that protect detainees from torture, including requirements that all detainees be brought before a magistrate or other judicial authority empowered to review the legality of the arrest within 24 hours of arrest, that they be informed promptly of the charges against them and that all detainees have immediate and regular access to lawyers, family members and medical care. A centralized register of detainees accessible to lawyers and family members should be established.
- The International Committee of the Red Cross should be permitted to undertake the full range of its protection activities in areas of civil conflict in Punjab, and we urge the government of India and all of the militant groups operating in Punjab to extend their full cooperation to the ICRC.

## **APPENDIX**

### **Police Officials Named in Cases of Encounter Killings, Torture and Detentions Leading to Disappearances or Encounter Killings**

Subinspector Balkaar Singh, Saddar police station, Amritsar  
Inspector Gurdev Singh, Amritsar police station  
Inspector S. S. Barar, Amritsar police station

Inspector Ajab Singh, Saddar police station, Batala

Subinspector Manjit Singh, Dehlon police station  
Assistant Subinspector Joginder Singh, Dehlon police station  
SHO Balbir Chand Tiwari, Dehlon police station  
Assistant Subinspector Chattopadyaya, Dehlon police station

Subinspector Ram Parkash, Balachor police station, Hoshiarpur  
SHO S. I. Radhakrishnan, Balachor police station, Hoshiarpur  
Deputy Superintendent Ajit Singh, Hoshiarpur

Raj Kumar, CIA staff, Jalandhar  
Gurbax Singh, CIA staff, Jalandhar  
Subinspector Jaswant Singh, CIA staff, Jalandhar

Subinspector Rattan Singh, Kathunangal police station

Assistant Subinspector Bhupinder Singh, Khanna police station  
Inspector Bhullar, Khanna police station

SHO Joginder Singh, Sudhar police station, Ludhiana  
Senior Superintendent Sumedh Singh Saini, Ludhiana  
Inspector Shiv Kumar, CIA staff, Ludhiana  
Assistant Subinspector Sant Kumar, CIA staff, Ludhiana  
Assistant Subinspector Gurdial Singh, CIA staff, Ludhiana  
SHO Shankar Das, Saddar police station, Ludhiana  
Assistant Subinspector Shamsher Singh, Saddar police station, Ludhiana  
Havinder Singh, Saddar police station, Ludhiana  
Constable Major Singh, police post 6, Ludhiana

Head Constable Darshan Singh, Saddar police station, Ludhiana  
Raj Kishan Bedi, CIA staff, Ludhiana  
Superintendent (Operations) B. S. Gill, Ludhiana  
Deputy Superintendent (Detective) Joginder Singh Khaira, Ludhiana

Senior Superintendent Paramjit Singh Gill, Majitha police station  
Inspector Mohinder Singh, Majitha police station

Special Police Officer "Bhai" Gurmeet Singh, Mal Mandi Interrogation Centre

Deputy Superintendent Dalip Singh, Mohali police station  
Jagir Singh, Mohali police station  
Gian Singh, Mohali police station

Inspector Surjit Singh Grewal, Patiala police station  
Assistant Subinspector Amarjit Singh, Patiala police station  
Assistant Subinspector Baldev Singh Barar, CIA staff, Patiala  
Inspector Sohenlal, CIA staff, Patiala

Deputy Superintendent Sita Ram, Taran Taran police station  
SHO Sukhain Singh, Taran Taran police station  
Inspector Gurvel Singh, Taran Taran police station  
Harbans Singh, CIA staff, Taran Taran  
Inspector Surinder Singh, Taran Taran police station