

# A Judicial Blackout: Judicial Impunity for Disappearances in Punjab, India

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I entered the world of disappearances in Punjab, India through photographs, stories told by victims' families, and court cases. From a lonely portrait hanging on a wall, to family pictures of an underground wedding, to evidentiary pictures of a bullet-smashed face, I held the gaze of the disappeared. I rounded out the details of the legal cases with personal stories of birthday lunches, of final family vacations, and of newborn babies meeting their fathers in jail for the first time.

Traveling through Punjabi cities and villages advanced my understanding of how disappearances have ravaged the Punjabi people. In Hajipur, Julkan, for example, I witnessed a battle for space between human and rooster, brought on by the economic deprivation of losing the only family breadwinner. Piecing together these interviews and images, I attempted to understand how the judiciary approached cases of disappearances. I met with judges and lawyers, and sifted through allegations of communalism, insensitivity, and illegality.

This Article synthesizes my research and explores the Indian judiciary's reaction to habeas corpus petitions filed on behalf of the disappeared in the Punjab and Haryana High Court at Chandigarh from 1990 to 1997, as well as the personal experiences of the victims' families and of the lawyers and justices involved in these cases. By exploring the personal dimension and attitudes that were the human context for these cases, this Article hopes to go beyond a merely descriptive analysis of the legal issues. In addition to secondary sources, I draw from ninety habeas corpus petitions filed from 1990 to 1997, as well as interviews with fifteen families who filed petitions and with fifteen families who did not approach the judiciary. I also incorporate interviews with approximately thirty district court lawyers, High Court lawyers, Supreme Court lawyers, and retired and sitting justices of the High Court.<sup>1</sup>

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1. I tape-recorded the interviews, unless interviewees requested otherwise. Please see the Appendix for

Part I of this Article summarizes the historical and legal context of the disappearances, giving the background of human rights abuses, and the laws governing detention, disappearances, and basic habeas corpus jurisprudence in India. Part II describes why petitioners filed their cases, why they chose the High Court, and what problems they faced in filing their cases. Part III examines major judicial attitudes that framed how the judiciary approached these cases and analyzes how the High Court disposed of these cases. Part IV highlights the experiences of some of the lawyers involved. Part V explores avenues of redress in India beyond the judiciary, specifically the National Human Rights Commission (NHRC) and a private truth commission, banned by the High Court.

## I. BACKGROUND

### A. Roots of Conflict

The 1980s in Punjab witnessed a decade-long insurgency, fueled by failed attempts at procuring greater autonomy, water rights, local control over agricultural production and prices, and redress for human rights abuses. The Sikh community's grievances with the Indian state related to: issues fundamental to their identity, such as Article 25 of the Indian Constitution, which defines Sikhs as Hindus and thus denies the distinct existence of the Sikh religion; complaints of territorial loss, specifically the government's transfer of Punjab's capital Chandigarh to the Union and of Punjabi-speaking lands to Haryana; and economic deprivation. Throughout the 1970s, government canals diverted seventy-five percent of Punjab's river waters to Rajasthan and Haryana, in violation of the international law of riparian rights. The diversions forced small farmers to use expensive and erratic tube well irrigation.<sup>2</sup> Since the 1950s, thousands of Sikhs had engaged in civil disobedience and risked arrest in protest over these issues.<sup>3</sup>

In the 1980s, the economic burdens on Punjabis increased. The army imposed a cap on the percentage of Sikhs in the army, which caused a dramatic rise in the educated unemployed in Punjab. The rise in educated unemployed denied many small farmers their only source of capital investment in the form of wages from family members employed in the army.<sup>4</sup> Central government investment in Punjab fell from 2% to 0.8%, placing further economic burdens on the state.<sup>5</sup> On May 24, 1984, the Akali Dal, the Sikh

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a list of all interviewees, as well as the places and dates of the interviews. I chose the families according to how the judiciary resolved their cases, using the same proportions in the fifteen-family sample as I saw in my ninety-case study. The families also represent a geographical distribution. I interviewed justices and lawyers who had served on the Punjab and Haryana High Court during the relevant time period and had handled habeas corpus petitions.

2. JOYCE J.M. PETTIGREW, THE SIKHS OF THE PUNJAB: UNHEARD VOICES OF STATE AND GUERRILLA VIOLENCE 5 (1995).

3. HUMAN RIGHTS WATCH, PUNJAB IN CRISIS: HUMAN RIGHTS IN INDIA 13–16 (1991).

4. PETTIGREW, *supra* note 2, at 7.

5. *Id.*

political party, channeled discontent into an agitation that blocked transport of Punjabi wheat and withheld taxes from the Indian government.<sup>6</sup> The government responded by deploying 100,000 army troops in Punjab, setting the stage for the violent attacks of June 1984.<sup>7</sup>

#### *B. Decade of Disappearances*

1984 exploded in Punjab, beginning the government's active armed oppression of Sikhs and a violent police crackdown of the Sikh insurgency. On June 3, 1984, the martyrdom anniversary of the fifth Sikh Guru, the Indian army launched Operation Bluestar. The army invaded the Golden Temple complex, the center of Sikh religious and political life, and forty-one other major Sikh *gurudwaras*<sup>8</sup> with tanks, 70,000 troops, and CS gas,<sup>9</sup> and imposed a statewide curfew. The government forbade news coverage of the army attacks, expelled foreign journalists, and cut phone lines across Punjab.<sup>10</sup> Eyewitnesses reported that over 10,000 pilgrims and 1300 workers had gathered inside the complex and could not leave before the attack for fear of arrest.<sup>11</sup> The police detained Red Cross volunteers at Jallianwala Bagh, near the Golden Temple complex, preventing them from accessing the pilgrims and workers.<sup>12</sup>

Eyewitnesses like Ranbir Kaur, a schoolteacher, described policemen tying the hands of Sikhs behind their backs with their turbans<sup>13</sup> and shooting them at point-blank range. Although the official White Paper cited the deaths of only eighty-three Army personnel and 493 terrorists, eyewitnesses cited figures ranging from 4000 to 8000 people killed, mostly pilgrims.<sup>14</sup>

Operation Bluestar alienated the Sikh population, casting the Indian government as a regime oppressive toward Sikhs. On October 31, 1984, two of Prime Minister Indira Gandhi's Sikh bodyguards assassinated her in retaliation for Operation Bluestar. After the assassination, local political officials orchestrated pogroms against Sikhs in New Delhi and other cities across India, killing at least 3000 people, and burning Sikh houses and businesses.<sup>15</sup> As a result of the destruction, 50,000 Sikhs were homeless in New Delhi alone.<sup>16</sup> Several eyewitnesses and relief workers identified political

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6. Ram Narayan Kumar, *The Ghalughara: Operation Blue Star—A Retrospect*, 48:11 Sikh Rev. n.558 (June 2000) (excerpt from Reuters Foundation Paper, Green College, Oxford, U.K.), at <http://www.sikhreview.org/june2000/tsr8.htm> ("Chronicle").

7. *See id.*

8. *Id.*

9. Cynthia Keppley Mahmood, *Writing the Bones* (June 1999), at <http://www.khalistan-affairs.org/main/Human%20Rights/Writing%20The%20Bones.html>.

10. *Tumult in the Punjab*, CHRISTIAN SCI. MONITOR, June 7, 1984, at 19.

11. Kumar, *supra* note 6.

12. *Id.*

13. *Id.*

14. *Id.*

15. HUMAN RIGHTS WATCH, *supra* note 3, at 20.

16. *See* Mary Anne Weaver, *Post-Assassination Violence Against Sikhs in India Was Allegedly Planned*,

party leaders in Delhi who had led mobs and encouraged them to violence.<sup>17</sup> The government, however, has not charged a single political or police official for his role in this violence.

The decade-long police crackdown of the insurgency after Operation Bluestar led to the deaths of at least 10,000 people in Punjab.<sup>18</sup> Some estimates range as high as 200,000 Sikhs killed.<sup>19</sup> Human Rights Watch (HRW) describes Operation Rakshak II, the police counter-insurgency movement, as "the most extreme example of a policy in which the end appeared to justify any and all means, including torture and murder."<sup>20</sup> A system of rewards for police for the capture of militants led to an increase in disappearances and extra-judicial executions.<sup>21</sup> Although all Punjabi Sikhs were vulnerable to disappearance, police especially targeted Amritdharis (initiated Sikhs), those who were politically active with the Akali Dal parties, and families and friends of suspected militants.<sup>22</sup>

In 1994, in response to reports of mass disappearances orchestrated by the police,<sup>23</sup> Jaswant S. Khalra, Chairman of the Human Rights Wing of the Akali Dal, and Jaspal S. Dhillon, then General Secretary of the Wing, investigated illegal cremations conducted by the Punjab Police between 1984 and 1994 in three crematoria in Amritsar district. They focused their research on illegal cremations, putting aside other possible ends of the victims' bodies, such as dismemberment, entombment, or dumping in canals. They also limited their research to only one of the seventeen districts in Punjab.<sup>24</sup> Within this limited focus, they discovered 2097 illegal cremations.<sup>25</sup>

A few months after Khalra and Dhillon publicized their findings, Khalra filed a writ petition in the Punjab and Haryana High Court to investigate these mass cremations. The High Court dismissed his petition on grounds of vagueness, and Khalra moved the Supreme Court.<sup>26</sup> While the case was

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CHRISTIAN SCI. MONITOR, Nov. 15, 1984, at 1.

17. HUMAN RIGHTS WATCH, *supra* note 3, at 20.

18. HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, DEAD SILENCE: THE LEGACY OF ABUSES IN PUNJAB 1 (1994).

19. INDERJIT SINGH JAIJEE, POLITICS OF GENOCIDE: PUNJAB 1984–1998, 93 (1999).

20. HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, *supra* note 18, at 2.

21. *Id.*

22. *Id.* at 4–5.

23. In its Interim Report, the CCDP analyzes its research on 838 disappearance cases. The Committee breaks down the characteristics of people who disappeared in those cases into several tables, detailing age, residence, caste, educational profile, occupational profile, marital status, and destruction of property, among other factors. From the 838-case sample, 558 of the disappeared fell within the age range of fifteen to thirty. Four hundred and thirty-eight disappeared between 1991 and 1993, and 595 victims came from an agricultural background. Ram Narayan Kumar, et al., *Enforced Disappearances, Arbitrary Executions and Secret Cremations: Victim Testimony and India's Human Rights Obligations: Interim Report*, 1998 COMM. FOR COORDINATION ON DISAPPEARANCES IN PUNJAB 37–39.

24. Mahmood, *supra* note 9.

25. Ram Narayan Kumar & Cynthia Mahmood, *Disappearances in Punjab and the Impunity of the Indian State: A Report on Current Human Rights Efforts*, at <http://www.khalistan-affairs.org/main/Human%20Rights/dissapinpunjab.htm> (Oct. 1, 1998).

26. Mahmood, *supra* note 9.

pending before the Supreme Court, the police abducted Khalra from outside of his house.<sup>27</sup> The Central Bureau of Investigation (CBI), India's investigative agency, ultimately charged nine police officers for his abduction, and the case against these police officers is now proceeding in the Patiala CBI Court.<sup>28</sup> The Supreme Court also ordered the NHRC to investigate these mass cremations and determine relevant issues, such as compensation.<sup>29</sup>

### C. Counter-Insurgency Legislation

As part of its counter-insurgency operation, the Indian government passed several draconian laws that sanctioned police impunity. The Terrorist and Disruptive Activities (Prevention) Act (TADA) of 1987 established in camera courts and authorized detention of persons in a "disturbed area" based on mere suspicion.<sup>30</sup> Under Section 21, detainees were presumed guilty until proven innocent; Section 20(8) prohibited bail even if the detainee had not been charged after ninety days.<sup>31</sup> Between 1985 and 1995, the police registered 17,529 TADA cases in Punjab;<sup>32</sup> only one person was eventually convicted.<sup>33</sup>

The Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983 empowered security forces to search premises and arrest people without warrant. Section 4 gave them the power to shoot to kill a suspected terrorist, with prosecutorial immunity, as granted in Section 7.<sup>34</sup> Amnesty International described this act as emboldening security forces with a "license to torture and kill with impunity."<sup>35</sup>

The National Security Act of 1980, amended in 1984 and 1987, authorized detention of suspected terrorists without trial for two years in Punjab.<sup>36</sup> In 1988, the Parliament dissolved the Punjab State Assembly and passed the Fifty-ninth Amendment to the Indian Constitution, authorizing the extension of President's rule<sup>37</sup> beyond one year,<sup>38</sup> and suspending due process guarantees for rights relating to life and liberty and to freedom of speech

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27. *Id.*

28. Kumar, *supra* note 23, at 81.

29. Kumar & Mahmood, *supra* note 25.

30. *Id.*

31. Kumar, *supra* note 23, at 61–62.

32. *Id.* at 62 n.50.

33. JOGINDER SINGH, WITHOUT FEAR OR FAVOUR 295 (1998).

34. Section 7 states: No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act. Armed Forces (Punjab and Chandigarh) Special Powers Act (1983).

35. AMNESTY INT'L, INDIA: TORTURE, RAPE & DEATHS IN CUSTODY 60 (1992).

36. Kumar, *supra* note 23, at 62.

37. Article 356 of the Indian Constitution allows for direct rule by the central government. If the federally appointed governor of the state requests the central government to step in and ensure that the state is governed according to the Constitution, the center can dismiss the elected state legislature. HUMAN RIGHTS WATCH, *supra* note 3, at 17 n.31.

38. Kumar, *supra* note 23, at 61.

and association in Punjab.<sup>39</sup> This amendment also suspended the writ of habeas corpus.<sup>40</sup> Although the amendment was repealed in 1989, the Parliament again extended President's rule in Punjab in March 1990.<sup>41</sup>

On August 18, 2001, in an effort to consolidate police impunity and supplement the protections of the counter-insurgency legislation, Union Home Minister L. K. Advani announced a proposal to give blanket amnesty to policemen facing prosecution for human rights abuses committed during the counter-insurgency operations. Advani was responding to announcements made by retired police officials who threatened to return their medals if the government did not drop all cases against them.<sup>42</sup> However, according to a press statement released by the Punjab Police Department on August 13, 2001, the Punjab and Haryana High Court has directed the CBI to investigate only eighty cases, which has led to merely seven convictions.<sup>43</sup>

#### *D. Laws Governing Detention and Disappearances*

After abducting Sikh victims, police kept the detainees in unofficial interrogation and torture centers, such as houses, schools, and police buildings.<sup>44</sup> Contrary to the Punjab Police Rules (1934) (PPR), the police did not report or acknowledge the detentions, much less file arrest reports.<sup>45</sup> In an interview with Physicians for Human Rights/Human Rights Watch (PHR/HRW), a police officer confirmed this process: "The arrest is not recorded in the daily log which includes the names of all criminals arrested on a given day. There is no official record of the arrest or detention."<sup>46</sup> The unofficial police detention procedures violated Section 26.8 of the PPR, which requires the officer in charge of the police station to report all arrests without warrant to the district magistrate or any other magistrate designated by the district magistrate. Under Chapter 5, Section 57 of the Code of Criminal Procedure, 1973 (CCP), police must also produce detainees before a magistrate within twenty-four hours of arrest.

Section 25.38 of the PPR outlines the procedure governing actions after an unidentified person dies in an encounter. The officer must

record a careful description of it [the body], giving all marks, peculiarities, deformities and distinctive features, . . . take the finger impressions and, in addition to taking all other reasonable steps to

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39. HUMAN RIGHTS WATCH, *supra* note 3, at 23.

40. *Id.* at 24.

41. *Id.* at 25.

42. Amit Sharma, *Punjab Cops to Return President's Medals*, HINDUSTAN TIMES (India), Aug. 8, 2001, at 1.

43. *Placated, Cops Decide Not to Return Medals*, HINDUSTAN TIMES (India), Aug. 14, 2001, at 1.

44. Joyce Pettigrew, *Parents and Their Children in Situations of Terror: Disappearances and Special Police Activity in Punjab*, in DEATH SQUAD: THE ANTHROPOLOGY OF STATE TERROR 204, 207 (Jeffrey A. Sluka ed., 2000).

45. *Id.* at 207–08.

46. HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, *supra* note 18, at 22.

secure identification shall, if possible, have it photographed and, in cases where such action appears desirable, a description published in the Criminal Intelligence Gazette.

When any sudden or unnatural deaths occur in the jurisdiction of the local police station, Section 25.31(1) requires the officer in charge to inform the nearest magistrate and conduct an investigation as prescribed by Section 174 of the CCP. Section 174 obligates the officer to report on the apparent cause of death and any wounds, fractures, or marks of injury found on the body.

Despite these guidelines, the police used a variety of techniques to conceal cases of illegal arrest, detention, and execution. In direct contravention of Section 25 of the PPR, police failed to register complaints or acknowledge detention, influenced police inquiries by having police from the same branch conduct them, and falsified judicial records.<sup>47</sup> The police relied on medical doctors, executive magistrates, and other officials to help them perform perfunctory post mortems, cremate bodies in secret, and suppress evidence of custodial abuse.<sup>48</sup> Amnesty International received accounts of magistrates filling out reports falsely in favor of the police, in the face of overwhelming evidence of police torture.<sup>49</sup> The police also failed to produce detainees before the magistrate within twenty-four hours of arrest.<sup>50</sup>

#### *E. Habeas Corpus Jurisprudence*

The writ of habeas corpus is an extraordinary remedy, and petitioners can only legitimately invoke it when they have exhausted all other administrative and legal remedies. Articles 32 and 226 of the Indian Constitution define the writ jurisdiction of the Supreme Court and the intermediate courts, such as the Punjab and Haryana High Court. These articles allow these courts to use the writ of habeas corpus to enforce the fundamental rights guaranteed in Part III of the Constitution, such as equality and the protection of life and liberty.<sup>51</sup> The petitioner generally files a writ or sends a telegram to the Supreme Court or High Court. If the justice of the High Court feels that the petitioner has *prima facie* established a case of dis-

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47. AMNESTY INT'L, *supra* note 35, at 61.

48. *Id.*; HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, *supra* note 18, at 4.

49. AMNESTY INT'L, *supra* note 35, at 71.

50. *Id.* at 63.

51. The writ of habeas corpus has also been invoked frequently in Punjab for allegations of torture. This use of the writ differs in the United States, where it is used primarily to compel the production of a detainee after allegations of illegal imprisonment. *Black's Law Dictionary* defines the American conception of habeas corpus:

A writ employed to bring a person before a court, most frequently to ensure that the party's imprisonment or detention is not illegal. . . . In addition to being used to test the legality of an arrest or commitment, the writ may be used to obtain review of (1) the regularity of extradition process, (2) the right to or amount of bail, or (3) the jurisdiction of a court that has imposed a criminal sentence.

BLACK'S LAW DICTIONARY 712 (7th ed. 1999).

pearance, he orders a district court magistrate, police official, or other person to conduct an inquiry into the facts. *Harjinder Kaur and Pritam Singh v. Punjab* stresses that the inquiry is a fact-finding process, not a criminal trial requiring proof beyond a reasonable doubt.<sup>52</sup>

The magistrate or official then submits an inquiry report to the High Court, and the High Court justice decides whether to recommend that the CBI apply for prosecution sanction under Sections 45 or 197 of the CCP. These sections require consent from the state or central government for the arrest or prosecution of public servants and members of the Armed Forces for actions undertaken in their official capacity. If the government sanctions prosecution, the CBI files a charge sheet against the accused, and prosecution begins at the special CBI court in Patiala, Punjab.<sup>53</sup>

The High Court cannot refuse to consider a habeas corpus petition because of disputed facts, inability and inconvenience, or inappropriate prayer for relief.<sup>54</sup> The only requirement is that the petitioner establish a *prima facie* case of a disappearance. As Justice K. K. Srivastava wrote in paragraph 15 of *Karnail Singh v. Punjab*:

[The] standard of proof, as is required at the criminal trial, is not to be adopted. If the evidence . . . *prima facie* shows the allegations leveled by the petitioner to be believable, the matter requires to be thoroughly probed [sic], as it involves the life and liberty of a citizen in a democratic setup.<sup>55</sup>

No concept of laches limits the writ of habeas corpus.

## II. WHY HABEAS CORPUS?

### A. The Decision To Approach the Courts

Petitioners approached the High Court after exhausting police and political contacts. The families initially restricted their inquiries solely to their informal police contacts because they feared that the police would kill the detainee if they filed a written police complaint or approached judicial or political authorities. Mohinder Singh, for example, approached forty-three politicians and policemen about the disappearance of his son Jagraj Singh

52. Writ Pet. (Criminal), *Harjinder Kaur and Pritam Singh v. Punjab* (Punjab and Haryana H.C. 1995) (No. 854/1995).

53. The different components of the writ, such as the petition, the decision to order an inquiry, the inquiry report, and the final court order, are all filed together under the same docket number and can be collected from the High Court. However, only the final court orders of some cases are published in case reports. As I discovered in my research, the page numbering of the different components was not always clear or uniform in the case files maintained by the High Court, so I have simply cited the docket number. All cases can be accessed in the High Court with this number.

54. *See, e.g.*, *Romesh Thappar v. Madras*, A.I.R. 1950 S.C. 124; *K. K. Kochunni v. Madras*, A.I.R. 1959 S.C. 725; *Ujjam Bai v. Uttar Pradesh*, A.I.R. 1962 S.C. 1621, para. 74; *Charanjit Lal Chowdhury v. Union of India*, A.I.R. 1951 S.C. 41.

55. *Karnail Singh v. Punjab*, (1998) 1 Recent Criminal Reports 462 (Punjab and Haryana H.C.).

before deciding to file a case. Jagraj was a student activist and led many protests in Chandigarh. In an attempt to quell his activity, the Punjab Police registered fifteen cases against him from 1985 until his abduction. The courts, however, acquitted Jagraj of all charges. The police abducted Jagraj in January 1995, leaving behind his wife and two children. After Jagraj's abduction, Mohinder Singh both vigorously pursued contacts with politicians and his court case, expressing resignation and disgust at the lack of help and the protracted litigation:

Why doesn't the judiciary take any action against them? These judge-folks, they know everything. They listen to the pain-filled person and can tell his honesty. Yet still they are helpless . . . it's been six and one-half years since I've been pushed around, and still I have no relief.<sup>56</sup>

Police also extorted money, harassed and detained other family members, occupied their homes, and registered false cases against them. For example, the police detained Sukhwinder Kaur's extended family for at least eight months, and seven family members eventually "disappeared." Giani Anokh Singh, her father, described how the police released part of her family after the police extorted money from them. Sukhwinder Kaur said she paid 7000 rupees to Deputy Superintendent of Police (DSP) Paramjit Singh of Batala Station; he released only five of twelve family members. Although sometimes extortion helped, often influence and money could not secure the release of family members.

Families turned to the courts after the police harassment receded; however, because of the passage of time and their complete lack of knowledge about the whereabouts of the disappeared, they often doubted whether their family member was still alive. The Amritsar police abducted Jaswinder Singh's brother, father, and grandfather.<sup>57</sup> As a result, Jaswinder told me that he went into hiding for two years with his mother and sister. Finally, they returned home, restructured their lives, and performed his sister's marriage in 1995. Only then did his family file a petition.

Other families filed a petition for the following reasons: the relative security brought by the coming of the Akali government in 1997; advice from family members abroad; and heightened awareness that such a remedy existed because of the media's increased coverage of habeas corpus petitions. Mohinder Kaur, partially blind and with a lame hand, did not know where the High Court was located, or what it meant to file a habeas corpus petition. She filed a petition after hearing in the media and from other people that it was one way to find out what had happened to her son.

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56. Interview with Mohinder Singh, Petitioner, in Ropar, Punjab. (July 14, 2001).

57. *See also* Writ Pet. (Criminal), Sukhwant Kaur v. Punjab (Punjab and Haryana H.C. 1997) (No. 387/1997).

*B. Choosing the High Court*

Having made the decision to file a case, families spurned the lower courts and used the writ of habeas corpus to approach the High Court. They chose their lawyers based on advice from political leaders, human rights activists, and friends. Sometimes district court lawyers who had represented family members in false cases in the lower courts recommended a High Court lawyer. Afflicted families perceived that the corruption, police harassment, and delay in proceedings would make justice impossible in the lower courts. Many justices of the High Court seconded their opinions.<sup>58</sup>

Criminal cases in the lower courts follow a lengthy procedure involving three stages: pre-summoning, pre-charge, and the actual trial. Witnesses often have to testify three times. The petitioner has to be present at every date of the hearings, or the magistrate can dismiss the case against the accused.<sup>59</sup> In order to initiate proceedings, the plaintiff must first file the complaint with the magistrate.<sup>60</sup> Under Section 202 of the CCP, the magistrate can postpone proceedings until he, a police official, or other person designated by him investigates the complaint and examines the witnesses. Proceedings then commence under Chapter 16 of the Code. The magistrate issues a summons to the accused. If the police are also investigating the matter, the magistrate may stay the proceedings until the police have completed their investigation.<sup>61</sup> Next, the specific charge is formulated; this may involve recalling witnesses several times if any portion of the charge is changed.<sup>62</sup> Police officers often make several attempts to reduce the severity of the charges. Only then does the trial begin.

This procedure of the lower courts increased the chances that ultimately families would drain their financial resources and the police would win over witnesses by constant pressure. Police officials prolonged the procedure with delay tactics: often, the accused would claim he or she had to go away for a job assignment, files would be lost, and investigations would be protracted.<sup>63</sup>

Delay increased the opportunity for corruption. Brjinder S. Sodhi, a lawyer in the district courts of Patiala, claimed that police would go to the judges' houses to obtain remand for someone who was detained, or to influence them in a case. The judiciary of the lower courts depended on the po-

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58. Interview with Anonymous High Court Justice in Chandigarh, India. (Aug. 7, 2001); Interview with Retired Justice J.S. Sekhon, currently serving on the Punjab Human Rights Commission, in Chandigarh, India. (Aug. 1, 2001).

59. INDIA CODE CRIM. PROC., ch. 20, § 256.

60. INDIA CODE CRIM. PROC., ch. 15.

61. INDIA CODE CRIM. PROC., ch. 16, § 210(1).

62. INDIA CODE CRIM. PROC., ch. 17, § 217(a).

63. Interview with V.P.S. Bhatia, Advocate of the District Court of Amritsar, in Amritsar, Punjab. (July 27, 2001); Interview with Harjot S. Sandhu, Advocate of the District Court of Kapurthala, in Kapurthala, Punjab. (July 28, 2001).

lice for security guards, "so there's a pro-police attitude."<sup>64</sup> According to the report of the sessions judge in *Hazura Singh v. Punjab*, the district magistrate "admitted to not having obtained the signatures or thumb impression of Bagicha Singh in proof of his having been actually produced before her."<sup>65</sup> This requirement is intended to ensure that detainees are produced before magistrates, who can evaluate the detainee for any sign of physical torture. Failure to procure such signatures often implies that the detainee is unwell or has been killed by the police.

### *C. Problems as Cases Progressed and the Decision to Withdraw*

Police harassment and evidentiary problems plagued petitioners' cases. The petitioners' inability to procure supporting affidavits highlights the fear that witnesses felt about giving statements. Petitioners filed habeas corpus petitions filled with allegations of police harassment, including attempted murders, additional disappearances, detainment and torture, and false cases. The police repeatedly detained my interviewee Hazura Singh and his brothers to deter them from pursuing the case of the disappearance of Hazura Singh's son, Bagicha Singh. In March 1993, three days after his fourth child and only son was born, Bagicha Singh was taken into custody and tortured severely. According to the police, Bagicha Singh then escaped. The family met Bagicha Singh in custody several times. A court clerk told Hazura Singh that on one of the days when Bagicha Singh was produced before a magistrate, he had been severely tortured and could barely walk. He begged the magistrate not to give the police remand because the police planned to kill him. The magistrate gave the police remand, and Bagicha Singh disappeared the next day. Hazura Singh filed a habeas corpus petition, and the police harassed him and his family. He recounted:

They picked up my brothers. Once they kept me three days and once twelve days. They gave me water in the same bowl they had me use for my bowel movements. When they took me for three days, I was very sick. I was about to die . . . I couldn't walk or talk. They used to just try to scare me. They tried to force me to put my thumbprint on some papers. I said I may die, but I will not put my thumbprint. Go ahead and put it while I am dead, but not while I am alive.<sup>66</sup>

Justice R. L. Anand of the High Court admitted to the use of police harassment: "Supposing *A* is wanted . . . Women are brought {to the police

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64. Interview with Brjinder S. Sodhi, Advocate of the District Court of Patiala, in Patiala, Punjab. (July 17, 2001).

65. Writ Pet. (Criminal), *Hazura Singh v. Punjab* (Punjab and Haryana H.C. 1993) (No. 125/93).

66. Interview with Hazura Singh, Petitioner, in Nawanshahar, Punjab. (July 28, 2001).

station], old people are brought, sometimes their household articles are brought, just to put pressure on Person A.”<sup>67</sup>

Despite the provision requiring suspension of police officers who have been charged with abuses regarding fundamental rights, many policemen retained their posts. For example, the Supreme Court ordered the suspension of the accused in the case of Khalra’s abduction. Paramjit Kaur, Khalra’s wife, however, said that four of the accused had returned to Tarn Taran, where she lives.<sup>68</sup> In another example, the policeman who abducted Ram Singh’s brother still had jurisdiction over his village and harassed his family whenever they needed government permits for tractors or other agricultural equipment:

For an ordinary person, it’s very hard to get justice from here. He doesn’t even know where Chandigarh is. It takes money to go, money to come back. If senior lawyers get harassed, what’s going to happen to us? Who will protect us? The police will stick with the police. Hindustan [India] is a wax nose—whatever has power can turn it.<sup>69</sup>

Many petitioners claimed that they had filed criminal complaints, or First Information Reports (FIRs), when their sons disappeared. However, when they later had to pinpoint the report in the police register, they could not find it. After the police abducted his brother, Ram Singh and two friends went to two police stations to file criminal complaints. He described his experience in court:

Even the complaints that we filed, they didn’t give us a copy. They would just say that we recorded it. They didn’t write in the *roznamcha* [required daily police diary]. They would write it in their duplicate register. I filed one in Malerkotla. I filed one in Dhuri . . . . I later looked through it for an hour and didn’t find anything. It would’ve been there if they had written it.<sup>70</sup>

The National Police Commission (NPC) confirmed that policemen often chose not to register complaints made at the police station, especially when people made allegations against the police.<sup>71</sup> The NPC also reported that when policemen did file a FIR, which can be introduced in evidence, they recorded it “in a made up manner after taking advice from persons with ex-

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67. Interview with R.L. Anand, Sitting Justice of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 2, 2001).

68. *See also* AMNESTY INT’L, INDIA: A MOCKERY OF JUSTICE 2 (1998).

69. Interview with Ram Singh, Petitioner, in Sangrur, Punjab. (July 19, 2001).

70. *Id.*

71. AMNESTY INT’L, *supra* note 35, at 62.

perience in procedural law," instead of recording it at the moment of complaint or investigation.<sup>72</sup>

The FIRs used by police to claim the disappeared was a criminal often listed the criminals as unidentified persons. The sessions judge reported in Hazura Singh's case, *Hazura Singh v. Punjab*: "It is important to notice in this connection that in case FIR No. 73 of Police Station, Garhshankar and FIR No. 60 dated 5.8.92 of police station Sadar, Hoshiarpur, Bagicha Singh was not named as an accused and the crimes of those cases were stated to have been committed by unidentified persons."<sup>73</sup> This allowed policemen to use these FIRs against any person. The police would accuse the victim of criminality and explain the victim's disappearance with the story, for example, that the victim had escaped while going for recovery of weapons with the police.

Besides these evidentiary and police harassment issues, petitioners had to deal with dwindling resources, the difficulty of attending court hearings, the delay in proceedings, which in some instances stretched cases beyond six years, and a lack of knowledge of the judicial system. Very few petitioners attended every court hearing in Chandigarh, especially because most hearings consisted of merely scheduling another date. Many petitioners I interviewed did not know their case was in Chandigarh, and did not know their cases had been dismissed. Since proceedings are in English, a language most do not know, petitioners depended on their lawyers or other people to keep them informed about their cases.

Surjit Kaur's experiences highlight the unique burden that women bore who chose to pursue cases. Her husband, Prem Singh, used to handle the logistics of their case regarding the disappearance of their son Satnam. After the onset of depression and mental illness, Prem Singh abandoned his home and discontinued working on the case. Surjit Kaur expressed frustration at her lack of knowledge regarding the case. Until I spoke to her, her lawyer had not informed her that a second inquiry was proceeding in her son's case because the medical report showed information indicating that he was shot at point-blank range. "I just sit there. I don't even know when they call the case. He [the lawyer] takes another date, and I have no idea . . . . Prem Singh used to go to the courts."<sup>74</sup> Because of women's need for financial support from their relatives, the duties of raising children, and women's role in managing the household in the absence of a husband or son, women tended to rely on their male relatives to handle cases, and some had to accept what those relatives decided regarding cases. Surjit Kaur expanded on her experience in court: "It's not easy for women. I feel shame. They say: to one who

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72. *Id.* at 64.

73. Writ Pet. (Criminal), *Hazura* (No. 125/93). See also Writ Pet. (Criminal), Prem Singh v. Punjab (Punjab and Haryana H.C. 1995) (No. 872/95).

74. Interview with Surjit Kaur, Petitioner, in Fatehgarh Sahib, Punjab. (July 21, 2001).

hasn't seen your back, you've shown your face. I say that we should be finished with this. My will is broken.”<sup>75</sup>

Seeing the justice system as their last hope, many people turned to it for some degree of relief. Amreek Singh, a journalist and human rights activist with the Committee for Coordination of Disappearances in Punjab (CCDP), explained his involvement in fieldwork documenting disappearances:

I have been very clear since day one that not in one single case will we get complete justice. We'll get to one stage, but we won't make it to the next. But still, this is also part of the fight. If we get one case to any stage, it's still a victory. Even though they—the police and judiciary—have stalled the process, tangled up the people and compromised many of them, it's still a victory and it's creating some degree of accountability for Punjab police. They are still taken to task to some extent.<sup>76</sup>

Although none of the case documents explained why petitioners withdrew cases, I spoke to three petitioners who had withdrawn cases. For example, Sukhwinder Kaur, whose seven family members disappeared, withdrew the case under police pressure. She wanted to protect the young children in the family. Bhupinder Singh, the Deputy Superintendent of Police (DSP) and an accused in the case, took Sukhwinder Kaur in a police car to the High Court and accompanied her as she signed to withdraw his name from her case and eventually to withdraw the case in general. Harjinder S. Dhillon's family said that in exchange for dropping their case, the police promised to return the property that had been seized with their brother's disappearance. However, the police did not return the promised goods.

#### *D. Families Who Chose Not To File a Petition*

Some families chose not to file a petition for reasons related to the problems petitioners faced during the case, such as: harassment, fear for other family members, an inability to procure witnesses, lack of knowledge, lack of resources, the desire to hold on to jobs with the police, and the belief that filing a case would be ineffective. At least four interviewees did not know that the High Court existed.

Fear for the safety of other family members dominated decisions not to file a case. Baljinder Kaur described the years of police harassment that prevented her from filing a case, despite encouragement from various community members. The police detained her family after they killed her husband, Kiranpal Singh, before their eyes. When she returned home after the police released her, they had vandalized her two-bedroom apartment. Until 1998

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75. *Id.*

76. Interview with Amreek Singh, Journalist and Human Rights Activist with Committee for Coordination on Disappearances in Punjab, in Chandigarh, India. (Aug. 2, 2001).

or 1999, the police visited her home continuously, threatening to kill her and her family if she filed a case:

They kept on coming continuously. We never knew what dawn they would come, what dusk. I was reunited with my oldest daughter after two years. She was a witness, too. My daughter didn't tell us where she had been kept by the police those two years, saying she herself didn't know.<sup>77</sup>

High Court lawyer R. S. Bains affirmed that eventually human rights lawyers started advising people not to file habeas corpus petitions because it was "a remedy that gave more pain to people than relief."<sup>78</sup> People emphasized their desire to maintain what they had, instead of losing more while they chased justice.

### III. ANALYSIS OF THE CASES

#### *A. General Trends*

Out of the ninety cases I studied, petitioners withdrew fourteen cases and the High Court dismissed forty-two cases—two of which were dismissed in limine without any initiation of proceedings. At the time of my research, the CBI was investigating three cases and had filed a criminal charge in five cases. In five cases the court authorized the payment of compensation, and twenty-one cases were still pending, some with unfavorable inquiry reports. Thus, the majority of the cases were dismissed or withdrawn.

#### *B. Dominant Judicial Attitudes*

Based on my interviews, the judiciary's conceptions of the militancy in Punjab and of allegations of human rights abuses committed by the police influenced its disposal of habeas corpus petitions filed on behalf of the disappeared. These conceptions defined which issues the justices found central to the legal analysis, and which they thought were irrelevant. Judicial attitudes influenced issues like their evaluation of a *prima facie* claim, the burden of proof placed on the petitioner, the judiciary's faith in the availability of other remedies, and the judiciary's bias toward exonerating police.

My interviews with petitioners, lawyers, and justices revealed several attitudes underlying the judiciary's approach to these habeas corpus petitions: justices provided mitigating reasons, such as the preservation of national security, against upholding fundamental rights; they often justified police executions of innocent Sikhs because of similar abuses committed by mili-

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77. Interview with Baljinder Kaur, Wife of Victim of Extrajudicial Execution, in Ropar, Punjab. (July 16, 2001).

78. Interview with Rajvinder S. Bains, Advocate of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 1, 2001).

tants; minority justices made accusations of communalism on the bench; and several justices failed to acknowledge the systematic nature of the disappearances. These attitudes reveal that although justices understood the widespread nature of these disappearances, dehumanization of Sikhs and communalism led to their perception of these disappearances as a necessary evil in combating the militancy. Thus, these judicial attitudes contributed to police impunity. In this section, I discuss attitudes that surfaced in my interviews, rather than in the cases.

Justices and state lawyers denied or minimized the human rights abuses that had occurred in Punjab. Hira Lal Sibbal had served as Advocate General for eleven years and was referred to as a “legend” by High Court justices.<sup>79</sup> However, he refused to believe the extent of the illegal cremations committed by the police in Amritsar and acknowledged by the NHRC. Instead, he referred to reports by human rights groups, such as Amnesty International and HRW, as “all nonsense.”<sup>80</sup> He described his perception of the context of these disappearances, a description echoed by several justices: “When the police tried to nab those who are not innocent, *sometimes* in an encounter against *some* guilty persons, *some* innocent persons were killed in the crossfire.”<sup>81</sup> Thus, he refused to believe the systematic nature of the police abuses, justifying the abuses as accidents bound to occur.

Justices dehumanized Sikhs, judging all Sikhs according to the actions of a few. All Sikhs, innocent and militant alike, were seen as equivalent. Justice G. S. Singhvi, the second senior justice on the High Court, responded to my question regarding the judiciary’s failure to protect the fundamental rights to life and liberty in Punjab, guaranteed in Article 21 of the Indian Constitution: “What about the life and liberty of those killed by the militants and terrorists? [It is] not possible to separate the militants from the innocent people who were killed.”<sup>82</sup> Justices could not disassociate Sikhs alleging human rights abuses from militants. In *Dead Silence*, HRW also cited how the Indian government answered charges of human rights abuses committed by the Punjab Police “not by denying the charges, but by countering that the Sikh militants have themselves been responsible for abuses.”<sup>83</sup>

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79. Interview with M.S. Gill, Justice of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 7, 2001).

80. Interview with Hira Lal Sibbal, Senior Advocate of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 7, 2001).

81. *Id.* My interview with M.L. Sarin, Senior Advocate of the High Court of Punjab and Haryana, reinforced Sibbal’s comments. In the interview, Sarin, who represented the State in *Paramjit Kaur v. Punjab* (regarding the disappearance of human rights activist Jaswant S. Khalra), stated, “Here in Punjab, it was a small army [police] of about eighty thousand people fighting, and they lost a few thousand of them, and then just because in such a situation of war there will be excesses—any way will have excesses—here, because we have the rule of law, they are reopening this.” Interview with M.L. Sarin, Senior Advocate of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 8, 2001).

82. Interview with G.S. Singhvi, Sitting Justice of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 9, 2001).

83. HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, *supra* note 18, at 5.

Several minority High Court justices confirmed allegations of communalism on the bench. Retired Justice S. S. Sodhi, who served as justice on the Punjab and Haryana High Court and later as Chief Justice of the Allahabad High Court, described the communalism on the bench; of particular salience was his experience with the assignment of cases.

Justice Sodhi accused the Chief Justice of the High Court of funneling human rights cases away from Sikh judges during his tenure. Justice Sodhi was one of the two judges on the Kulwant Singh case. Kulwant Singh was a Sikh advocate of the High Court representing victims of human rights abuses. On January 25, 1993, Kulwant Singh, his wife, and their two-year-old child left their house and went to the Ropar Police Station. They disappeared that night. The Punjab and Haryana High Court Bar Association went on strike for two months, alleging that police officials had abducted and murdered the entire family. Evidence of the family's visit to the police station, intimidation of witnesses who changed their statements to favor the police and subsequently received employment in a police post without any application, the police's recovery of the family car, and false implication of a police official all pointed to the need for a further inquiry into the matter. Justice Sodhi said that although he supported an inquiry, the other justice did not agree. Thus, Justice Sodhi referred the matter to a larger bench of five justices and described his exclusion from the case: "The convention was that when a matter is referred like this, the two judges who heard the case originally, are part of the five judges; but this time, they excluded me. And they did not allow the inquiry to be held by the CBI."<sup>84</sup> On appeal, the Supreme Court condemned the inaction of the High Court, without specifically citing its communal bias: "The High Court was wholly unjustified in closing its eyes and ears to the controversy which had shocked the lawyer fraternity in the region. For the reasons best known to it, the High Court became wholly oblivious to the patent facts on the record and failed to perform the duty entrusted to it under the Constitution."<sup>85</sup> The CBI found that the police had killed Kulwant Singh and his family.<sup>86</sup>

Especially following the alleged suicide of Ajit S. Sandhu, Senior Superintendent of Police in Tarn Taran, Amritsar, justices subordinated human rights for the preservation of police morale. Sandhu was accused of the disappearance of human rights activist Jaswant S. Khalra, who had exposed the illegal cremations conducted by the Punjab Police. The CBI had charged Sandhu and eight other police officers with the crime, and Sandhu spent a few months in jail before his release on bail.<sup>87</sup> On May 24, 1997, Sandhu allegedly committed suicide by jumping in front of an approaching train.

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84. Interview with S.S. Sodhi, Retired Chief Justice of the Allahabad High Court and Retired Justice of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 5, 2001).

85. Punjab and Haryana High Court Bar Ass'n v. Punjab, No. 7243/1993 (India May 1996).

86. Interview with S.S. Sodhi, *supra* note 84.

87. Kumar & Mahmood, *supra* note 25.

He left a note, which stated: "It is better to die than live in this shame."<sup>88</sup> Although his death was never verified as a suicide, K. P. S. Gill, the Director General of the Punjab Police during Operation Rakshak II, used his death to launch a campaign against human rights activists.<sup>89</sup> As Ashok Agrwaal, Supreme Court lawyer, human rights activist, and advocate for the NHRC case, suggested, "In the press, we've been called agents of terrorists or foreign interests or the murderers of Sandhu. The judges have also tended to take that view, that we're basically troublemakers."<sup>90</sup> Navkiran Singh, a human rights lawyer in the High Court, described this attitude in terms of nationalism and counter-terrorism. Justices feared that if they convicted policemen, the insurgency would return in Punjab and the police would not fight it.

### C. Police Responses to Petitions

Police responded to admitted writs with several types of claims: that the detention never occurred, that the disappeared had absconded and was a proclaimed offender, that he was killed in an encounter, that terrorists had kidnapped and killed the disappeared, or that he had escaped after going for recovery of weapons.<sup>91</sup> The most common reply in my selection of cases was that the disappeared was killed in an encounter, going for recovery of weapons while in the custody of the police. The police often explained the escape by declaring that the detainee had ripped his handcuffs from the constable's belt and had run away while no policeman shot at him.<sup>92</sup> As Gurdarshan Singh Grewal, a former State Advocate General, said, when police replied that the disappeared had escaped, that was synonymous with "escaped from this world."<sup>93</sup>

Police creatively explained why they did not comply with the rules established for encounter killings, as spelled out in Section 25 of the PPR. In *Karnail Singh v. Punjab*, the police wrote: "Photographs were arranged but could not be enlarged as the negatives were found defective due to some technical defect in the Camra [sic], as stated by the photographer."<sup>94</sup> Also, since the body was identified, the police did not publish a report in the Criminal Intelligence Gazette.<sup>95</sup>

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88. *Id.*

89. *Id.*

90. Interview with Ashok Agrwaal, Advocate of the Supreme Court of India, in Delhi, India. (Aug. 20, 2001).

91. A detainee was a proclaimed offender if he had been charged with a crime, did not appear in court, and could not be found. By "recovery of weapons," the policemen alleged that the detainee was a criminal who had knowledge of weapons hidden by the militants. They would take the detainee along with them to recover the weapons.

92. Writ Pet. (Criminal), Balwant Singh v. Punjab (Punjab and Haryana H.C. 1996) (No. 1108/96).

93. PETTIGREW, *supra* note 2, at 13; *see also* AMNESTY INT'L, *supra* note 35, at 67–68.

94. Writ Pet. (Criminal), Karnail Singh v. Punjab (Punjab and Haryana H.C. 1996) (No. 1019/96).

95. *Id.*; *see also* Writ Pet. (Criminal) G.S. Mavi and Baldev Singh v. Punjab and Haryana H.C. 1996 (No. 1547/96).

*D. Reasons for Dismissing Petitions*

In cases where the High Court accepted the police version, both at the initial stages and after an inquiry, justices cited the police denial, claims of a lack of police motive, the proclaimed offender status of the disappeared, disputed technical facts, and the lack of supporting affidavits filed by the petitioner as reasons for finding against the petitioner. In addition to revealing the High Court's desire to save the police from prosecution, these reasons demonstrate the Court's failure to acknowledge the realities of the police abuses, the climate of impunity that allowed policemen to act without fearing the consequences, and the police's ability to manipulate or destroy evidence.

Several High Court justices and lawyers described the judiciary's attempts to ignore disappearances and "sweep the matter under the carpet."<sup>96</sup> The High Court's reliance on the police's denial or its lack of motive as evidence of its innocence shows that the High Court did not intend to investigate these allegations. In *Swinder Singh v. Punjab*, Justice R. L. Anand dismissed the petition, asserting, "The directions sought by the petitioner cannot be granted in view of the categorical stand of the State that Mandeep Singh and Harvinder Singh were killed in a genuine encounter."<sup>97</sup> Thus, the mere fact of the police denial led the judiciary to conclude that the petitioner's allegations lacked merit and did not constitute a *prima facie* case of disappearance.

Justices' dismissal of petitions at the initial filing stage based on autopsy reports, FIRs, the petitioner's inability to procure supporting affidavits, and other evidentiary problems failed to acknowledge the police's ability to manipulate evidence and threaten witnesses. In *Surjit Kaur v. Punjab*, Surjit Kaur accused the Punjab Police of abducting her husband Captain Bahadur Singh. Justices Amarjeet Chaudary and V. S. Aggarwal dismissed Surjit Kaur's case because the doctor's written statement claimed that Captain Bahadur Singh's death did not occur in police custody. The Court failed to probe statements made by Kashmir Singh, who saw other injuries on Captain Bahadur Singh's body when he identified it that were not mentioned in the autopsy report.<sup>98</sup>

Petitioners often brought this issue of police harassment of themselves and of their witnesses to the court's attention. In *D. K. Basu v. West Bengal*, the Supreme Court validated allegations that police tend not to report complaints regarding police abuses, which renders the procurement of evidence difficult for petitioners and leads to the acquittal of policemen.<sup>99</sup> However, the High Court often did not acknowledge these difficulties when petition-

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96. Interview with Anonymous High Court Justice in Chandigarh, India. (Aug. 7, 2001).

97. Criminal Miscellaneous Pet., *Swinder Singh v. Punjab* (Punjab and Haryana H.C.) (1997) (No. 25097-M/97).

98. Writ Pet. (Criminal), *Surjit Kaur v. Punjab* (Punjab and Haryana H.C. 1995) (No. 10151/95).

99. D. K. Basu v. West Bengal, (1997) 1 Recent Criminal Reports 372, 379-80 (India).

ers brought the matter to its attention.<sup>100</sup> In *Chandan Kumar Banik v. Punjab*, the petitioner told Justice G. S. Chahal that the police had detained all of his relatives to prevent them from being deposed.<sup>101</sup> Despite this notice, Justice Chahal criticized the relatives for their “casual” approach to the inquiry.<sup>102</sup>

Where the High Court found a *prima facie* case of disappearance and ordered an inquiry, petitioners encountered similar biases in the sessions judges. Many sessions judges required petitioners to provide an explanation for the police’s actions. In *Swaran Singh v. Punjab*, the CBI underscored the friendly relations between the disappeared and the Station House Officer of the local police station as disproving police responsibility.<sup>103</sup> These comments ignored the bounty system of rewards and other inducements that encouraged policemen to commit extra-judicial executions:<sup>104</sup>

The reward for each person abducted or killed was about Rs. 50,000 [\$1,670]. Most of the money was divided among SSP Govind Ram, DSP Harbans Singh and SP Anil Sharma. My husband twice received Rs. 3,000 [\$1,000] for the people he killed. My husband was under direct orders of SSP Ram. The SSP was the one who recruited informants and decided who was to be arrested and killed.<sup>105</sup>

Beant Singh, Chief Minister of Punjab, announced in the State Assembly that 41,684 Punjab policemen received monetary awards from 1991 to 1992.<sup>106</sup>

Not accounting for the lapse of several years and the illiteracy or lack of education of many petitioners, sessions judges also invalidated petitioners’ allegations because of the petitioners’ difficulty in remembering exact dates. People often remembered events in conjunction with seasons or social events in the family or village. In *Harjinder Kaur and Pritam Singh v. Punjab*, the sessions judge used this tendency against the petitioners.<sup>107</sup> He claimed that the witness’s ability to remember the actual date of the disappearance was false because people generally did not remember exact dates: “If the witness cannot remember the date of birth of her eldest son, other children and the

100. Writ Pet. (Criminal), *Kashmir Singh v. Punjab* (Punjab and Haryana H.C. 1994) (No. 691/1994); *see also* Writ Pet. (Criminal), *Dalbara v. Punjab* (Punjab and Haryana H.C. 1997) (No. 10250-M/97).

101. Writ Pet. (Criminal), *Chandan Kumar Banik v. Punjab* (Punjab and Haryana H.C. 1992) (No. 107/92).

102. *Id.*

103. Writ Pet. (Criminal) *Swaran Singh v. Punjab* (Punjab and Haryana H.C. 1996) (No. 236/96).

104. HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, *supra* note 18, at 25.

105. *Id.* at 25.

106. JAIJEE, *supra* note 19, at 102.

107. Writ Pet. (Criminal), *Harjinder* (No. 854/95).

date of her own marriage, then it was difficult for her to remember the date of the visit of the police officials to the house of Lakhbir Singh.”<sup>108</sup>

When the inquiry reports were returned to the High Court justices, the justices decided whether to order the CBI to charge the policemen with the crime or to dismiss the case. The justices gave the following reasons for dismissing petitions: delay in filing, directions to approach the authorities, directions to file a civil or criminal suit, disputed facts, or lack of evidence. The judiciary hesitated to prosecute policemen, even after the judiciary had made negative findings of custodial violence.<sup>109</sup>

Although there is no statute of limitations for writ petitions, justices dismissed numerous petitions on the grounds of delay. At least nine of the cases I studied were dismissed for delay, six of which came from the bench of Justice R. L. Anand. He initially told me that cases are never dismissed for delay. When I questioned Justice Anand regarding his dismissals and whether fear of police reasonably explained the delay, he justified his dismissals. If people waited to file a case, that meant their grievances were not genuine: “If a man has kith or kin who have been detained illegally, he will rise to the High Court like anything... people are very vigilant of their rights.”<sup>110</sup> Supreme Court lawyer Ashok Agrwaal criticized the use of delay to dismiss petitions. Not only did early dismissal because of delay fail to acknowledge the reasons for delay, such as police harassment, people’s lack of knowledge of legal options, and people’s desire to use non-legal methods, but the dismissal also spoke to the general climate of impunity. Police merely had to harass possible petitioners for three years in order to defeat their petitions in court. Also, legally, laches could not be used to reject claims based on violations of fundamental rights.<sup>111</sup>

Directions by justices to file a criminal complaint or approach the authorities failed to acknowledge the inefficacy and corruption of the lower courts and the fact that petitioners resorted to the legal system when approaches to the police and authorities had failed. Out of my ninety-case sample, at least fourteen cases were dismissed, citing the failure to file a complaint or approach the authorities.

#### *E. The Decision To Order an Inquiry*

The cases in which the court responded positively to the petitioners’ allegations provide guidelines for how the judiciary could have approached the other petitions. The judiciary either caught the police in obvious contradictions or evaluated the petitioners’ allegations in light of the police’s tendency to fabricate evidence, from FIRs, to post mortem reports, to investigations.

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108. *Id.*

109. See AMNESTY INT’L, *supra* note 35 at 55–56.

110. Interview with R.L. Anand, *supra* note 67.

111. Interview with Ashok Agrwaal, *supra* note 90.

In his court order in *Ram Chand Singh v. Punjab*, Justice M. L. Singhal scrutinized the standard police story of an encounter with militants while going for recovery of weapons with the detainee, and the detainee's subsequent escape:

It is unbelievable that if there is an armed encounter and Gurmel Singh would try to flee, there would not be even a scratch so far as the police people are concerned . . . It is not believable that the Constable who had handcuffed an accused person with the hook of the handcuffs attached to his belt could permit the detained person to escape without either receiving injuries himself or inflicting injuries on the escaping prisoner.<sup>112</sup>

*Harjinder Kaur and Pritam Singh v. Punjab* shows how extreme the police responses had to be to capture the judge's attention.<sup>113</sup> In his inquiry report, the sessions judge wrote:

According to [Inspector Sanvir Singh], the [Constable's] belt buckle was hit by a fire shot. Thus . . . the buckle was broken after the fire shot hit the same. It is also in his statement that Santokh Singh [the disappeared] and Harjinder Singh [Constable] were in a gypsy . . . that . . . was bullet proof. Thus when some unidentified persons had opened firing upon the police party, it is not understood as to why Santokh Singh who was attached to the belt of Harjinder Singh, was taken out.<sup>114</sup>

It was also unlikely that the constable would not have sustained an injury, and that no one was injured by the 400 to 500 shots allegedly fired by the assailants.

Some justices pointed out the irrationality of taking the detainee for recovery of weapons in the middle of the night. In his examination of a witness, Inspector Gopal Singh suggested problems in the police's response to the alleged encounter killing: Did officers send a wireless message when the encounter occurred? Did they take photos of dead bodies? Did they inform the relatives of the deceased? Where were the bodies cremated?<sup>115</sup> Judges also cited the police's failure to follow the Punjab Police Rules or to produce any proof identifying the victim.<sup>116</sup>

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112. Writ Pet. (Criminal), *Ram Chand Singh v. Punjab* (Punjab and Haryana H.C. 1995) (No. 814/95).

113. Writ Pet. (Criminal), *Harjinder* (No. 854/75).

114. *Id.*

115. Writ Pet. (Criminal), *Kashmir* (No. 691/1994).

116. Writ Pet. (Criminal), *Bachan Singh v. Punjab* (Punjab and Haryana H.C. 1995) (No. 92/95).

#### IV. EXPERIENCES OF LAWYERS

##### *A. Police Harassment*

After the police killed or kidnapped four human rights lawyers, the Supreme Court granted security to seventeen advocates of the Punjab and Haryana High Court.<sup>117</sup> The four lawyers were Kulwant Singh, whose case I discussed above; Ranbir Singh Mansahia, an advocate from Bathinda; Jagwinder Singh, an advocate from Kapurthala; and Sukhwinder Singh Bhatti, an advocate from Sangrur.

Lower court lawyers experienced frequent detentions, harassing phone calls, and even attacks in open court. Many lawyers received anticipatory bail to counter the illegal detentions. Brjinder Singh Sodhi, a district court lawyer in Patiala and the main lawyer handling the CBI cases, was attacked in open court. The police told him that he would suffer the same fate as the murdered lawyers and that he should stop appearing in court. As Sodhi told me, Judge Amarjit Singh Virk heard this and did nothing.

Ranjan Lakhpal, one of my interviewees, alleged that the police murdered his son. He was handling several cases against Superintendent of Police Pritpal Singh Virk. Virk used to pressure Lakhpal through various people, by having police officials try to crash into him while he was driving, harassing him over the phone, and even encouraging judges and other government officials privately to push Lakhpal into withdrawing human rights cases. In one case, Lakhpal received an inquiry report against Virk, and the case was registered for the next day: "So one day before the hearing, he got my son knocked down. By a car, outside the house. He was ten years old. I have a case registered against him, and it is pending in the High Court."<sup>118</sup>

Harjinder S. Dhami described the frequent raids on his house and threats made to his family, highlighting the psychological impact of police harassment:

I have kids and a wife. One time I came home and my mom said that today the police came here and asked where the kids go to school . . . I know these are all pressure tactics, so I told them not to worry. If they really wanted to know where the kids go to school, they could have found out easily. These are just scare tactics. But once in the house the mother finds out that they're asking for the kids, and in the entire village there's a big ruckus, then psychologically what is the health like? . . . 150 people used to raid our house. 150 people. We were just fighting human rights

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117. Writ Pet. (Criminal), Navkiran Singh & Ors. v. Punjab (India 1994) (No. 242-258/94).

118. Interview with Ranjan Lakhpal, Advocate of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 4, 2001).

violations. Yet I had to get anticipatory bail three or four times. The raids happened so many times, I can't even count.<sup>119</sup>

Navkiran Singh's case illustrates how even lawyers sometimes choose not to prosecute their abusers. The police attacked Singh, who initiated the petition for security for these lawyers, as he was leaving court in 1991. According to my interview with Singh, they shot at his car, eventually catching him, removing his turban, dragging him by his hair and beating him. They kept him in illegal detention for a few hours. Singh, however, decided not to pursue a case against Senior Superintendent of Police (SSP) Sumed S. Saini in order to avoid further danger.

#### *B. Relationships with Other Judicial Actors*

The High Court lawyers who have represented petitioners in habeas corpus petitions all claimed that fellow lawyers labeled them as communal, terrorists, or anti-national. A. S. Chahal, who started human rights work in 1978, stated, "The Sikh lawyers avoided us a bit because they didn't want to be labeled as terrorists either. The other lawyers hated us. They openly said we are terrorists, anti-national."<sup>120</sup> Although the entire Bar Association united to strike against the High Court's treatment of the Kulwant Singh case for two months, R. S. Bains criticized the Bar Association's intentions. The majority of lawyers generally followed the leadership of six lawyers in protest only because "they felt it is too shameless not to protest even such a heinous act." Outraged by their indifference, Bains described the protest as a "bulldoze strike."<sup>121</sup> Lawyers such as Ranjan Lakhpal also cited unofficial communications from judges discouraging them from pursuing these cases because of religious bias and the challenge these cases posed to the government.

### V. THE FAILURE OF OTHER NATIONAL REMEDIES

#### *A. National Human Rights Commission*

In January 1995, Jaswant Singh Khalra and Jaspal Singh Dhillon filed a writ petition in the Punjab and Haryana High Court to impel it to investigate their discovery of mass illegal cremations in three crematoria in Amritsar district, Punjab. The High Court dismissed the petition on grounds of vagueness, and they moved the Supreme Court. Before the Supreme Court could hear the matter, the Punjab Police abducted Khalra on September 6, 1995, from outside of his house. Paramjit Kaur, Khalra's wife, immediately

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119. Interview with Harjinder S. Dhami, Advocate of the District Court of Hoshiarpur, in Hoshiarpur, Punjab. (July 28, 2001).

120. Interview with A.S. Chahal, Advocate of the High Court of Punjab and Haryana, in Chandigarh, India. (Aug. 4, 2001).

121. Interview with Rajvinder S. Bains, *supra* note 78.

filed a habeas corpus petition in the Supreme Court, hoping the Court could secure the release of Khalra before the police executed him. Unfortunately, like the victims Khalra himself had investigated, the police did not spare him. The Supreme Court ordered the CBI to investigate the abduction of Khalra, and acting under Article 32 of the Constitution, simultaneously ordered the NHRC to investigate allegations of mass illegal cremations in Punjab.<sup>122</sup>

The Indian government had established the National Human Rights Commission under the Protection of Human Rights Act, 1993 (PHRA). The Act gave the NHRC the investigative powers of a civil court, limiting its enforcement powers. Under Section 18 of PHRA, the NHRC can only make recommendations;<sup>123</sup> thus, ultimate enforcement rests with the Indian government. The NHRC has itself often criticized the government for needlessly delaying or failing to implement its recommendations.<sup>124</sup>

In addition to these handicaps, two sections of the Act severely restrict the NHRC's ability to provide any measure of justice to victims of disappearances in Punjab. Section 19 of the PHRA immunizes members of the armed forces by preventing the NHRC from investigating allegations of human rights violations by members of the armed forces; the NHRC can merely seek a report from the central government.<sup>125</sup> Section 36(2) limits the NHRC to investigating allegations of abuses that have occurred within a year of filing, possibly to prevent an overwhelming inflow of claims.<sup>126</sup> Not only does this protect the police from any of its violations that occurred prior to the establishment of the NHRC, but this section also fails to recognize that "many victims approach the NHRC as a last resort."<sup>127</sup>

In December 1996, when the Supreme Court referred Khalra's findings to the NHRC, it gave the Commission an open order to investigate disappearances. In its September 10, 1998 order, the Supreme Court stated that the NHRC was a *sui generis* appointee of the Supreme Court empowered to conduct investigations, unconstrained by any of the limiting sections of the PHRA mentioned above.<sup>128</sup> Subsequently, however, the Commission itself limited its mandate. In its January 13, 1999 order, the NHRC placed a territorial restriction on its investigation, narrowing its mandate to the three crematoria in Amritsar district.<sup>129</sup> Also, the Commission limited its study to cremations, ignoring the beginning point of enforced disappearances, with illegal cremation marking only one possible end for victims. The petitioners

122. Writ Pet.'s (Criminal), *Paramjit Kaur v. Punjab* (India 1994) (No. 44/1994) and (India 1995) (No. 497/1995).

123. AMNESTY INT'L, INDIA: SUBMISSION TO THE ADVISORY COMMITTEE ESTABLISHED TO REVIEW PROVISIONS OF THE PROTECTION OF HUMAN RIGHTS ACT 7-8 (1998).

124. *Id.* at 6.

125. *Id.* at 11.

126. *Id.*

127. *Id.* at 11.

128. AMNESTY INT'L, INDIA: A VITAL OPPORTUNITY TO END IMPUNITY IN PUNJAB 6 (1999).

129. *Id.* at 7.

appealed, but the Supreme Court declined to clarify the mandate of the NHRC. Amnesty International criticized the NHRC for proposing “the minimal role that it could play in response to those directions.”<sup>130</sup>

After four years of debating these preliminary issues and deciding to restrict the inquiry, the NHRC collected claims and offered limited redress to eighteen families. In its August 18, 2000 order, the NHRC agreed to the Punjab government’s proposal to offer compensation of 100,000 rupees (\$2000) with no admission of wrongdoing or prosecution of officials.<sup>131</sup> The order admitted that the Punjab government had “neither conducted any detailed examination in these cases on merits nor [did] it admit[ ] its liability.”<sup>132</sup> The order concluded: “It does not matter whether the custody was lawful or unlawful, or the exercise of power of control over the person was justified or not; and it is not necessary even to identify the individual officer or officers responsible/concerned.”<sup>133</sup> With its dismissal of liability and illegal detention, the Commission flouted the rights to life and redress of Articles 6 and 2 of the ICCPR, respectively.

The eighteen families unanimously rejected the government’s offer and moved the NHRC to expand the inquiry into enforced disappearances in all of Punjab. Six years after it received this case, the NHRC agreed to investigate illegal cremations in Amritsar district, but held fast to its decision not to expand the inquiry beyond Amritsar or to disappearances in general. However, the NHRC still has not begun to investigate personal claims. In June 2001, both parties to the litigation were poised to begin investigating the police records collected by the CBI in 1996. Modalities of investigation, however, remain tied up in motions. Thus, six years later, the NHRC has not investigated a single case of illegal cremations.

### *B. People’s Commission*

In his election manifesto, Chief Minister of Punjab Prakash Singh Badal promised to create a People’s Commission to examine complaints of human rights violations.<sup>134</sup> After he failed to deliver on his promise, in 1997 the CCDP organized a private panel of three retired justices to hear people’s petitions about abuses committed by the police. Justice D. S. Tewatia, a former Chief Justice of the Calcutta High Court, chaired the panel, accompanied by Justice H. Suresh, a retired judge of the Maharashtra High Court, and Justice Jaspal Singh, a retired judge of the Delhi High Court. According to Article 1(1) of its Rules, the Commission aimed to investigate complaints of

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130. *Id.* at 2.

131. Press Release, Committee for Coordination on Disappearances in Punjab, The Proposals of Settlement in the Illegal Cremations Matter: The Victims Reject the Miscarriage of Justice by the National Human Rights Commission (Dec. 9, 2000) (on file with author).

132. *Id.*

133. *Id.*

134. Interview with Nasib Singh, Brother of Victim of Disappearance, in Ropar, Punjab. (July 20, 2001). Several other interviewees criticized Badal for his breach of this promise.

summary executions, mass illegal cremations, illegal abductions, custodial torture, and enforced disappearances in light of national and international law. Ultimately, it hoped to suggest avenues of redress for victims.

Amidst great popular support, the Commission held its first sitting from August 8 to 10, 1998 in Chandigarh. The first and only sitting of the Commission drew a standing crowd. People who, despite influence, knowledge, emotional strength, and a desire for justice had not approached the judicial system, now eagerly submitted petitions for examination by the panel.

In the face of this popular support, advocate Sudershan Goel filed a petition in the High Court on September 3, 1998, accusing the Commission of creating havoc, diminishing police morale, inciting enmity, setting up a parallel judicial system, and serving as a front for foreign interests. To prove the Commission's support for foreign interests, Goel attached letters from the United Nations High Commissioner for Human Rights, from Amnesty International, and from a member of Britain's Parliament, among others, asking for the release of detained human rights activists Jaspal Singh Dhil-lon and Kulbir Kaur Dhami.<sup>135</sup>

Goel also named the Union of India, the State of Punjab, and the Daily Tribune as respondents, for failing to prevent the Commission from holding its hearings and "causing a feeling of loss of governance in the minds of the people."<sup>136</sup> The State of Punjab replied that the Commission had not yet created a law and order problem. Thus, despite any desire the State may have had to stop the Commission, it could not proactively prevent the Commission from carrying out its activities.

The High Court, however, banned the People's Commission for creating a parallel judicial system. The Court dissected the language used by the Commission, resting on dictionary definitions to support its decision. "Commission" implied a legal body, and "summons" implied a legal action; thus, the privately organized People's Commission was attempting to usurp the powers of the judiciary.<sup>137</sup> The Court glossed over the Commission's Rules where the Commission affirmed that no group had to recognize the Commission and all participation was voluntary.

The Court took issue with the Commission's plan to reevaluate judgments passed by the High Court. Article 5(2) of the Commission's Rules states: If it "can be established that the court proceedings were not impartial or independent, and were designed to shield the accused from criminal responsibility or the case was not diligently prosecuted," the Commission reserved the option to reevaluate the judicial decision. Although Supreme Court opinions

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135. See Writ Pet. (Civil), Sudershan Goel v. Union of India and Others (Punjab and Haryana H.C. 1998) (No. 14133/1998).

136. *Id.*

137. *Id.*

had affirmed the right of Indian citizens to criticize and analyze judicial decisions, the High Court balked at this transparency.

Goel's petition and the High Court's decision mirrored many of the problems petitioners faced with habeas corpus petitions. Neglecting to take note of the limitations imposed by the inefficiency, corruption, and ineffectiveness of the lower courts in handling police abuses, Justice Dutt of the High Court wrote in his opinion for the People's Commission case: "The complaints of heinous nature like murder, abduction, rape etc. can be taken cognizance of in the Criminal Courts in India without any limitation standing in the way."<sup>138</sup> He did not, however, subject Goel to the same recommendation. Instead, Justice Dutt ruled in favor of Goel's petition before any law and order issue had occurred.

## VI. CONCLUSION

Victims and human rights activists have either exhausted Indian national remedies or proven them to be protracted and ineffective, like the High Court and NHRC. As advocate R. S. Bains told me, "On paper, India is a perfect state."<sup>139</sup> However, the experiences of the Sikhs highlight the limitations of the Indian judiciary in enforcing fundamental rights.

Because of police harassment and the inefficiency and corruption of the lower courts, the writ of habeas corpus provided the last remaining judicial avenue of redress. The failure of the judiciary to address human rights violations discouraged many Sikhs, including High Court lawyers, from filing petitions. Some Sikhs, however, put aside the other hardships brought on by the disappearances and braved the police harassment, delay, fatigue, and financial drain in a last ditch effort to gain recognition of their loss.

But the judiciary put the finishing touches on police impunity. Most High Court justices ignored the police's ability to manipulate evidence and witnesses and told petitioners to approach the lower courts and other authorities, well aware of the failure of those options. The justices' refusal to distinguish between innocent Sikhs and militants, the communalism on the bench, and the justices' desire to protect police morale led them to "sweep the matter under the carpet."<sup>140</sup>

Advani's police amnesty proposal further aims to impose a suffocating blanket of impunity. His proposal not only violates Indian pardon and amnesty law, it also contravenes the right to equal protection of the laws and the right to seek redress for violations of fundamental rights, guaranteed in Articles 14 and 32 of the Indian Constitution, respectively. Article 14 ensures equal protection of the laws, suggesting that all victims must have an equal right to seek justice.<sup>141</sup> The amnesty proposal would abridge this right

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138. *Id.*

139. Interview with Rajvinder S. Bains, *supra* note 78.

140. Interview with Anonymous High Court Justice in Chandigarh, India. (Aug. 7, 2001).

141. Open Letter from Anne Burley, Amnesty International, to Lal Krishna Advani, Minister of

based on the identity of the accused. Article 32 guarantees victims the right to seek redress for violations of fundamental rights, regardless of the identity of the perpetrators of these violations. Thus, if the government were to withdraw cases from the judicial system, these victims would have no legal remedy.

How, then, can the families of the disappeared receive some justice? Because the perpetrators of these abuses have blanket impunity from the Indian government, there is no hope of receiving official acknowledgment in the current atmosphere. For this reason, any truth commission would also lack legitimacy. Hence, the potential responses of the government are already limited by the unlikelihood of a fair truth commission, failure to access secret police files, and the failure to remove military and political figures involved with the abuses.<sup>142</sup>

Selective prosecutions in foreign countries, under civil remedies such as the United States' Alien Tort Claims Act,<sup>143</sup> or universal jurisdiction, could turn the tide of opinion in India. Embarrassment, the legitimacy of the U.S. and foreign courts, and simple international recognition and acknowledgment of the abuses committed by the State in Punjab would prevent India from denying the abuses. Once this is accomplished, a truth commission could contribute to the remedial discourse by examining systemic complicity.<sup>144</sup> Other remedies like reparations, national monuments, parks, and social and economic support of families of the disappeared, could provide further redress to the victims of Punjab.

This Article has attempted to record Paramjit Kaur's desire to "put before the people—people should know this for sure—what justice this Court gives us."<sup>145</sup> As reflected in their collective experience, the victims have not received justice. Instead, the people have lost all avenues for redress in India and have had to resign themselves to placing the abuses behind them and salvaging a future. This Article is also an attempt to record and increase awareness of their plight, so that the petitioners do not give up their struggle. Paramjit Kaur's words serve as fair warning: "I have no hope. In ten to fifteen years, we will also sit down and give up. How much can we do?"<sup>146</sup>

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Home Affairs, Government of India (Aug. 24, 2001).

142. MARTHA MINOW, BETWEEN VENGEANCE AND FORGIVENESS 23 (1998).

143. Alien Tort Claims Act, 28 U.S.C. § 1330 (2000).

144. PRISCILLA B. HAYNER, UNSPEAKABLE TRUTHS: CONFRONTING STATE TERROR AND ATROCITY 101 (2001).

145. Interview with Paramjit Kaur, Petitioner, in Amritsar, Punjab. (July 26, 2001).

146. *Id.*

## APPENDIX

## List of Interviewees (excluding anonymous interviewees)

Agrwaal, Ashok, Advocate of the Supreme Court of India; Delhi, India; Aug. 20, 2001.

Anand, R. L., Justice of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 2, 2001.

Bains, Ajit S., Retired Justice of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 1, 2001.

Bains, Rajvinder S., Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 1, 2001.

Bhagowalia, S. S., Advocate of the District Court of Gurdaspur; Gurdaspur, Punjab; July 25, 2001.

Bhatia, V. P. S., Advocate of the District Court of Amritsar; Amritsar, Punjab; July 27, 2001.

Chahal, A. S., Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 4, 2001.

Dhami, Harjinder S., Advocate of the District Court of Hoshiarpur; Hoshiarpur, Punjab; July 28, 2001.

Dhandi, Harbhajan S., Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 3, 2001.

Dhillon, Balwant S., Petitioner; Gurdaspur, Punjab; July 25, 2001.

Gill, M. S., Justice of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 7, 2001.

Gill, Swinder S., Petitioner; Amritsar, Punjab; July 26, 2001.

Hundal, Puran S., Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 4, 2001.

Kaur, Balbir, Wife of a victim of a disappearance; Gurdaspur, Punjab; July 25, 2001.

Kaur, Baljinder, Wife of a victim of an extrajudicial execution; Ropar, Punjab; July 16, 2001.

Kaur, Baljit, Wife of a victim of a disappearance; Amritsar, Punjab; July 26, 2001.

Kaur, Bhagwant, Mother of a victim of a disappearance; Amritsar, Punjab; July 23, 2001.

Kaur, Dalbir, Petitioner; Gurdaspur, Punjab; July 25, 2001.

Kaur, Gurbachan, Mother of a victim of a disappearance; Amritsar, Punjab; July 23, 2001.

Kaur, Kartar, Mother of a victim of a disappearance; Amritsar, Punjab; July 23, 2001.

Kaur, Kamaljit, Petitioner; Ropar, Punjab; July 14, 2001.

Kaur, Mohinder, Petitioner; Kapurthala, Punjab; July 28, 2001.

Kaur, Palvinder, Mother of a victim of a disappearance; Patiala, Punjab; July

18, 2001.

Kaur, Paramjit, Petitioner; Amritsar, Punjab; July 26, 2001.

Kaur, Rattan, Mother of a victim of a disappearance; Ropar, Punjab; July 16, 2001.

Kaur, Sarabjit, Wife of a victim of a disappearance; Ropar, Punjab; July 17, 2001.

Kaur, Sukhwant, Petitioner; Amritsar, Punjab; July 27, 2001.

Kaur, Sukhwinder, Petitioner; Kapurthala, Punjab; July 28, 2001.

Kaur, Surjit, Petitioner; Fatehgarh Sahib, Punjab; July 21, 2001.

Lakhanpal, Ranjan, Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 4, 2001.

Mattewal, Hardev S., Advocate General of Punjab; Chandigarh, India; Aug. 9, 2001.

Paul, J. S., Advocate of the District Court of Amritsar; Amritsar, Punjab; July 27, 2001.

Sandhu, H. S., Advocate of the District Court of Kapurthala; Kapurthala, Punjab; July 28, 2001.

Sarin, M. L., Senior Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 8, 2001.

Sekhon, J. S., Retired Justice of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 1, 2001.

Sibbal, Hira Lal, Senior Advocate of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 7, 2001.

Singh, Amreek, Journalist and human rights activist with Committee for Coordination on Disappearances in Punjab; Chandigarh, India; Aug. 2, 2001.

Singh, Giani Anokh, Petitioner; Kapurthala, Punjab; July 28, 2001.

Singh, Balwant, Petitioner; Gurdaspur, Punjab; July 25, 2001.

Singh, Dalip, Brother of a victim of a disappearance; Patiala, Punjab; July 18, 2001.

Singh, Hardev, Brother of a victim of a disappearance; Sangrur, Punjab; July 20, 2001.

Singh, Harpal, Father of a victim of a disappearance; Sangrur, Punjab; July 20, 2001.

Singh, Hazura, Petitioner; Nawanshahar, Punjab; July 28, 2001.

Singh, Jaswinder, Brother, son, grandson of victims of disappearances; Amritsar, Punjab; July 27, 2001.

Singh, Karam, Petitioner; Patiala, Punjab; July 21, 2001.

Singh, Kuldip, Retired Justice of the Supreme Court of India; Chandigarh, India; Aug. 12, 2001.

Singh, Mohinder, Petitioner; Ropar, Punjab; July 14, 2001.

Singh, Navkiran, Advocate of the High Court of Punjab and Haryana; Chandigarh, India; July 20, 2001.

Singh, Narayan, Cousin of a victim of a disappearance; Gurdaspur, Punjab; July 25, 2001.

Singh, Nasib, Brother of a victim of a disappearance; Ropar, Punjab; July 20, 2001.

Singh, Ram, Petitioner; Sangrur, Punjab; July 19, 2001.

Singh, Ranjodh, Petitioner; Sangrur, Punjab; July 14, 2001.

Singh, Sewa, Petitioner; Amritsar, Punjab; July 26, 2001.

Singh, Principal Tarlochan, Petitioner; Ropar, Punjab; July 16, 2001.

Singhvi, G. S., Justice of the High Court of Punjab and Haryana; Chandigarh, India; Aug. 9, 2001.

Sodhi, Brjinder S., Advocate of the District Court of Patiala; Patiala, Punjab; July 17, 2001.

Sodhi, R. S., Justice of the Delhi High Court and former Advocate of the Supreme Court; Delhi, India; Aug. 20, 2001.

Sodhi, S. S., Retired Chief Justice of Allahabad High Court, former Justice of High Court of Punjab and Haryana; Chandigarh, India; Aug. 5, 2001.