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WORLD SIKH PARLIAMENT

(ਵਰਲਡ ਸਿੱਖ ਪਾਰਲੀਮੈਂਟ)

Gabriella Habtom
Secretary of the Human Rights Committee
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3 June 2024

Dear Ms Habtom,

International Covenant on Civil and Political Rights - World Sikh Parliament submission to the UN Human Rights Committee (“HRC”) relating the country situation in India

Introduction

This submission, made by the World Sikh Parliament, is intended to assist the HRC in its review of India’s position in relation to the ICCPR. It will set out details of India’s past and ongoing breaches of a number of key provisions of the ICCPR and make recommendations for HRC action, with a view to ultimately protecting the collective and individual human rights we refer to. The submission is made from the perspective of the Sikh nation which has, especially over the past forty years, been the victim of massive, systematic rights abuses by the Indian state.

Despite the assertion by the Government of India (“GOI”) that “*there are effective remedies to address the violations of the rights of individuals or group of individuals*”¹, it is clear that the Indian state has committed egregious abuses against the Sikhs – and continues to do so – but the GOI has no intention of even acknowledging them, much less providing redress. It is hoped that this review by the HRC will bring pressure on the GOI to comply with its ICCPR obligations vis a vis the Sikhs, the breach of which has defined decades of conflict with the Sikh nation at the cost of an estimated 200,000 lives and created a climate of impunity for extra-judicial killings, torture, arbitrary detention, suppression of political and religious rights, as well as the economic ruin of the Sikh homeland in Indian-controlled Punjab.

This submission is based on research of historical records, academic journals, the reportage of local and international human rights organisations and direct inputs from human rights lawyers and activists – some of whom have themselves been targets of the oppression we have highlighted. Importantly, the vast majority of the concerns we have raised are those that UN bodies, including the HRC, have been raising for many years. The UN High Commissioner for Human Rights flagged just a few of these in his summing up of the outcome of India’s Universal Periodic Review held in November 2022, in his follow-up letter to India’s Foreign Minister Jaishanker.² They included illegitimate GOI pressure on human rights organisations, the misuse of counter terrorism legislation against human rights defenders,

¹ Para 7 of India’s formal reply to the LOIPR relating to this review.

² Letter dated 17 July 2023: copy at

https://www.ohchr.org/sites/default/files/documents/hr_bodies/upr/sessions/session41/HC_letter_India-EN.pdf

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journalists and dissenting voices, the disproportionate use of force, extrajudicial killings, custodial torture and the widespread use of hate speech and violence against religious minorities.

Since then we have seen an alarming new weapon used by the Indian state to silence Sikh leaders abroad; a targeted assassination campaign that has resulted of killings in Canada³, the UK, Pakistan and an attempt to kill a Sikh leader in the USA⁴, with many others being warned by security officials that they are on India's hit list. This transnational repression has exported extra-judicial killings even to the territory of friendly states and caused diplomatic shockwaves that Indian ministers seem happy to dismiss. If diplomatic red lines have been crossed with this brazen breach of state sovereignty, then these killings have equally demonstrated the GOI's blatant disregard for its obligations under the ICCPR. If the GOI can do this abroad, what will it be doing to Sikhs and others in Indian-controlled territory? This submission will attempt to answer that and assist the HRC in its important work; it is critical that India is made to adhere to internationally accepted human rights, The ICCPR is a bedrock of those rights and we support the work of the HRC and others that undertake that task.

The World Sikh Parliament was formed pursuant to a resolution of the 'Sarbat Khalsa' (national gathering of the Sikhs) held in the Sikh homeland in November 2015. It has engaged with UN human rights mechanisms, national governments and international human rights bodies in order to highlight the abuses of international law by the state of India in relation to the Sikhs and other national and religious minorities within Indian-controlled territories. It is committed to upholding international law and human rights and sees that as the only viable approach to resolving the Indo-Sikh conflict in a peaceable and equitable manner.

This submission is being delivered to the HRC on the 40th anniversary of the very week in 1984 that India sealed off Punjab, imposed a media blackout, and launched a full-scale, brutal military attack on the most sacred shrines of the Sikhs in Amritsar and elsewhere, in an attempt to crush a peaceful campaign by the Sikhs for their civil and political rights.⁵ The Akal Takht, the seat of Sikh temporal authority, which symbolises the Sikh belief that justice must prevail over oppression, was deliberately destroyed by tank fire during that unforgivable act of war.

³ Canadian police have charged the alleged assassins of Hardeep Singh Nijjar who was ambushed and shot dead by gunmen outside Sikh temple, following Canadian PM Trudeau announcing in Parliament that there were credible allegations that India was behind the killing:

<https://www.theguardian.com/world/article/2024/may/03/suspect-hardeep-singh-nijjar-assassination-canada>

⁴ US officials have indicted a alleged plotter in the attempt to kill Gurpatwant Singh Pannu, releasing evidence that leads to Indian intelligence: <https://www.justice.gov/opa/pr/justice-department-announces-charges-connection-foiled-plot-assassinate-us-citizen-new-york>

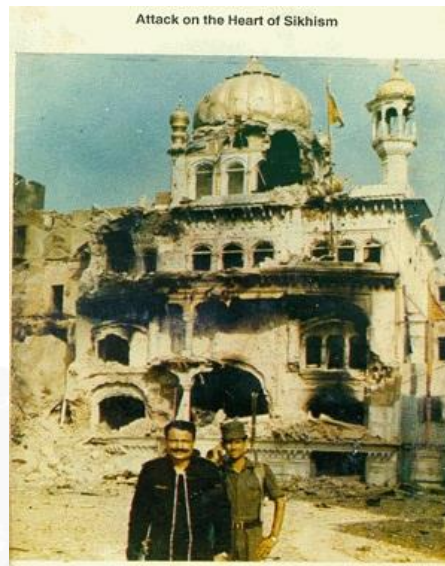
⁵ Pages 20 to 30 of Twenty Years of Impunity, produced by Ensaaf in 2006, details the attack and the GOI's motivation to crush by force a massive civil society movement for Sikh rights: <https://ensaaf.org/wp-content/uploads/2018/08/20years-2nd.pdf>



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The destruction of the Akal Takht in Amritsar by the Indian army in June 1984 marked the start of an ‘undeclared’ war on the Sikhs by an Indian state that has, during the conflict, persistently violated the ICCPR

The Sikhs have recognised as martyrs the thousands of Sikhs who lost their lives in that appalling attack, as well as in the other genocidal assaults that followed. The Sikhs will continue the lawful and legitimate struggle for their collective and individual human rights, in accordance with both the tenets of our faith and international law. The Akal Takht was rebuilt by the Sikhs following a Sarbat Khalsa gathering in 1986 which resolved to secure sovereign independence in the Punjab.

That resolution was an act of national self-determination within the meaning of Article 1 of the ICCPR. India (despite the longstanding request of the HRC) refuses to accept that right applies to the nations within the territory it controls. This submission will support the HRC’s position on that crucial point and then, in turn, address other key ICCPR requirements that India has, in the context of its oppression of the Sikhs, systematically breached. Those latter requirements are intrinsically linked to the former. In the words of the HRC⁶ itself:

“the right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights for the promotion and strengthening of those rights. It is for that reason that States set forth the right of self-determination in a provision of positive law in both Covenants and placed this provision as article 1 apart from and before all of the other rights in the two Covenants.”

⁶ HRC General Comment 12: Article 1 (Right to self-determination):

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=INT%2FCCPR%2FGEC%2F6626&Lang=en Address: 19-36 77st East Elmhurst NY-11370



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Article 1 – The right of self-determination

As has already been mentioned, the Sikhs, as a nation, are entitled to the right of self-determination as enshrined in Article 1 of the ICCPR. The standing of the nation, historically recognised by world powers such as the British and China, as well as its own self-identification as such are a matter of fact. They have been well documented⁷. During the period of British colonisation of the subcontinent, the British entered into treaties with the Sikhs⁸ and also recognised them as distinct party for negotiations in the decolonisation process that led to Indian independence in 1947.

India's constitution, adopted in 1950, did not however recognise the Sikhs as a nation (or even as a distinct religion for most purposes) and made no provision for their collective rights as a national group at all, despite repeated assurances from Indian leaders that such rights would be protected. Those assurances were famously recited during a debate in the Indian Parliament by renowned Sikh scholar and leader Sardar Kapur Singh on 6 February 1966 and included a reference to the following assertion made by J L Nehru in 1946, shortly before he became independent India's first prime minister in 1947⁹:

“The brave Sikhs of the Punjab are entitled to special consideration. I see nothing wrong in an area and a set-up in the North where in the Sikhs may also experience the glow of freedom.”

The Sikh representatives on the Constituent Assembly which adopted the document publicly refused to endorse the constitution on the basis that it did not provide for those rights. One of those representatives, Hukam Singh, made the positions clear:

“The Sikhs feel utterly disappointed and frustrated. They feel that they have been discriminated against. Let it not be misunderstood that the Sikh community has agreed to this Constitution. I wish to record an emphatic protest here. My community cannot subscribe its assent to this historic document”¹⁰.

Successive governments in an increasingly majoritarian country, in which the Sikhs make up only 1.7% of the population¹¹, resisted the Sikh demand for ‘internal’ self-determination which was formally proposed in what became known as the “Anandpur Sahib Resolution” adopted by the Sikh leadership in 1973¹²; it proposed an autonomous status for Punjab, within a truly federal Indian multi-national

⁷ For example, see page 7 of ‘Self-Determination as a Human Right and its Applicability to the Sikhs’, a paper produced by a subgroup of an all-party grouping in the UK Parliament:

<https://publications.parliament.uk/pa/cm200607/cmselect/cmcaff/55/55we06.htm>

⁸ See copies at <https://www.sikhmuseum.org.uk/portfolio/the-anglo-sikh-treaties-1806-1846/>

⁹ See verbatim transcript at page 69 of ‘Lok Sabha Debates’ at

https://eparlib.nic.in/bitstream/123456789/55584/1/lcd_03_15_06-09-1966.pdf

¹⁰ See <https://www.gov.uk/government/speeches/statement-on-the-indian-operation-at-sri-harmandir-sahib-in-1984>

https://www.researchgate.net/publication/343975102_A_Critical_Analysis_of_Speeches_delivered_by_Hukam_Singh_Kapur_Singh_and_Tarlochan_Singh_in_Indian_Parliament_concerning_Sikh_Issues

¹¹ See <https://www.pewresearch.org/short-reads/2021/09/21/key-findings-about-the-religious-composition-of-india/>

¹² See context and provisions set out at: https://www.sikhwiki.org/index.php/Anandpur_Sahib_Resolution



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state. The Indian establishment never seriously entertained that demand and ultimately used unlawful force on a massive scale in 1984 to try and permanently end any notion of Sikh self-determination. The sheer scale and brutality of the violence used by state and non-state actors against the Sikhs amounted to genocide, which has been recognised by various international forums¹³ – although it is still officially denied by the Indian state. The most serious bouts of violence during this period of oppression, which we refer to at various parts of this submission, were:

- the Indian army’s military action of June 1984, in which the holiest shrines of the Sikh nation in Amritsar (along with scores of others across Punjab) were attacked, killing thousands of innocent Sikhs and causing a sense of outrage and trauma that remains to this day. This week, across the world, Sikhs will be marking the 40th anniversary of that massacre – for which there has been no apology, much less any accountability in the legal sense. The GOI had planned the action months in advance, ostensibly to restore law and order, but the reality was a politically motivated military assault on a civilian population and the heart of a religion and a nation. It even involved getting military support from other states, such as the UK. The UK government has tried unsuccessfully to hide its secret role, resulting in a government enquiry in 2014¹⁴ that only raised more questions. The political motivation for the attack must be understood; seasoned academic commentator Dr Joyce Pettigrew, who has written about the conflict for many years, concluded that:

“The army went into Darbar Sahib (Golden Temple) not to eliminate a political figure or a political movement but to suppress the culture of a people, to attack their heart, to strike a blow at their spirit and self-confidence.”¹⁵

The Indian state may have carried out the atrocity with that goal, but the Sikhs valiantly resisted what was (and remains) an existential threat. They see self-determination, outside of the grasp of a genocidal Indian state, as the only viable option in the face of the multi-faceted attempts to liquidate them as a national and religious entity.

- the programs of November 1984 in Delhi and other parts of India, in which organised mobs led by ruling party politicians openly burned Sikhs alive, weaponised rape and desecrated Sikh places of worship and scriptures. Up to 20,000 Sikhs were killed in a three-day period which produced, amongst other outrages, what is still known as a ‘Widow Colony’ in Delhi; only a handful of people have been prosecuted after decades of deliberate shielding of the guilty by officials and GOI ministers (many of the accused still occupy high political office today). Barbara Crossette, a former New York Times bureau chief in New Delhi wrote *“Almost as many*

¹³ State assemblies in the US and Canada have passed resolutions to that effect. For example see details of the State of California Resolution adopted in 2023 at

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AJR2

¹⁴ An official UK government statement on the matter can be found at

<https://www.gov.uk/government/speeches/world-sikh-parliament-statement-on-the-indian-operation-at-sri-harmandir-sahib-in-1984>

¹⁵ Quoted in ‘1984 is in my DNA’ which can be found at <https://sikhri.org/articles/1984-is-in-my-dna>



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Sikhs died in a few days in India in 1984 than all the deaths and disappearances in Chile during the 17-year military rule of Gen. Augusto Pinochet between 1973 and 1990.¹⁶

- the extrajudicial killings between 1984 and 1994, in which tens of thousands of Sikhs – mainly youths – were rounded up, tortured and then ‘disappeared’¹⁷. The bodies were either secretly cremated or dumped into rivers and canals – the state government of the neighbouring Rajasthan state complained to Punjab officials that canals were carrying large numbers of dead bodies into Rajasthan in 1992.¹⁸ We set out further details below of that bloody campaign and the refusal of India’s human rights oversight body, the NHRC, to deliver any sort of justice or accountability.

In response to the massive violence, the Sikh nation resolved in 1986 to secure ‘external’ self-determination in the form of an independent sovereign state called Khalistan, as outlined in the Introduction to this submission. That move by the Sikhs was an example of ‘remedial secession’ but India’s continued use of brute force and other repressive methods – brazenly in breach of its ICCPR obligations – has so far prevented an independent Punjab emerging. Punjab is the only Sikh-majority state in India and when the Sikh leadership peaceably issued a Declaration of Independence on 29 April 1986, Indian security forces again entered the Akal Takht, within the precincts of the Darbar Sahib (sometimes referred to as the ‘Golden Temple’) complex in Amritsar to arrest or kill them. Sikhs across the world celebrate that historic declaration every year¹⁹, yet the Indian state refuses to acknowledge the Sikh position and simply ascribes the label of ‘terrorism’ to the movement. It is a narrative that has long since been exposed, despite a massive disinformation campaign being run by the Indian state over recent years²⁰.

The denial of self-determination to the Sikhs by India includes the theft of the main natural resource of their Punjab region, which is its river waters. In the overwhelmingly agrarian-based economy of Punjab, river waters are essential for irrigation, yet some 70% of those waters are being diverted to other states within India, without any financial compensation, in contravention of riparian law. The result of this unlawful appropriation is that Punjab’s farmers have resorted for many decades to over utilisation of ground water. That has caused a crisis in ground water levels; experts, such as those at ‘Saving Punjab’,

¹⁶ Reported in an article in Time magazine. See <https://time.com/3545867/india-1984-sikh-genocide-anniversary/>

¹⁷ See the authoritative documentation of many of those killings and the years of attempts to secure justice that followed, in ‘Reduced to Ashes’ produced by the Committee for Coordination on Disappearances in Punjab. A copy can be found at <https://ensaaf.org/wp-content/uploads/2018/08/reducedtoashes.pdf>

¹⁸ See https://www.facebook.com/sikhresearchinstitute/videos/reduced-to-ashes-20-rajasthan-complains-about-bodies-in-canals/1181041226399184/?_rdr

¹⁹ See for example, coverage of the World Sikh Parliament’s own endorsement in Sikh Siyasat, a media group that has been repeatedly target by Indian authorities for its advocacy of Sikh causes:

<https://sikhsiyasat.net/world-sikh-parliament-recognized-april-29th-as-sikh-declaration-of-independence-day/>

²⁰ See for example an article by the BBC: <https://www.bbc.co.uk/news/world-asia-india-59338245> referring to a report issued by the Centre for Information Resilience, a copy of which can be found at: <https://www.infores.org/post/revealed-real-sikh-influence-network-pushing-indian-nationalism>



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are predicting it will become a desert state within 25 years²¹, which would be a catastrophic outcome for the Sikhs and the economic position of Punjab. The river water issue has been at the very heart of the Sikh struggle over recent decades and the GOI has over that time resorted to every conceivable political and legal chicanery to force through a ‘nationalisation’ of Punjab’s river waters – no other state in India is forced to give up that resource without compensation.²²

The history of the systematic denial, often by the unlawful use of force, of self-determination to the Sikhs by the Indian state since 1947 is too broad a subject to be fully analysed in depth here. However, we have provided sufficient background to help contextualise the key point we suggest the HRC pursues in this review process ie the underlying Indian position on Article 1 of the ICCPR.

India acceded to the ICCPR in 1979 and promptly entered a formal Reservation as follows:

"With reference to article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, the Government of the Republic of India declares that the words 'the right of self-determination' appearing in [this article] apply only to the peoples under foreign domination and that these words do not apply to sovereign independent States or to a section of a people or nation--which is the essence of national integrity".

This was a clear effort to disapply a fundamental collective human right to those many distinct nations and peoples living within Indian borders. It was incompatible with the letter and spirit of Article 1 and drew justified international criticism. The rationale for that criticism is apparent from the formal Objections lodged at the UN by the following countries, which we summarise below:

France: *"...takes objection to the reservation entered by the Government of the Republic of India to article 1 of the International Covenant on Civil and Political Rights, as this reservation attaches conditions not provided for by the Charter of the United Nations to the exercise of the right of self-determination"*

Germany: *"... strongly objects ... to the declaration made by the Republic of India in respect of article 1 cannot consider as valid any interpretation of the right of self-determination which is contrary to the clear language of the provisions in question. It moreover considers that any limitation of their applicability to all nations is incompatible with the object and purpose of the Covenants".*

Netherlands: *"... objects to the declaration made by the Government of the Republic of India ... since the right of self-determination as embodied in the Covenants is conferred upon all peoples.... Any attempt to limit the scope of this right or to attach conditions not provided for in the relevant instruments would undermine the concept of self-determination itself and would thereby seriously weaken its universally acceptable character".*

²¹ See <https://savingpunjab.org/2023/03/03/punjab-water-depletion-crisis/>

²² The issues are discussed in an article by a member of a Punjab farmer's forum at <https://www.kirtikisanforum.com/punjab-river-waters-sadda-pani-sadda-haq/>



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Pakistan: *objects to the declaration made by the Republic of India cannot consider as valid any interpretation of the right of self-determination which is contrary to the clear language of the provisions in question. Moreover, the said reservation is incompatible with the object and purpose of the Covenants”*

The HRC itself responded by requesting India to withdraw the Reservation²³. Most recently, for the purposes of the present review exercise, the HRC’s LOIPR at paragraph B4 asked the GOI to report on any progress in reviewing (inter alia) that Reservation. The GOI has responded²⁴ by stating that there is no proposal to review that Reservation at this point in time.

India’s position on Article 1 is not just not just a technical contravention of a legalistic formulation with only theoretical significance. It is a policy position that has led directly to conflicts with many national groups apart from the Sikhs, such the Kashmiris, Nagas, Manipuris, Assamese and others. In each case India refuses to acknowledge the right of self-determination and the role of international law. In each case the conflict features unlawful use of state security forces to deny this crucial collective human right by means of systematic breaches of individual human rights on a massive scale. The colossal loss of life and liberty, and the huge economic destruction across those conflicts driven by that policy position is an unacceptable outcome which can only get worse the longer India acts in contravention of Article 1.

Whilst the HRC does not have the coercive power needed to alter the position on the ground in those conflict zones, it should again require India to withdraw its Reservation and to also urgently report back on how its constitutional and policy approaches have impacted those conflicts, in particular in Punjab. India should accept that the Sikhs in Punjab have the right of self-determination, within the meaning of Article 1 of the ICCPR, as a first step to peaceable conflict resolution.

The HRC should be aware that India’s unlawful denial of that right to the Sikhs in Punjab is often explained by the GOI on the completely unproven assertion that the Sikhs do not want to exercise that right in any event. History and the current political scenario show that the Sikhs do. If any proof were needed in the modern context, the HRC should note the massive response²⁵ of diaspora Sikhs to the non-binding Punjab independence referendum being conducted by Sikhs for Justice (the organisation and the referendum has been criminalised in India under the UAPA²⁶) and overseen by the Punjab

²³ Ref: CCPR/C/79/Add.81 4 August 1997

²⁴ Para 8 of the Fourth periodic report submitted by India under article 40 of the Covenant pursuant to the optional reporting procedure:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIND%2F4&Lang=en

²⁵ See, for example, CBS’s reporting on the October 2023 round of voting in Canada at
<https://www.cbc.ca/news/canada/british-columbia/khalistan-vote-second-round-surrey-1.7012234>
<https://www.cbc.ca/news/canada/british-columbia/khalistan-vote-second-round-surrey-1.7012234>

²⁶ A copy of the GOI notification is available at https://www.mha.gov.in/sites/default/files/2022-10/Notificationdated_08012020%5B1%5D.pdf



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Referendum Commission²⁷. The referendum is an entirely peaceful, democratic initiative that the GOI is going, as mentioned in the Introduction above, to murderous lengths to stop. If PM Modi's Hindutva movement is openly calling for India to be a Hindu state, why should the Sikhs be criminalised and killed for simply promoting a vote on Punjab's independence?

Article 2 – implementation of ICCPR rights and effective remedies for breaches

India has not incorporated the ICCPR into domestic law. Its domestic arrangements have delivered an appalling human rights record which is routinely highlighted by other states and by human rights bodies in its Universal Periodic Reviews, as well as by other UN human rights mechanisms, such as in the work of the UN's Special Rapporteurs.

In addition, respected human rights organisations have consistently highlighted a worsening trend of abuses. Human Rights Watch commented in respect of the last UPR in 2022:

“In its report submitted to the UN ahead of its review, the Indian government claimed “it is firmly committed to the promotion and protection of human rights.” However, in the past UPR cycles, India has ignored important recommendations, including to address increasing violence against religious minorities, ensure accountability of its security forces, and protect freedom of expression and peaceful assembly.

Since its last review in 2017, India has undergone a serious regression in human rights under the Hindu nationalist Bharatiya Janata Party (BJP)-led government of Prime Minister Narendra Modi. The government has escalated its crackdown on independent and democratic institutions, and is using draconian counterterrorism and national security laws to prosecute and harass human rights activists, journalists, students, government critics, and peaceful protesters. Attacks, discrimination, and incitement against religious minorities are increasing.”²⁸

The lack of effective remedies – especially for minorities – is also a feature of India's breach of the ICCPR. The victims of the mass killings of Sikhs in November 1984²⁹, of Muslims in 2002³⁰ have, for example, never seen those at the very top who directed the pogroms being brought to justice. Years of endless waiting for commissions of enquiry and the occasional prosecutions to conclude mean justice is hardly ever served in such cases. Political influence

²⁷ The Commission's website can be found at <https://www.punjabreferendumcommission.org/>

²⁸ See <https://www.hrw.org/news/2022/11/18/india-serious-concerns-raised-un-rights-review#:~:text=In%20its%20report%20submitted%20to,violence%20against%20religious%20minorities%2C%20Oensure>

²⁹ See <https://www.hrw.org/news/2014/10/29/india-no-justice-1984-anti-sikh-bloodshed>

³⁰ See <https://www.hrw.org/news/2012/02/24/india-decade-gujarat-justice-incomplete>



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over the judicial system is rife – even Supreme Court judges made public comments in 2018 about sensitive cases being processed by GOI-friendly judges.³¹

The national and state human rights commissions established in India have proved to be little more than window dressing, aimed at presenting the international community with an image of a serious layer of oversight with the intent and powers to deliver justice to those whose rights have been violated by the state. The HRC may be aware that, for a second year running, the United Nations-linked Global Alliance of National Human Rights Institutions (GANHRI) has reportedly, at its meeting on 1st May 2024, deferred granting accreditation to India's National Human Rights Commission following serious concerns raised by the world's leading human rights organisations. In a joint letter to GANHRI³², Amnesty International and others set out detailed reasons for their request and concluded:

“The cumulative picture that emerges reflects the NHRCI’s and the Indian government’s clear lack of political will to act and the apparent reluctance to effectively respond to and address the deteriorating human rights violations in the country and to uphold transparency and accountability. The failure to create a truly independent NHRCI stands to perpetuate impunity and hinder any effort to ensure that the Indian authorities respect and uphold human rights.”

In the context of the NHRC's response to India's mass killings of Sikhs aimed at derailing their struggle for self-determination, we would highlight the shocking manner in which it failed to tackle the 'mass cremations' case, as is detailed from pages 31 to 40 of a report by Ensaaf entitled 'Protecting the Killers'³³. The case related to the thousands of Sikhs who had been 'disappeared' in the 1984 to 1995 period in Punjab, mostly involving horrifying torture followed by secret cremations of their bodies in crematoria by the police. Sikh human rights activist Jaswant Singh Khalra later collected evidence from the crematoria and the data suggested some 25,000 Sikhs had been killed in cremated in that way. Khalra himself was then also 'disappeared' by the Punjab Police³⁴, but his family and others took his work forward to try and secure justice, ultimately approaching the NHRC. The NHRC refused to investigate the killings, accepted the evidence of the Punjab Police and also failed to bring any prosecutions, despite being provided evidence of the brutal, systematic extra-judicial extermination of a whole generation of Sikh youths in Punjab. It simply provided token compensation for some victims' families. If ever there was a case for an overseeing body to provide effective remedy

³¹ See <https://www.lawfaremedia.org/article/india-s-justice-system-is-no-longer-independent-part-i>

³² A copy is available at <https://www.amnesty.org/en/documents/asa20/7882/2024/en/>

³³ The report can be found at: https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session1/W/HRW/IND/UPR_S1_2008anx_ProtectingtheKillers.pdf

³⁴ See a summary of his work at <https://punjabdisappeared.org/mass-cremations-jaswant-singh-khalra/>



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this was it, yet this astonishingly partial body delivered nothing but years of further agony for the grieving families.

The GOI, in the present review process, absurdly claims that as its justice system is working effectively now, there is no need to allow individual complaints of ICCPR breaches to the HRC:

“As there are effective remedies to address the violation of the rights of individuals or group of individuals, we do not see the necessity of becoming party to the Optional Protocol, at this stage.”

It is difficult to overstate the seriousness of the human rights situation in India today. The HRC is requested to put the GOI under pressure to incorporate the ICCPR into Indian domestic law, sign up to the Optional Protocol allowing individuals to take cases directly to the HRC and to require India's oversight bodies to take up cases retrospectively and properly, so that past injustices are remedied. The Sikhs are not hopeful that India will respond constructively and are therefore simultaneously looking at ways that an international criminal tribunal may one day take up the matter and hold the perpetrators, of abuses that amount to genocide, properly to account.

Article 6 – the right to life

During the course of the Indo-Sikh conflict over the last forty years there have been waves of mass killings of Sikhs by Indian state and non-state actors. We have already referred to the military action of June 1984, the programs of November 1984 and the decade of extrajudicial killings that followed. In each case, there has been impunity for those that directed and those that carried out mass killings of Sikhs, with very few exceptions. Both the violence and the impunity has been politically motivated.

The HRC should require the GOI to report on the role of the state in those grave breaches of the ICCPR and to comment on whether, in the absence of any meaningful domestic remedy after decades of efforts by the victims to secure justice, it will agree to an international criminal tribunal to hold the perpetrators to account.

In the context of the right to life under the ICCPR, the most easily demonstrated egregious breach by the Indian state is the mass killings of up to 20,000 Sikhs in Delhi and elsewhere³⁵

³⁵ Every Sikh in Hondh-Chillar village in Haryana was massacred and 34 years later no action has been taken against the culprits or the police officials that failed to act. A Times of India media report describing the horrific events can be seen at <https://timesofindia.indiatimes.com/city/Chandigarh/hondh-chillar-killings-no-action-against-haryana-cops-yet/articleshow/67140532.cms>



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over three days in November 1984, following the assassination of Indian PM Indira Gandhi. That carnage took place in front of the world’s media³⁶ and international representatives who came to attend her funeral. To this day the Indian establishment and media refers to the pogroms as ‘anti-Sikh riots’ to try and minimise the nature and scale of the brutal killings³⁷. Even the government-appointed Nanavati commission – reporting decades after the event - admitted the slaughter would not have been carried out so swiftly without the “*backing and help of influential and resourceful people*”³⁸. The report went on to absolve the key accused in an apparent effort to shield the new Indian PM and the Indian Home Minister that oversaw the bloodshed, even though the provision of mobs and weapons and orders for the police and army to stand aside whilst the butchery happened was all clearly orchestrated at the very top levels of government. New PM Rajiv Gandhi even justified the killings by outrageously asserting “*when a big tree falls, the earth shakes*”³⁹.

Thousands of people will have been engaged in the planning, logistical support (transport of the killer mobs, provision of weapons, supply of kerosene to burn victims) and carrying out of the genocide, but the fact that there have been only 20 successful prosecutions for murder over the ensuing years tells its own story⁴⁰. The ruling of the Delhi High Court in December 2018⁴¹ (in one of the few cases that has resulted in a conviction ie that of leading politician Sajjan Kumar) is particularly noteworthy in its exposure of the Indian state’s approach to such crimes. The judgment⁴² states that:

“The mass killings of Sikhs between 1st and 4th November 1984 in Delhi and the rest of the country, engineered by political actors with the assistance of the law enforcement agencies, answer the description of ‘crimes against humanity’”.

³⁶ For example – graphic coverage by American NBC is available at

https://www.reddit.com/r/Sikhpolitics/comments/1d31n39/rare_archive_footage_of_american_nbc_news/

³⁷ A powerful rejection on the ‘riots’ label is set out in Chapter Two of “I Accuse ...”, a renowned book (ISBN 9780670083947) on the carnage written by Jarnail Singh, a Sikh eyewitness who later became a journalist that challenged the political class over its failure to punish the culprits.

³⁸ Justice Nanavati Commission report in 2005; a copy is available at

https://www.mha.gov.in/sites/default/files/2022-08/Nanavati-I_eng_3%5B1%5D.pdf

³⁹ A video of that notorious speech can be seen at <https://www.youtube.com/watch?v=k847hOowO70>

⁴⁰ Position reported on by leading civil rights activist Teesta Setalvad in her 2022 piece ‘1984 anti-Sikh pogrom: the long cover up’ a copy of which is available at <https://sabrangindia.in/1984-anti-sikh-pogrom-long-cover/>

⁴¹ An informative example of the international media coverage of that can be found at

<https://www.aljazeera.com/news/2018/12/17/indian-court-convicts-sajjan-kumar-over-1984-anti-sikh-riots>

⁴² A copy of the judgement can be found at <https://www.wjrn.org/news/wp-content/uploads/sites/4/2018/12/Sajjan-Kumar-Judgment.pdf>





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Kumar could only be convicted of criminal conspiracy and abetment in the commission of crimes of murder because Indian criminal law does not include the necessary laws to deal with heinous mass atrocities crimes. The judgement went on to complain:

“Neither ‘crimes against humanity’ nor ‘genocide’ is part of our domestic law of crime. This loop hole needs to be addressed urgently”.

India has signed and ratified the Genocide Convention 1948 which requires states to enact necessary laws to give effect to its provisions, including those relating to effective penalties for perpetrators. The GOI has however repeatedly resisted enacting the necessary legislation; as recently as 2022 a formal response to a Parliamentary written question on the point somehow stated that the Convention provisions are already part of the Indian common law, including the penalties requirement⁴³. How is that compatible with the Delhi High Court’s analysis referred to above? We suggest the HRC takes this point up with the GOI as there is clearly an issue around the risk of further genocides in India. Human rights bodies are regularly warning of the risks of further mass atrocity crimes against minorities in the midst of the ever-increasing majoritarian climate created by PM Modi’s openly Hindutva agenda⁴⁴. There is considered legal commentary⁴⁵ on this subject, which we believe warrants HRC attention.

The Sikhs and other minorities in India know that its political leaders have used and may again use mass atrocity crimes, including genocide, to boost their Hindutva credentials. This poses a challenge to the international community’s moral and legal frameworks and the HRC should tackle this in the current ICCPR review process to help prevent further catastrophic violence and to hold the guilty to account.

Whether the denial of the right to life has involved mass killings or isolated acts; or whether they are enacted in India or in the extraterritorial context being recently adopted, these are all egregious breaches of the ICCPR and we urge the HRC to hold the GOI to account in the current review process.

Article 7 – prohibition of the use of torture

Sikh leaders and activists, especially those associated with the self-determination struggle, have routinely been subject to the use of torture over the last four decades. Horrific accounts

⁴³ The question and the reply can be seen at <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2022-pdfs/RS09022022/871.pdf>

⁴⁴ For example see the ‘Risk of Mass Atrocities in India’ report issued in February 2024 by the US Holocaust Memorial Museum, a copy of which can be found at https://vault.ushmm.org/adaptivemedia/rendition/id_51d4f5d272fb370a2f4c17a7a5425a65c6404568

⁴⁵ For example a useful article can be found on this at <https://voelkerrechtsblog.org/how-indias-legislation-risks-impunity-for-genocidal-spech/>



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of the brutality (such as electric shocks, severe beatings, gouging out of eyes, drowning, pulling apart of legs etc) are too numerous to detail in this submission, but some high-profile cases which have been reported on in the media include:

- Jathedar Gurdev Singh Kaunke, who was the custodian of the Akal Takht (the highest representative of the Sikh nation – somewhat comparable to the role of the Pope in Catholicism) – he was brutally tortured and then ‘disappeared’ in 1993⁴⁶. There has been no legal sanction against the guilty police officials or their political patrons, despite investigative reports identifying them. The failure to punish the guilty has become a public scandal recently making headlines again⁴⁷.
- Simranjit Singh Mann, a former high-ranking police officer who resigned due to the Indian army assault in June 1984 and who has been elected as an MP in the Indian Parliament a number of times from Punjab on a Sikh self-determination platform. His experience of mental and physical torture in the late 1980s was set out in a New York Times article⁴⁸. Despite his status as a Parliamentarian, those guilty of the torture have not been held to account.
- Kulvir Singh, a Sikh self-determinist, whose torture in India following extradition from the USA, together with other huge amounts of evidence of custodial torture being routine in Punjab and elsewhere, prompted Human Rights Watch to call in 2012⁴⁹ for urgent legislation in India to outlaw the practice. No such legislation has been enacted to date and the practice remains prevalent, despite a recent large-scale overhaul of the criminal justice system⁵⁰.
- Jagtar Singh Johal, a British national and Sikh human rights activist was unlawfully abducted by police in Punjab in 2017; he remains in custody. He has complained of being tortured by way of electric shocks to his ears, nipples and genitals, the forcing of his limbs into painful positions and death threats. The torture was used to procure confessional statements from him which could lead to convictions relating to various terrorism-related allegations and potentially the death penalty. Independent expert analysis⁵¹ has found there are reasonable grounds for believing his complaints about

⁴⁶ An account of the torture and killing of this Sikh leader can be found at

https://www.worldsikh.org/first_hand_accounts_of_the_murder_of_jathedar_gurdev_singh_kaunke

⁴⁷ For example see <https://www.timesnownews.com/india/ghost-of-30-year-old-stage-managed-encounter-back-to-haunt-punjab-police-article-106245322>

⁴⁸ See <https://www.nytimes.com/1990/05/31/world/amritsar-journal-sikh-bears-a-sword-prison-scars-and-a-grudge.html#:~:text=Through%20five%20years%20in%20prison,Soviet%20by%20its%20Cyrillic%20markings.>

⁴⁹ A copy of HRW’s media release on this can be seen at <https://www.hrw.org/news/2012/09/27/india-punjab-case-shows-need-anti-torture-law>

⁵⁰ See a useful article at <https://www.bridgeindia.org.uk/the-path-for-indian-torture-legislation-where-are-we-now-and-where-should-we-go/>

⁵¹ The expert opinion has been reported by Redress, an international body helping victims of torture, and its coverage can be seen at <https://redress.org/news/medical-experts-find-reasonable-grounds-to-believe-jagtar-s-torture-allegations/>

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torture. The UN's Working Group on Arbitrary Detention called for his immediate release in May 2022 and included in its reasoning a finding that he was subjected to torture⁵². He remains in jail.

These are of course very limited examples but it is a matter of record that the use of torture against Sikhs by the Indian state, in the context of the suppression of Sikh civil and political rights, has been rampant for decades. The HRC is urged to take the GOI to task over this and to separately request India to:

- Ratify and implement the UN Convention Against Torture (it became a signatory of this Convention in October 1997).
- Enact domestic legislation outlawing the use of torture.
- Permit the UN Special Rapporteurs on Torture and on Protection of Human Rights while countering terrorism to visit in accordance with their respective mandates (India has declined requests since 2011).

Article 9 – prohibition against arbitrary detention

Throughout the past 40 years of conflict India has use and misused laws to arbitrarily detain Sikhs in order to suppress their political activism and to terrorise them (torture is routinely used alongside such detention). A variety of laws, many of which do not meet international standards, have been applied in that context and, again, there has been little or no assistance from the courts or the overseeing human rights bodies.

Even now there are several cases of Sikh prisoners having long served the sentences imposed on them decades ago, but they are still not being released⁵³. They include the current Jathedar of the Akal Takht, appointed by the Sarbat Khalsa held in 2015, Jagtar Singh Hawara.

In 2019 three Sikhs, Arwinder Singh, Surjit Singh and Ranjit Singh, were sentenced to life imprisonment⁵⁴ for 'waging war against the state'. It was a breathtakingly perverse case where there was no suggestion, much less any evidence, of the involvement of any arms or the commission or preparation of any violence or armed action. The judge worked on the outrageous basis that "proof beyond reasonable doubt is a guideline, not a fetish" and found sufficient incriminating material in the mere possession of literature and the sharing of social

⁵² See para 122 of the Working Group's Opinion which can be found at <https://www.ohchr.org/sites/default/files/2022-05/A-HRC-WGAD-2021-80-India-AEV.pdf>

⁵³ An article mapping their cases and the efforts to secure their release can be found at <https://article-14.com/post/the-wait-to-free-bandi-singhs-why-punjabis-want-9-men-convicted-of-murder-terrorism-to-be-released-6454738047f69>

⁵⁴ See media coverage at <https://timesofindia.indiatimes.com/city/ludhiana/3-sikh-youths-get-life-term-for-waging-war-against-state/articleshow/67876157.cms>



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media messages relating to the ongoing Sikh struggle for freedom and justice. This was a classic case of arbitrary detention, prosecution and imprisonment targeted at Sikh human rights activists and self-determinists whose only ‘crime’ was to exercise their freedom of expression. It led to protests in Punjab with leaders saying “It is nothing but judicial terror and political repression”⁵⁵ and condemnation from Sikhs across the world.⁵⁶

In addition, there are many more Sikh political prisoners held under tainted anti-terror laws, such as the Unlawful Activities Prevention Act (UAPA)⁵⁷, which was roundly condemned in a joint letter sent to the GOI by several UN Special Rapporteurs on 6 May 2020⁵⁸ on a number of grounds. The letter highlights the lack of certainty around the definition of terrorism, new powers for the executive to designate individuals as terrorists without due process and the scope to use the law to criminalise free speech. It states that the law has been “*targeted at, inter alia, the legitimate activities of political opposition, critics, dissidents, civil society, religious and other minorities as well as human rights defenders, lawyers, religious clerics, bloggers, artists, musicians and others*”.

Also notable about the UAPA is the definition of “unlawful activity” which includes any act or words that may incite the secession of a part of the country or which is intended to cause disaffection against India. Non-violent expression of self-determination, whilst clearly permitted under Articles 1 and 19 of the ICCPR, may therefore be treated as a criminal act under this draconian law. The UAPA is clearly incompatible with those provisions of the ICCPR.

As has been noted by many commentators, the UAPA has been misused consistently to silence dissent and anyone targeted by it can expect to spend years in jail, whatever the ultimate outcome⁵⁹. Under the UAPA, 4,690 persons were arrested between 2018 and 2020, but only 3% were convicted⁶⁰. Most of those arrested under the UAPA are very unlikely to be granted bail meaning they will likely spend years in jail - even if eventually acquitted – based on the time it takes for cases to be concluded. The scope to misuse UAPA is deliberate, so that the authorities may use it to silence dissent. It is being misused to target Sikhs, as well as others.

⁵⁵ For example, the Dal Khalsa protest as reported at <https://www.hindustantimes.com/punjab/dal-khalsa-holds-protest-to-oppose-life-term-to-three-sikh-youths-in-punjab/story-UA6aSCiC4P0IVCowR7J4BP.html>

⁵⁶ See the response of the World Sikh Parliament at <https://wntv.co.uk/the-world-sikh-parliament/>

⁵⁷ See coverage at <https://sikhsiyasat.com/tag/sikh-political-prisoners/>

⁵⁸ A copy can be found at

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25219>

⁵⁹ See a related article from Al Jazeera detailing the use of the Act against an 84 year old Jesuit priest who died in jail at <https://www.aljazeera.com/news/2021/8/16/india-uapa-terror-law-scrutiny>

⁶⁰ Figures quoted by the Jurist in 2022 – a copy of the article is available at

[scrutinyhttps://www.jurist.org/news/2022/09/india-increasingly-arrests-rarely-convicts-under-controversial-laws-report-shows/](https://www.jurist.org/news/2022/09/india-increasingly-arrests-rarely-convicts-under-controversial-laws-report-shows/)

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Leading Sikh lawyer Jaspal Singh Manjhpur, who has compiled a list of all UAPA cases filed in Punjab and who was incarcerated under UAPA himself in 2009, has dubbed the UAPA a “political tool” and Punjab Assembly member Sukhpal Singh Khaira has actively campaigned against UAPA misuse in the state, following a spate of cases where Sikhs were targeted maliciously under the Act based on their alleged human rights activism.⁶¹

We have referred above to the case of UK citizen Jagtar Singh Johal, in the section on torture.. The charges laid against him fall with the UAPA, as well as other laws. An official UK Parliamentary briefing on the issues in this case is very informative and the HRC is urged to consider it as part of this review process.⁶² Even with the international dimensions of this case and the pressure being applied by reputed human rights bodies, the GOI is refusing to end his arbitrary detention; he also faces unfair convictions and many years in prison, as well as potentially the death penalty.

A separate high profile set of cases of arbitrary detention relates to Amritpal Singh and nine of his associates who were arrested in March / April Punjab 2023 under the National Security Act 1980⁶³, which permits preventative detention without charge on ‘national security’ grounds. Amritpal Singh is a charismatic young leader who has urged Sikhs to shun the drug menace in Punjab and take baptism; he has also been a vocal supporter of Khalistan and his popularity amongst the Sikh masses was seen as a challenge to the false GOI narrative that the Sikh freedom movement has been ended. He and his associates have been imprisoned in Dibrugarh in Assam, thousands of miles from their homes. There have been no formal charges against them; the move to remove them from Punjab was a purely political endeavour to once again suppress the Sikhs and, in particular, their struggle for self-determination. The NSA allows for 12 months internment; when that period recently expired the authorities extended the term in a further cynical step that again breaches India’s ICCPR obligations⁶⁴.

Sikh political prisoners are being held because the GOI is playing majoritarian politics, despite unrelenting efforts to secure their release via the Indian courts and via political pressure in the form of petitions, lobbying initiatives and public protests. The object is to appease the majority community and to intimidate the Sikhs so that they abandon their lawful and legitimate right to self-determination. The demand for the release of Sikh political prisoners in India has

⁶¹ See their comments in a 2021 article in The Wire which can be found at <https://thewire.in/rights/rampant-arrests-rare-convictions-in-punjab-the-uapa-is-ripe-for-misuse>

⁶² A copy can be found at <https://researchbriefings.files.parliament.uk/documents/CDP-2023-0010/CDP-2023-0010.pdf>

⁶³ See coverage of this case by Al Jazeera at <https://www.aljazeera.com/news/2023/4/23/amritpal-singh-who-is-he-and-why-was-he-arrested>

⁶⁴ See news of this at <https://www.hindustantimes.com/cities/chandigarh-news/punjab-reinvokes-nsa-against-amritpal-9-aides-101710876329113.html>



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become a primary issue in Punjab during the current Indian general election as the Sikhs see this as a major, ongoing civil and political rights matter. The HRC is requested to take this up with the GOI as part of the current review.

Article 18 – freedom of religion

Sikhism is universally acknowledged as a distinct religion and, by numbers of adherents, is recognised as being one of the largest in the world today⁶⁵.

The legal arrangements in India however, in a manner that has infuriated the Sikhs ever since the Indian Constitution was adopted in 1950, provide that Sikhs and Sikh religious institutions are deemed to be Hindus and Hindu religious institutions respectively. Whilst Article 25 of the constitution asserts the right to freely profess and practice religion, it goes on the state:

“...the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly⁶⁶.”

This has meant that constitutional provisions and important personal laws applicable to the estimated 25 million Sikhs in India, such as those relating to marriage, adoption and succession are governed by laws such the Hindu Marriage Act, Hindu Succession Act and similar “Hindu” legislation. The Sikhs have protested against this overt attempt to assimilate them in to the Hindu fold for decades⁶⁷, but successive Indian governments have refused to amend that deeply offensive and damaging constitutional provision. The motivation for this arrangement has been widely understood to fit in with the wider attempt to ‘Hinduise’ the population and the polity as far as possible, an ongoing majoritarian project that cannot be justified morally or under international legal obligations.

The Indian Supreme Court set out the rationale in a 2005 case (involving the Jain community) as follows:

“The so-called minority communities like Sikhs and Jains were not treated as national minorities at the time of framing the Constitution. Sikhs and Jains, in fact, have throughout

⁶⁵ See for example the data provided at <https://www.worldatlas.com/articles/largest-religions-in-the-world.html>

⁶⁶ See Explanation II of Article 25 (2) (b), a copy of which can be found at <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>

⁶⁷ For example, see coverage of a Sikh protest at <https://sikhstudies.net/indian-constitution-denies-recognition-to-sikhism-as-religion-aissf-to-campaign-change-in-article-25/> <https://www.hurstmurphy.com/2017/05/11/hurstmurphy-ny-11370>



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been treated as part of the wider Hindu community which has different sects, sub-sects, faiths, modes of worship and religious philosophies⁶⁸.”

A 2017 report⁶⁹ by the United States International Commission on International Religious Freedom noted that an official Indian constitutional review in 2002 had recommended the provision be amended to accord equal recognition to the religions it refers to, but that has not been implemented. The USCIRF report recommended India should “*Drop Explanation II in Article 25 of its constitution and recognize Sikhism, Buddhism, and Jainism as distinct religions with their own separate religious identities*”, but no action has been taken to date. The HRC is requested to raise this with the GOI as the current position is incompatible with the ICCPR.

The attempted ‘Hinduisation’ of the Sikhs and Sikhism is a major controversy today. It is underpinned by the Hindutva project of extremist Hindu nationalists, including the rule BJP party and the raft of associated organisations that support that ideology. It has been manifested in different spheres of public life, such as the distortion of Sikh history in school text books and elsewhere⁷⁰, the holding of GOI events that seek to unilaterally ‘rebrand’ revered Sikh historical figures⁷¹, the demolition or taking of control of the management of key Sikh religious institutions⁷² and the GOI’s plans to impose a ‘uniform civil code’ which will further dilute the ability of Sikhs to freely practice their religion.⁷³ These unjustified attempts to interfere in the Sikh religion and its practice are unacceptable and amount to a breach of the ICCPR, which we would ask the HRC to take up with the GOI as part of this review.

Article 19 – freedom of expression

We have referred above to the criminalisation of Sikhs for the mere exercise of their right to freedom of expression, under various draconian laws that are not compliant with the ICCPR.

⁶⁸ Bal Patil v Union of India – the judgement can be seen at <http://judis.nic.in/supremecourt/imgs1.aspx?filename=27098>

⁶⁹ A copy can be seen at <https://www.uscirf.gov/sites/default/files/Constitutional%20and%20Legal%20Challenges%20Faced%20by%20Religious%20Minorities%20in%20India.pdf>

⁷⁰ For an example see <https://thewire.in/politics/sikh-scholars-condemn-distorted-history-in-booklet-released-during-modis-kashi-corridor-event>

⁷¹ See reporting on Sikh protests at such moves at <https://www.deccanherald.com/india/sikh-body-seethes-over-centres-bal-diwas-move-1175395.html>

⁷² See details of the destroyed Gurdwara Gyan Godhri and official refusal to allow its reconstruction at <https://sikhsiyasat.net/sikh-jatha-of-2000-left-for-site-of-gurdwara-gyan-godri-destroyed-during-sikh-genocide-1984-to-observe-parkash-gurpurb/>

⁷³ See details of Sikh objection to the proposed UCC at <https://indianexpress.com/article/cities/chandigarh/uniform-civil-code-sikh-shiromani-gurdwara-parbandhak-punjab-8819958/>

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There is an additional ICCPR breach which the GOI should be held accountable for, relating to politically motivated internet shutdowns⁷⁴, and the blatant blocking of websites and social media content on an industrial scale, aimed at suppressing free speech by the Sikhs⁷⁵. That action has been mostly directed at Sikh self-determinists but was also used extensively to shut down online content during the massive farmer's protests, which were mostly led by Sikhs.

International organisations such as X are being ordered to block content that is neither illegal, nor treated as objectionable by those organisations themselves. In February this year X issued a statement saying “we disagree with these actions and maintain that freedom of expression” and would issue a “writ appeal” to challenge India⁷⁶.

In addition to the censorship of Sikh media, there has been a huge campaign of misinformation against Sikhs orchestrated by the GOI or its supporters. A report issued by the Centre for Information Resilience in August 2022 found that:

“A coordinated influence operation on Twitter, Facebook and Instagram is using fake personas acting as influencers within the Sikh community to discredit the push for Sikh independence, label Sikh political interests as extremist, stoke cultural tensions within India and international communities, and promote Indian Government content”⁷⁷.

Pro-GOI media platforms are also being used to defame pro-Khalistan campaigners, both in India and abroad. An example in the UK was use of a TV broadcaster, operated by an overseas BJP group officeholder, to broadcast a programme wrongly accusing Khalistani campaigner Amrik Singh Sahota, OBE of being linked with terrorism whilst he was peacefully protesting outside the Indian High Commission in London in 2018. He sued for defamation and the High Court ordered the channel and its presenters to pay substantial damages and his legal costs; he

⁷⁴ See CNN reportage on the 4-day internet shutdown in Punjab in 2023 in connection with the crackdown on Sikhs at <https://edition.cnn.com/2023/03/20/india/india-separatist-manhunt-internet-shutdown-intl-hnk/index.html>

⁷⁵ A detailed report on this GOI activity (as at 2020) was set out in ‘Enforcing Silence: India’s War on Sikh Social Media’ – a copy of which can be seen at https://assets.nationbuilder.com/worldsikh/pages/2479/attachments/original/1680541803/WSO_Social_Media_Crackdown_Report.pdf?1680541803

⁷⁶ See coverage of this by the Sikh Press Association at <https://www.sikhpa.com/india-sikh-censorship-speech-prompts-musk-to-challenge-modi/>

⁷⁷ A copy of the report can be found at <https://www.info-res.org/post/revealed-real-sikh-influence-network-pushing-indian-nationalism> Address: 19-36 77st East Elmhurst NY-11370



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was completely vindicated⁷⁸. He also complained to the UK's broadcasting oversight body Ofcom, which upheld his complaint.⁷⁹.

Article 20 - prohibition of hate speech and incitement

Sikhs, as well as other minorities in India, regularly face threats of genocide in both online hate speech and in public comments by Hindu nationalists. The culprits do not face meaningful action by the authorities but often get police protection⁸⁰, in contrast to the oppressive treatment of the targeted minority communities.

When PM Modi was unable to get to a venue for an engagement in Punjab in 2022, due to farmer protests in the area, there were numerous online threats to repeat the Sikh genocide of 1984, but there were no reports of any action being taken against the culprits⁸¹. In February 2021, in a Parliamentary debate⁸², PM Modi himself notoriously referred to the protesting farmers, camped on the outskirts of Delhi and who were predominantly Sikhs, as 'parasites'. That kind of terminology from the country's autocratic leader was reminiscent of Nazi Germany and led to human rights organisations, such as Genocide Watch⁸³, issuing warnings about the risks of mass atrocities.

The HRC should raise the issue with the GOI and require it to report on steps it is taking to prevent such hate speech and to prevent further mass killings in a country where minorities have been repeatedly subject to such atrocities.

Article 21 – right of peaceful assembly

Sikhs have used peaceful protests in India over many decades to highlight their concerns, in accordance with their rights under the ICCPR. On many occasions, those protests have been subjected to violence by security forces in order to silence dissent. For example, in 2015 there were peaceful protests in Punjab against the desecration of the Sikh scriptures and several protestors were shot and killed by the Punjab police, acting on orders from the state

⁷⁸ A copy of the judgement can be seen at <https://www.casemine.com/judgement/uk/61b4ef2fb50db928844ed78b>

⁷⁹ See pages 48 to 57 of the Ofcom report at https://www.ofcom.org.uk/__data/assets/pdf_file/0020/122960/issue-363-broadcast-on-demand-bulletin.pdf

⁸⁰ See an example of this at <https://sabrangindia.in/hatemonger-and-shiv-sena-taksali-leader-sudhir-suri-allegedly-enjoys-protection-15-cops/>

⁸¹ The Times India report on this can be seen at <https://timesofindia.indiatimes.com/city/ludhiana/after-modi-returns-repeat-of-1984-threats-on-social-media/articleshow/88722202.cms>

⁸² PM Modi's comments drew massive condemnation; for an example see <https://www.telegraphindia.com/india/farmers-protest/cid/1806126>

⁸³ See Genocide Watch comments at <https://www.genocidewatch.com/single-post/india-government-policies-actions-target-minorities>

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government⁸⁴. Despite years of enquiries, reports and deliberately stalled criminal proceedings, neither the perpetrators of the sacrilege, the police personnel involved nor the political leadership responsible have been punished. Whilst the desecration itself was unpardonable, the failure to act against the culprits is seen by Sikhs as a policy to protect the sacrilegious sects that have been propped up by the state to challenge Sikhs.

More recently, in February 2024, an unarmed Sikh was shot dead by Haryana state police at the state border during a peaceable farmer protest⁸⁵. Amnesty International responded⁸⁶ by saying:

“The Government of India must respect, protect and facilitate the right to freedom of peaceful assembly in line with its international human rights obligations. The price of protest must not be death.”

There has been no accountability for that killing or the wounding of scores of other protestors after police used thousands of tear gas grenades and fired using rubber bullets. Those recent scenes were reminiscent of the massive crackdown on the larger scale farmer protests of 2021, during which another Sikh was also shot dead by police; incredibly at least nine journalists were charged with serious crimes – including sedition - for just reporting on that killing.⁸⁷

The Sikhs have experienced a pattern of violent suppression of their peaceful protests in India, with no accountability for the guilty, even where there has been extensive media coverage and commentary by human rights bodies. The HRC is requested to raise these persistent ICCPR breaches with the GOI in this review.

Article 22 – freedom of association

Many organisations have, over time, been banned by the GOI in the context of the Indo-Sikh conflict, in order to suppress the struggle for self-determination. The current ban on Sikhs for Justice under the UAPA is clearly an attempt to criminalise freedom of association on grounds that even the GOI acknowledges to be contradictory to the ICCPR. The GOI’s legal submission to the UAPA tribunal stated, specifically in relation to SFJ’s statements in favour the Sikh right of self-determination under Article 1 ICCPR via peaceful means:

⁸⁴ A BBC report from the time can be seen at <https://www.bbc.co.uk/news/world-asia-india-34578463>

⁸⁵ See BBC reporting on the killing at <https://www.bbc.co.uk/news/world-asia-india-68345182>

⁸⁶ AI’s media release can be seen at <https://www.amnesty.org/en/latest/news/2024/02/india-the-price-of-protest-must-not-be-death/>

⁸⁷ See coverage by The Guardian at <https://www.theguardian.com/world/2021/feb/01/indian-journalists-face-criminal-charges-over-police-shooting-reports>



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“...It is submitted that these submissions itself fulfill the ingredients of Section 2(o) of the Act and, thus, the action of the Union of India in declaring the respondent Association as an ‘unlawful association’ is legal and within the parameters prescribed under the Act.”⁸⁸

The HRC should request the GOI to explain how the mere assertion of ICCPR rights can amount to criminal activity that justifies the banning of an organisation.

Article 27 – right to culture, religion

The refusal to accept Sikhism as a district religion, repeated desecration of Sikh scriptures, and the destruction of Gurdwaras has been referred to above. There is however one other matter we bring to the HRC’s attention which constitutes a breach of Article 27 by India.

During the military attack on the Darbar Sahib complex in June 1984, there was massive destruction to sacred buildings and other irreplaceable heritage items. The Sikh Reference Library was deliberately burned down and, in addition, priceless handwritten holy scriptures and artefacts were taken away⁸⁹. Despite years of protests and even litigation, many of the stolen manuscripts and artefacts have not been returned; there remains an ongoing cover up⁹⁰. The destruction or theft of historical property and sacred manuscripts represented an unlawful attack on Sikh heritage and sentiment; it was done to demoralise the Sikhs and demonstrate the power of the majority. The HRC should request the GOI to ensure the return of the stolen items without delay.

Final Comments

Due to the constraints on the length of submissions, we have not been able to cover many other breaches of the ICCPR by India. However, we have raised what we see as the salient points that we request the HRC to take up as part of the forthcoming review. We have not strictly adopted the 2019 List of Issues as our format, given the passage of time and because we wanted to present, perhaps for the first time, a Sikh perspective on India’s breaches of key ICCPR provisions vis a vis the Sikhs. We do however remain keen to provide further inputs to the HRC going forwards, should the HRC want that continued engagement.

Earlier in this submission we noted the HRC’s own view that the realisation of the collective right of self-determination is an essential condition for the effective guarantee of individual

⁸⁸ Quoted on page 29 of the GOI’s formal notification of the ban, available at https://www.mha.gov.in/sites/default/files/2022-10/Notificationdated_08012020%5B1%5D.pdf

⁸⁹ See details at <https://www.sikhmuseum.org.uk/sikh-relics-and-manuscripts-still-missing-from-sikh-reference-library/>

⁹⁰ The ongoing litigation is reported on at <https://www.indianexpress.com/article/cities/chandigarh/1500-manuscripts-sikh-reference-library-not-returned-after-op-blue-star-8657160/>



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human rights. We endorse that view. The many, grave breaches of ICCPR provisions by India in its treatment of the Sikhs underline that analysis. We urge the HRC to raise all of those breaches with the GOI and hope that helps bring about conditions under which the Sikhs may once again bring freedom and justice to their Punjab homeland. Maharaja Ranjit Singh, the Sikh ruler between 1801 and 1839, was recently voted the ‘greatest leader in world history’ in a BBC History magazine poll⁹¹. The historian who nominated him said:

“... Ranjit Singh represented a different, more enlightened, more inclusive model of state-building, and a much-needed path towards unity and toleration. We could still benefit from his example.”

The egalitarianism and equity of Sikh statecraft has not been matched by the various alien rulers that have oppressed the Punjab over the centuries. The implementation of the ICCPR in the Sikh homeland will help us restore that benign, authentic governance - much desired by the people.

The World Sikh Parliament

WorldSikhParliament

⁹¹ See <https://www.historyextra.com/magazine/who-greatest-leader-world-history/>



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