

## TWENTY YEARS LATER: RECENT REPORTS HIGHLIGHT THE CONTINUING STRUGGLE FOR SIKH HUMAN RIGHTS

As my auto rickshaw wound its way through New Delhi one July afternoon, I felt a peculiar sense of familiarity and sadness. While on the streets one can see the poverty associated with India's large population, what to me represented the greatest threat to the human rights movement in India was the road itself, one of the so-called "flyovers" superimposed on the city. Flyovers are roads that allow vehicles to rise above the narrow streets, beggars, cows, and potholes that swallow tires whole. For years, they have been touted as the answer to the congestion and chaos that plague modern, urban India. Although the flyovers do not hide the persistent problems below, from the perspective up above, the problems seem less urgent and the remedies less imperative. If the traffic keeps moving, the government appears effective. Many of India's survival efforts employ the same strategy: adopt any means to keep moving. While the government creates powerless commissions and delays hearings on the widespread human rights violations against minorities in India, recent reports such as *Reduced to Ashes: The Insurgency and Human Rights in Punjab*<sup>1</sup> and *Twenty Years of Impunity: The November 1984 Pogroms of Sikhs in India*<sup>2</sup> focus our attention below, so that we may address and repair the damage caused by state violence.

Although this Recent Development focuses on the condition of Sikhs, many other minority groups in India have been victimized, including Kashmiris, "Untouchables," and Muslims in Gujarat, to name only a few. This Recent Development uses the Sikh experience to illustrate the urgency of compelling the Indian government to address its past crimes, without intending to diminish the experiences of other groups. Indeed, recent efforts on behalf of Sikh victims, particularly before the National Human Rights Commission (discussed below), can serve as an instructive precedent for how to investigate and address other human rights abuses in India.<sup>3</sup>

Recent publications by Jaskaran Kaur, Ram Narayan Kumar, Ashok Agarwal, and Amrik Singh shed light on the human rights situation in Punjab during the last two decades. In *Twenty Years of Impunity: The November 1984 Pogroms of Sikhs in India*, Kaur compiles hundreds of affidavits, police records, and journalistic accounts to describe the lengths to which Indian government agents went to kill Sikhs following the assassination of Indira Gandhi. In *Reduced to Ashes: The Insurgency and Human Rights in Punjab*, Kumar and his colleagues assemble thousands of documents and eyewitness testi-

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1. RAM NARAYAN KUMAR ET AL., *REDUCED TO ASHES: THE INSURGENCY AND HUMAN RIGHTS IN PUNJAB* (2003).

2. JASKARAN KAUR, *TWENTY YEARS OF IMPUNITY: THE NOVEMBER 1984 POGROMS OF SIKHS IN INDIA* 34 (2004).

3. See ENSAAF, *National Human Rights Commission*, at <http://www.ensaaf.org/nhrc.html> (last visited Feb. 27, 2005).

monies to record and investigate the disappearances of hundreds of Sikh men in Amritsar, Punjab since 1984.

These authors uncovered thousands of documents that conclusively implicate police, local administrators, and even Parliament members in the deaths of tens of thousands of Sikhs in the 1980s and early 1990s. The authors document the violence not to change history or to overthrow the government, but rather "to empower the families of disappeared [sic] to reclaim their dignity, to press the institutions of the state to perform their obligations, and to lay the ground work for an honest retelling of a tragic part of recent history."<sup>4</sup>

#### PRELUDE TO THE POGROMS: OPERATION BLUE STAR

Constituting sixty percent of the population in the state of Punjab and two percent of the population overall, Sikhs have had a troubled relationship with the national government since Independence, primarily due to policies and decisions that Sikhs have perceived as discriminatory. In the late 1970s, Sant Jarnail Singh Bhindranwale tapped into Sikh discontent and organized a separatist movement to fight the "Hindu conspiracy" against Sikhs.<sup>5</sup> In 1982, Bhindranwale moved his headquarters into the Golden Temple Complex, the holiest place of worship in Sikhism.<sup>6</sup> He remained there until June 5, 1984, when Prime Minister Indira Gandhi sent the Indian army into the temple complex to capture Bhindranwale in a mission called "Operation Blue Star."<sup>7</sup> According to the Indian government, the Operation resulted in 83 army casualties and 493 civilian deaths.<sup>8</sup> In addition, the fighting destroyed the main administrative building and Golden Temple library, which contained original copies of Sikhism's most sacred texts.<sup>9</sup> Bhindranwale and almost all of his top aides were killed.<sup>10</sup>

Whether Bhindranwale supporters or not, Sikhs were shocked by the cruelty of the Operation, particularly because the Indian government carried it out during the week on which one of the holiest days of the Sikh calendar falls (the anniversary of the martyrdom of the fifth Guru). At the time, 3680 pilgrims were staying in the hostel inside the Golden Temple complex, leading scholars to question the accuracy of the government's estimated death toll.<sup>11</sup> According to eyewitness accounts, over 10,000 pilgrims and 1300 workers were unable to flee the complex before the attack.<sup>12</sup>

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4. Peter Rosenblum, *Preface to KUMAR, supra* note 1, at i.

5. SHARDA JAIN, *POLITICS OF TERRORISM IN INDIA: THE CASE OF PUNJAB* 161 (1995).

6. *Id.* at 166.

7. *See id.* at 174–80.

8. *Id.* at 179.

9. *Id.* at 178–79.

10. *Id.* at 179.

11. *Id.*

12. Ram Narayan Kumar, *The Ghalaghara: Operation Bluestar*, *SIKH REV.*, June 2000, at 8.

Scars from this blow to the Sikh community are visible today as the Operation set off a cycle of extreme violence by state agents and Sikh civilians. On October 31, 1984, two Sikh bodyguards assassinated Indira Gandhi; they blamed her for the civilian deaths from Operation Blue Star.<sup>13</sup> While post-Operation crimes by Sikhs have been widely reported, it is only in the past two years that scholars and activists have begun fully uncovering the systematic human rights abuses by the government. The abuses include a four-day pogrom after Indira Gandhi's assassination and a sustained campaign against Sikhs that some believe continues to this day.<sup>14</sup>

#### HISTORY REVISITED: KAUR'S REPORT OF THE 1984 POGROMS

New Delhi was in complete chaos in the days following Gandhi's assassination. In his groundbreaking report, *Twenty Years of Impunity*, Kaur revisits the pogroms, utilizing never-before published affidavits and reports submitted to closed investigatory commissions. One of these unpublished affidavits helps readers to begin to grasp the level of destruction in some of the hardest hit areas of New Delhi. According to pacifist leader Swami Agnivesh:

The carnage was mind boggling. Half burnt bodies were still lying scattered. Some had been mutilated by gorging their eyes. Some had smoldering tyres around their necks. The houses had been completely destroyed and burnt.<sup>15</sup>

Unrelenting mobs forced their way into households over and over again to ensure that they had killed every Sikh.<sup>16</sup> Women were sexually assaulted, often in front of family members.<sup>17</sup> The number injured or sexually assaulted is not fully known, but some authors estimate that Hindu civilians, politicians, and police officers killed nearly 3,000 Sikhs in four days.<sup>18</sup>

Kaur argues that the pogroms did not result from spontaneous action by the masses, as commonly believed, but rather were encouraged and organized by political leaders. Leaders of the dominant Congress Party who owned oil depots provided kerosene, the primary weapon used to kill Sikhs and a resource that many could not afford.<sup>19</sup> Affidavits uncovered by Kaur reveal that many Congress Party members were seen distributing kerosene and iron rods to mobs.<sup>20</sup> Moreover, because many assailants were illiterate or

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13. *Id.* at 181–82.

14. See generally KUMAR, *supra* note 1.

15. KAUR, *supra* note 2, at 34.

16. *Id.* at 35.

17. *Id.* at 37.

18. JAIN, *supra* note 5, at 182; see also KAUR, *supra* note 2 (implicating Hindu politicians and police officers as well as civilians).

19. KAUR, *supra* note 2, at 29.

20. *Id.* at 27.

unfamiliar with Sikh villages, Congress leaders helped by reading Sikhs' names and addresses found on voter, school registration, and ration lists.<sup>21</sup> The police were also implicated; for example, they spread rumors throughout New Delhi neighborhoods that Sikhs had poisoned the drinking water.<sup>22</sup> Kaur's report convincingly shows that the 1984 pogroms were efforts orchestrated at many levels of government to kill as many Sikhs as possible.

#### AFTERMATH: SIKHS "REDUCED TO ASHES"

Following the extreme polarization of Hindus and Sikhs, Sikh separatism and terrorist activities peaked in the mid-1980s. The situation led to Punjabi police operating "largely as a parallel administration because of the priority given to fighting the militant movement."<sup>23</sup> The brutal extent of police autonomy was not known until January 16, 1995, when Sikh activists Jaswant Singh Khalra and Jaswant Singh Dhillon released copies of official documents, including crematoria records, showing that Punjab security forces had secretly cremated thousands of bodies that they had labeled "unidentified/unclaimed."<sup>24</sup> Eight months after the publication of these documents, Khalra was abducted from outside his house.<sup>25</sup> The event, while tragic, focused attention on the cremations. Soon after, upon petition by the Committee for Information and Initiative in Punjab ("CIIP"), the Supreme Court ordered the Central Bureau of Investigation ("CBI") to investigate the alleged disappearances.<sup>26</sup> Issued in December 1996, the CBI's report documented 2,097 cases of illegal cremations at three crematoria in the Amritsar district, with only 582 of the bodies fully identified.<sup>27</sup> Subsequent claims for compensation filed with the National Human Rights Commission have been limited to these cases in the Amritsar district, ignoring Punjab's twelve other districts.

*Reduced to Ashes* tries to reconstruct and supplement the list of people cremated. The report provides a critical reminder of these families' ongoing need for justice. By meticulously documenting and summarizing over six hundred disappearances, the report also brings to light critical errors in the CBI's investigation, which now appears deeply flawed. Kumar notes several discrepancies and questionable findings in the CBI report. For example, based on past newspaper reports as well as family and eyewitness statements, Kumar

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21. Virginia Van Dyke, *The Anti-Sikh Riots of 1984 in Delhi: Politicians, Criminals and the Discourse of Communalism*, in *RIOTS AND POGROMS* 207 (Paul Brass ed., 1996), cited in KAUR, *supra* note 2, at 30 n.211.

22. KAUR, *supra* note 2, at 32.

23. HUMAN RIGHTS WATCH ASIA, *DEAD SILENCE: THE LEGACY OF HUMAN RIGHTS ABUSES IN PUNJAB* 13 (1994).

24. KUMAR, *supra* note 1, at ix.

25. *Id.*

26. *Id.* at x.

27. *Id.*

and his associates Ashok Agarwal and Amrik Singh identified a number of the 1,238 “unidentified” bodies.<sup>28</sup> The authors also note that the government has failed to mention or investigate other victims reportedly killed in police encounters alongside those cremated.<sup>29</sup> Finally, the CBI’s data contains duplications, and discrepancies often exist between the date of cremation and periods during which family members claim that the victim was alive.<sup>30</sup>

#### CONTINUING THE SEARCH FOR TRUTH

As security forces in Punjab were killing Sikhs in the name of combating terrorism, New Delhi struggled to recover from the 1984 Pogrom. Given the paucity of police reports filed by victims of mob attacks and the government’s reluctance to hold police or individual parliament members accountable, it is unsurprising that the organizers named in Kaur’s report have not been convicted of any crimes. In fact, the administrators and police officials most responsible for the Sikh disappearances are now considered by some as “authorities” on fighting terrorism.<sup>31</sup> A significant portion of *Reduced to Ashes* analyzes the persistent culture of impunity in Punjab. Twenty years later, human rights organizations such as the CIIP, the Committee for Coordination of the Disappearances in Punjab (located in New Delhi), and ENSAAF (based in California) are still struggling to expose the government’s culpability in the Pogrom violence.

Some argue that the efforts of these organizations are hampering the “healing” process in Indian communities. However, this argument fails to recognize that the recent end to violence does not necessarily signal peace, but perhaps, for example, fatigue and a lack of resources. Many in the Sikh community, especially family members of the disappeared, seek some acknowledgement of their suffering and accountability for those who are responsible. Reports such as *Twenty Years of Impunity* and *Reduced to Ashes* advocate holding abusers duly accountable, and attempt to recognize the suffering of victims of human rights abuses so that they too may move forward with the rest of the population.

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28. KUMAR, *supra* note 1, at 162–63.

29. *Id.*

30. *Id.* at 166.

31. See, e.g., Rosenblum, *supra* note 4, at i.