



## SUMMARY

June 2017, marks the 35<sup>th</sup> year of military invasion of Golden Temple, the Vatican of Sikhism and start of violent suppression of Sikhs, a people of a minority faith in India. Three decades later, the India's policy of suppressing Sikhs through violence and other means, and depriving the community of its separate religious identity and denying them political, human and civil rights continues on.

With the coming to power of Narendra Modi, a known Hindu supremacist, already marginalized Sikh community is experiencing as sharp increase in all forms of state oppression. This report aims to highlight the recent events of state violence against Sikhs and points at the historical pattern of oppression which draws on the inherent flaws deeply entrenched against the community in the Indian legal and constitutional framework.

Numbering barely 2% of the population of India, the Sikh community has been at the receiving end of state ruthlessness since the past several decades -- whenever it has raised its voice for its political and religious rights - separate religious identity and right to self determination - and against violation of those rights.



**Photo (June 2015) : India Police firing at a peaceful Sikh rally in Jammu**

## CURRENT INSTANCES AND CAUSE OF VIOLENCE AGAINST SIKHS IN INDIA

### a. Persecution of Sikh Referendum2020 Campaigners

It is an irrefutable fact that Punjab currently governed by India was an independent and sovereign country “Sikh Empire” till 1849 when the British took it over, however, during decolonization in August 1947, instead of returning and restoring its sovereignty, Punjab was left under the governance of India. In November 2020, in an unofficial Referendum being organized by the human rights group “Sikhs for Justice” (SFJ), Sikhs around the globe will be asked to vote for or against secession of Punjab from India and re-establishment of the same as a sovereign country.

Firmly rooted in the international law of the right of self-determination of all peoples, SFJ's Referendum2020 campaign is a legitimate political movement employing a democratic *modus operandi*.

It is indisputable that holding secessionist views and peacefully campaigning for independence is not a crime. A ‘peoples’ right to self-determination is a fundamental principle of international law, guaranteed under the UN Charter and the Bill of Rights.<sup>1</sup> Self-determination may be sought and exercised internally (within a parent state) or, in certain circumstances, externally, through secession and independence. According to the International Court of Justice, a sub-group (in this case Sikhs) may lawfully conduct a referendum on independence and declare independence without the agreement of the parent state (in this case India).<sup>2</sup>

Despite the peaceful, democratic nature of Referendum 2020, Indian authorities appear determined to crush the movement by unleashing a reign of terror through filing false charges labelling<sup>3</sup> the campaign as “terrorism” and its supporters as “terrorists” and detention and torture of Sikh activists supporting Referendum 2020.

The Indian authorities are also “exaggerating stories” and “fabricating evidence” to implicate the Referendum 2020 supporters in terrorism cases.

Although there is a repetitive and compulsive pattern of abuses, the following are the most recent and egregious cases of terror and intimidation against the Referendum 2020 campaigners in Punjab, India.

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<sup>1</sup> See, Article 1 of the UN Charter; Article 1 of the International Covenant on Civil and Political Rights; and Article 1 of the International Covenant on Economic, Social and Cultural Rights. Peoples who have been denied self-determination within their parent state may, in exceptional circumstances, lawfully pursue external self-determination (via secession).

<sup>2</sup> See, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, 22 July 2010, ICJ Reports 2010, p 403

<sup>3</sup> <https://www.thestatesman.com/cities/punjab-police-bust-isi-backed-terror-module-sfj-link-1502703614.html>

- On November 03 and 04, 2018, General Rawat<sup>4</sup>, Chief of Indian Army<sup>5</sup> publicly alleged that SFJ's Referendum 2020 is revival of insurgency in Punjab.
- On November 02, 2018 four Sikh Referendum2020 campaigners Jaswinder Singh, Manjit Singh, Gurwinder Singh and Harpreet Singh were taken into custody for being in possession of Referendum2020 posters and charged with sedition and are being tortured.
- On November 01, 2018, Shabnamdeep Singh, a Patiala based Sikh youth who was actively engaged in propagating Referendum 2020 on Facebook was arrested and charged with the possession of grenade, pistol, links with Pakistan's ISI, terrorism, and sedition (promoting referendum 2020).

As per the information received from the family members of Shabnamdeep Singh, the detainee is being continuously tortured.

- On October 19, 2018, Sukhraj Singh, Malkit Singh, Bikram Singh were arrested from the Amritsar, Punjab and have been charged with "propagating the 'Referendum 2020' campaign by affixing banners and posters in public places in Amritsar." <sup>6</sup>
- On October 10, 2018, three Kashmiri<sup>7</sup> Muslim students of Engineering College in Jalandhar, Punjab were arrested with Referendum 2020 material and falsely charged with possession of AK47s.
- In June 2018<sup>8</sup>, Dharminder Singh, Kirpal Singh, who were campaigning for Referendum 2020 by printing and posting banners, were arrested, implicated in false, baseless and fabricated terror charges and tortured in police custody.
- In April 2018<sup>9</sup>, four Sikh youths, Randhir, Sukhwinder Singh, Manveer Singh and Jaspreet Singh, who were planning to post Referendum 2020 banners during IPL Cricket Match in Mohali were arrested and charged with arson and terrorism.
- In July 2017, Gurpreet Singh and Harpunit Singh who printed and affixed Referendum 2020 banners throughout Punjab were arrested and charged with sedition and terrorism<sup>10</sup>.

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<sup>4</sup> <https://www.dailypioneer.com/2018/state-editions/indian-army-chief-reiterates-warning-on-revival-of-insurgency-in-punjab.html>

<sup>5</sup> <https://economictimes.indiatimes.com/news/defence/stop-bid-to-revive-punjab-terror-now-or-itll-be-too-late-general-rawat/articleshow/66494478.cms>

<sup>6</sup> [https://www.business-standard.com/article/pti-stories/two-members-of-khalistani-module-arrested-in-amritsar-118101900929\\_1.html](https://www.business-standard.com/article/pti-stories/two-members-of-khalistani-module-arrested-in-amritsar-118101900929_1.html)

<sup>7</sup> <https://www.mynation.com/news/zakir-musa-punjab-2020-referendum-arrested-kashmiri-students-terrorist-pgogwb>

<sup>8</sup> <https://leagueofindia.com/internal-challenges/punjab-police-arrest-two-khalistani-radicals-one-arms-supplier/>

<sup>9</sup> <https://www.indiatoday.in/india/story/punjab-police-arrests-4-isi-trained-khalistani-terrorists-1205283-2018-04-05>

<sup>10</sup> <https://www.indiatoday.in/india/story/pro-khalistan-sikhs-for-punjab-amarinder-singh-government-2020-referendum-1023168-2017-07-08>

- June 2017 - Arrest of 22 Sikh Political Activists in Punjab for peacefully campaigning for Independence Referendum in Punjab.

Few days after the Sikh activists in Punjab, particularly those supporting the Independence Referendum, commemorated the 33rd year of Indian military's attack on Sikh Golden Temple, 22 Sikh activists were arrested by the Indian Security Forces.

The arrest of the 22 Sikh political activists was to suppress the support for peaceful and democratic campaign to hold referendum in the Indian occupied Punjab, on the basis that Punjab is the ancestral and historical homeland of Sikhs and the will of the indigenous people of Punjab should be sought on the question of sovereignty.

- August 2016 - Illegal Detention and Torture of Sikh Activists and Referendum 2020 Campaigners in Punjab.

On or about August 06-07, while the Sikh Referendum Campaigners were actively gathering signatures on an online White House Petition launched by SFJ demanding Obama administration's support for the liberation of Indian occupied Punjab. (See <https://petitions.whitehouse.gov/petition/august-15th-not-independence-day-sikhs-support-liberation-indian-occupied-punjab-create-khalistan>)

Sikh Referendum Campaigners were engaged in a peaceful and democratic activity. They have been detained without warrants and charges and have been implicated in false and fabricated charges. Not only that the Sikhs' demand for referendum and right to self determination is legal but the campaign for demand for referendum is carried out only and only through democratic and peaceful means. In this case, as the Indian Police itself declared that Sikh campaigners have been arrested for "distributing referendum related material and T-Shirts". To justify its illegal actions, the police later imputed the false charges of "planning to carry out some terror activity" on the detained campaigners. The detention of the campaigners in this case is carried out to stop and suppress the Sikh referendum campaign. (See <http://www.tribuneindia.com/news/punjab/terror-module-linked-to-nris-busted-in-punjab-before-i-day/278666.html>)

Jaspreet Singh, Kuldeep Singh, Hardeep Singh and Bikramjeet Singh, the four *Referendum 2020* campaigners were arrested while gathering signatures for an SFJ sponsored 'White House Petition' relating to Sikh separatism.<sup>11</sup> Seemingly arrested for 'distributing referendum related material and T-Shirts', they were later charged with planning to carry out terror activity, a charge which observers claim to be false.<sup>12</sup> The India-based *Lawyers for Human Rights International* visited the four detainees in prison and found that they were not only illegally detained, but also had been "brutally tortured."<sup>13</sup>

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<sup>11</sup> <https://petitions.whitehouse.gov/petition/august-15th-not-independence-day-sikhs-support-liberation-indian-occupied-punjab-create-khalistan>

<sup>12</sup> See *Urgent Appeal to UN Special Rapportuer on Torture* filed by SFJ on 30 August 2016. Annex 9

<sup>13</sup> See *Lawyers for Human Rights International* 29 August 2016. Annex 10

## **b. November 2015 Sarbat Khalsa (Global Sikh Assembly) & Iron Fisted Response of the State**

In November 2015, Sikh community announced to hold Sarbat Khalsa (global Sikh assembly), a historical Sikh institution which calls upon the community to gather and deliberate on the current day issues faced by the Sikh community. The event holds unparalleled religious, social and political sanctity for the Sikh community. Over half million Sikhs from around the globe attended the 2015 Sarbat Khalsa including delegations from Sikh diaspora in the United States, Canada and European Union.

Indian government responded<sup>14</sup> to the democratic and peaceful Sarbat Khalsa of the Sikh community by employing all tools of oppression<sup>15</sup>, from illegal detention and filing false charges against of Sikh political activists to outright violence against participants by the police. In many cases 'sedition charges" were filed against Sikhs solely for holding a peaceful political and religious gathering<sup>16</sup>.

## **c. October 2015: Death of Two Sikhs by Police Shooting**

During October 2015, torn pages of the Holy Book of Sikhism - Sri Guru Granth Sahib - were found in a village of India's Punjab, leading to widespread resentment among the followers of the faith.

Sikhs in Punjab gathered in large numbers to hold peaceful protests against desecration of Holy Book. The state police reacted ruthlessly by crushing those peaceful demonstrations with uncalled for shooting and baton charge. Police opened fire<sup>17</sup> on unarmed and peaceful crowd of Sikhs, killing two men<sup>18</sup> in cold blood. Several dozen protesters were injured in police baton-charge and tear-gas. There was no compelling reason for the police to unleash brutal force on demonstrators holding a peaceful sit-in over the desecration of their faith's supreme scriptures.

As protests over the defilement of Sri Guru Granth Sahib and state's iron-fisted response to the legitimate and democratic demonstrations continued, the administration has now ordered paramilitary deployment in Punjab<sup>19</sup>.

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<sup>14</sup> <http://indianexpress.com/article/explained/aftermath-of-the-sarbat-khalsa-what-the-crisis-in-punjab-means-for-sad/>

<sup>15</sup> <http://www.thehindu.com/news/national/other-states/security-stepped-up-in-punjab-ahead-of-sarbat-khalsa/article7863092.ece>

<sup>16</sup> <http://timesofindia.indiatimes.com/india/Sedition-charges-invoked-against-Sarbat-Khalsa-leaders/articleshow/49774837.cms>

<sup>17</sup> Indian Express report Oct 15: <http://indianexpress.com/article/india/india-news-india/holy-book-desecration-badals-battle-crisis-as-police-firing-kills-two/>

<sup>18</sup> IbTimes Report on Sikhs Shot Dead by Police October 15. <http://www.ibtimes.co.uk/kotkapura-clashes-two-dead-sikh-protesters-clash-police-after-desecration-holy-book-1524099>

<sup>19</sup> Associated Press Report Oct 20, 2015: [punjab-official-calls-meeting-defuse-days-protests](http://www.associatedpress.com/punjab-official-calls-meeting-defuse-days-protests)

While more incidents of desecration of Sri Guru Granth Sahib continued to take place in Punjab, the Government of India instead of securing Sikhs right to practice and defend their faith deployed paramilitary forces ostensibly to further crush the protests and demonstration by the Sikh population.

**d. June 2015: Killing of Sikh by Police In Jammu**

In the first week of June 2015, police fired at a crowd of Sikhs in the city of Jammu located in the Kashmir region. One young Sikh man was killed in that firing<sup>20</sup>. The Sikhs in Jammu were peacefully protesting over the removal of the posters of Sant Jarnail Singh Bhindranwale, the slain Sikh leader who died defending the Golden Temple when it was attacked by the Indian army in 1984. To curb the protest of Sikhs over the killing and denial of right to hold peaceful demonstration, Indian government imposed curfew<sup>21</sup> in the area.

On one hand, the recent event raise a serious question on the religious and political freedom available to the Sikh community in India, despite hollow claims of "secularism" and "freedom of religion" by the successive Indian regimes. While on the other hand, treatment of Sikhs by the Indian state, although heightened and increased, necessarily follows the pattern in which Indian government has dealt with Sikhs in the past when army and host of other security agencies carried out so called "counter insurgency operations" in Punjab to crush the Sikhs rights movement during the 80s and 90s.

### **History of State Violence Against Sikhs in India**

The Civil society has documented the long history of human rights abuses committed by Indian authorities against pro-Khalistan Sikh activists during 1990s, premised on false labelling, encouraged by politicians and perpetrated by prosecutors and police. Unfortunately, the culture continues to this day.

Unlike the *Referendum 2020* campaign, the separatist movement of the 1980s and 1990s had a militant edge. However, the brutal counter-insurgency operations were, in the words of Human Rights Watch, "the most extreme example of a policy in which the end appeared to justify any and all means, including torture and murder."<sup>22</sup>

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<sup>20</sup> India Today Report June 4, 2015: <http://indiatoday.intoday.in/story/sikh-youth-dies-in-police-firing-ranibagh-jammu-jarnail-singh-bhindranwale/1/442235.html>

*See also* DN India Report <http://www.dnaindia.com/india/report-sikh-youth-killed-after-police-fire-on-pro-bhindranwale-protestors-in-jammu-2092450>

<sup>21</sup> Indian Express Report of June 04, 2015: <http://www.newindianexpress.com/nation/Curfew-in-Parts-of-Kashmir-After-Sikh-Protester-Killed-in-Police-Firing/2015/06/04/article2849296.ece>

<sup>22</sup> *Protecting the Killers – A Policy of Impunity In Punjab, India*, Human Rights Watch, Volume 19, No. 14(C), p. 2. available at: <https://www.hrw.org/reports/2007/india1007/>

During the 1990s India's state violence against Sikhs was accompanied by the misuse of the criminal justice system by prosecutors and police. The US Department of State described the Punjab police practice of faked encounter killings in 1993:

“In the typical scenario, police take into custody a suspected militant or militant supporter without filing an arrest report. If the detainee dies during interrogation or is executed, officials deny he was ever in custody and claim he died during an armed encounter with police or security forces. Alternatively, police may claim to have been ambushed by militants while escorting a suspect. Although the detainee invariably dies in “crossfire,” police casualties in these “incidents” are rare.<sup>23</sup>

Although the militancy associated with Sikh separatism evaporated in the 1990s, the Indian authorities still employ the illegal, violent and abusive methods associated with that period.

### **Denial of Religious Freedom to Sikhs Under Constitution and Laws of India**

#### **a. Denial of Separate Religious Identity to Sikh under Constitution of India**

Founded in 15th Century by Sri Guru Nanak Dev Ji, Sikhism is the world's 5th largest religion, with over 28 million followers, distinct set of faith and principles, religious book (Sri Guru Granth Sahib), rituals and practices. Sikhs in India comprise 1.8 % of the total population with majority living in the Indian occupied Punjab. It is undisputed historical fact that since its inception, Sikhism has been recognized as a separate religion in its own standing except in post-colonial India. where Article 25 of the Indian Constitution labels "Sikhs" as "Hindus".

Despite of historically unchallenged status of Sikhism, after the partition, the constitution of India was drafted and promulgated, in the face of Sikh members of the Constituent assembly, with provisions that dealing fatal blow to the separate religious identity of Sikhism.

Explanation II to Article 25 of the Constitution of India provides that:

"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 accordingly."

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<sup>23</sup> US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 1993: India,” January 31, 1994

**b. Consequences of labelling Sikhs as Hindus in the India Constitution || Sikhs Are subjected to "Hindu Personal Laws" in India**

Relying on the Article 25 of the Constitution, several other laws were promulgated to subjugate Sikh community by forcing them to follow the Hindu religious laws which violates "freedom of religion".

In the legal system of India, Personal Law means legislation governing matters of personal nature in a manner particular to a religious community based on the distinct religious and faith based practices of a community. Such legislation includes the laws and customs as to marriage, succession, adoption and other family relations of a particular religious community. The importance of "Family Laws" under Indian legal system is paramount as it governs everyday life of a religious community.

Drawing authority from the Article 25(b) Constitution which labels "Sikhs" as "Hindus", the minority Sikh community is being denied many legal and religious rights including freedom to follow its own family law and by forcing the Sikh community to follow "Hindu Personal Laws". The legislation promulgated in India for last several decades has clubbed Sikhs with Hindus, so that Hindu Personal Law is applicable to Sikhs under the following statutes that govern everyday life of Sikhs living in India:

- Hindu Marriage Act 1955
- Hindu Succession Act 1956
- Hindu Minority and Guardianship Act, 1956
- Hindu Adoption and Maintenance Act 1956

**Section 2(b) common to these Acts provide these acts apply to " to any person who is a *Buddhist, Jaina or Sikh*".**

Consequently, Sikhs in India are forced to register their marriages, inherit their properties and adopt children by classifying themselves as "Hindus" and by following the rules of Hindu Personal laws.

The Sikhs have a serious grievance that in India, Hindu law is applied to them when they are not Hindus. Such a wrong labelling and classification violates fundamental principles of religious freedom and solidifies the denials of separate religious identity of Sikhs. It is unjust on the part of a state, claiming itself to be secular, to compel a minority community to accept a label which affects its independent and distinct nature.

**Conclusion**

India's treatment of Sikhs have worsened with the election of Narendra Modi as Prime Minister of India. The recent events of state violence against Sikhs coupled with historical legal subjugation of the community, show how the state terrorism against Sikhs not only continues but has increased under Modi's rule.