

The Forgotten Prisoners: An MASR Fact Sheet

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THE GOVERNMENT SOMETIME AGO declared that all prisoners related to the period of Sikh militancy have been released except those undergoing imprisonment. In the absence of detailed information on the number of prisoners taken into custody and/or subsequently released (including names, addresses and date and place of release) we cannot accept this assertion. We give our own estimates of the number of prisoners held, and have reason to believe that many of them may still be in custody, or have been illegally killed. Where torture left visible marks on the victim it was safer for the police to eliminate the man rather than release him. (Source cited).

State	Population '91 census	Number of custodial deaths	% age to population
Uttar Pradesh	31,91,12,287	100	7.1
Bihar	6,63,74,465	75	11.3
Maharashtra	7,89,37,187	69	8.7
Andhra Pradesh	6,65,08,008	58	8.7
Punjab	2,02,81,969	40	19.8
J&K	77,18,700	0	

Disappearances: A decade earlier in 1993, police published a list of militants killed in 1992; these numbered 2,119. Out of these it was claimed that 134 had killed 23,646 people, i.e. 176 victims per man! Subtracting 134 from 2119 leave 1985. If each one of these remaining 1985 men was responsible for even a "mere" 10 deaths, their victims would add up to 19,850! Adding 23,646 and 19,850 results in a total 43,496 victims! In addition, many militants were killed prior to 1992 and some were never killed: these men would also have killed a large number of people. How does the police assert that the total number (militants + people) killed from 1984 to 1992 is a mere 21,100? When confronted with the illogic of its figures, the government replied that in some cases, killings would have been attributed to more than one militant, but this answer can hardly be said to account for the enormous discrepancy, which might exceed 2 lakh persons - a figure arrived at by the civil magistracy of Punjab based on unguarded police claims.

In 1995, reports in the national press estimated the number of disappearances in Punjab alone at between 30,000 and 60,000 (clippings available with MASR). If we go by the number of people killed (as reported by the police) up to 1992 alone, i.e. 21,000, and add to it the disappearances, then the figure would be somewhere between 51,000 and 81,000.

The truth must lie somewhere between the unofficial police figure of 1,11,053 and the more than 2 lakh cited by the civil magistracy. Which figure is nearest the truth? At present, it is impossible to say. In the interests of justice and humanity... and history, it is hoped that a census will be carried out before the facts slip away, so that a true picture can at last be produced. MASR, PHRO and PUCL (Punjab Chapter) wrote to the Prime Minister in 1991 asking for a census on the killings. MASR has continued to plead for this census before the Prime Minister. So far the government has shown no willingness to take up this investigation.

Death toll statistics	Police (official)	Police (unofficial)	Human Rights
1. Operation Bluestar	586	4,712 ¹	10,000
2. Operation Woodrose	59	3,000	8,000
3. Carnage of Nov. '84			
(a) Delhi	2,712	3,872 ²	10,000
(b) Other states	300	3,000	10,000 ³
Punjab			
Killings	26,700 ⁵	58,469	80,000
Disappearances		20,000	50,000
Other states			
Killings		5,000	10,000
Disappearances		3,000	5,000
Hindi Belt states		10,000	5,000
Total	30,357	1,11,053	1,88,000
Estimates of police (official)			30,357
Estimates of Police (unofficial)			1,11,053
Estimates of Akali Dal			1,45,000
Estimates of Human Rights			1,88,000
Estimates of State Magistracy			2,00,000 ⁴

The Economic Times, of May 12, 1991, reported: "Former IG, M.S. Bhullar, submitted a list to the headquarters of persons missing from Amritsar district during the tenure of Azhar Alam as SSP. Punjab should be asked to produce this list. Bhullar had stated that their relatives continue to inquire about their whereabouts some three to four years after they went missing. He recommended that they should either be told where their kinsmen were, or that they should be declared dead. Bhullar was shifted to a newly created post of IG-Training and the post of IG-Border was suspended." M.S. Bhullar is presently the Director-General, Police, Punjab.

About this time, J.S. Chahal, then Inspector-General Police, Punjab, in charge of internal vigilance received kudos after he started listing corruption cases against police officers. After he drew up a list of some two dozen police posts where the police had indulged in questionable killings in three districts, he was transferred out and made chairman of PEPSU Road Transport.

The National Police Commission recommendation that judicial inquiry be conducted into every case of death, rape or grievous injury occurring in police custody has been ignored. This demand has been reiterated by subsequent committees set up by the government, notably the Rebeiro Committee, Padmanabhiiah Committee and Vohra Committee. All these committees have pointed to the police-politician nexus. In almost every case of police excess, the minorities, Dalits and ethnics have been at the receiving end. The Central Government avowedly represents the "mainstream" and does not want to relinquish the use of extra-legal means. For the same reason, the Government of India is reluctant to ratify the UN Protocol Against Torture. The National Commission for Minorities should press for the acceptance of the recommendation of the National Police Commission and the ratification of the UN Protocol Against Torture.

According to ex-DGP Chaman Lal:

"Anti-terrorist laws of many developing and other countries, particularly the UK, are far more stringent than TADA. But there is a difference in that while terrorists

are arrested, prosecuted and convicted in England (which means that the law is in operation), such elements in our country are routinely eliminated or declared 'lost to the world' through staged escapes from custody."

Probes of disappearances are delayed long enough to enable evidence to "evaporate" and later the plea of "time bar" is cited as an excuse. This has happened in the case of Operation Bluestar, the November '84 massacre and the massacres in the trains all over North India. The same has happened for the state killings after Operation Bluestar.

Disposal of bodies

- i **Bodies cremated as unidentified:** The case of cremation of 2,097 "unidentified bodies" by police in three crematoriums of Amritsar district was taken up in the Supreme Court. The CBI established the identity of 585 bodies and partially identified 274 more. Inquiry continues with regard to the identity of the remainder. Meanwhile, the 'Coordination Committee On Disappearances' has documented the identity of 1,700 of the police victims, found their families and the circumstances that led to their arrest, custodial deaths and cremation. The remaining 16 districts of Punjab have not been investigated.
- ii **Bodies thrown in canals and rivers:** In 1993, at the request of MASR, correspondents of *Telegraph* and *Pioneer* investigated the large number of bodies found floating in canals all over Punjab. Within 19 kms of the two canal systems investigated, they found 19 bodies, some with hands tied behind their back. Considering that Punjab has around 5,000 kms of canal system one can imagine the enormity of the carnage.

Estimated breakdown of Sikh prisoners 1993-1994:

TADA prisoners in Punjab	18,000
TADA prisoners outside Punjab	15,000
Detained under other black laws	5,000
In prison (Punjab)	7,000
Under illegal detention at 400 police stations in Punjab, Army and paramilitary force unit lines, detention camps and interrogation centres within and outside the state	50,000
Total prisoners	95,000

The figures of TADA prisoners are for the period 1985 to 1995. Those arrested in other categories are for the year 1993-1994.

Estimated breakdown of Sikh prisoners 1984-1995:

The total number of persons taken as prisoner during the militancy period 1984 to 1995 would range from 3,00,000 to 5,00,000. They were held under several laws, chiefly TADA, NSA, J&K Public Safety Act, The Armed Forces (Punjab & Chandigarh) Special Powers Act, the Disturbed Area Act and under illegal detention.

TADA prisoners: In response to a starred question the Lok Sabha by G. Pratap Reddy and Dr Srikant Ramachandra Jichkar on March 10, 1993, the government disclosed that there were 52,268 TADA prisoners in jail. (By 1995 the number had increased to 76,036). Out of 52,268, 14,457 were from Punjab, 14,094 from Gujarat, a relatively peaceful state but quite a few of the Gujarat prisoners were from Punjab.

TADA Sikh prisoners from Punjab and outside Punjab were mostly sent to Gujarat, Rajasthan, Madhya Pradesh, UP, Haryana and Delhi.

- i. In November, 1994, 42 jail officials and PAC were found guilty of clubbing to death six prisoners and badly wounding 22 others at Pilibhit in UP. Among the prisoners killed were those who were witness to the killing of custody of 11 Sikh pilgrims near Pilibhit, whose case was to come up shortly. All those killed were Sikh prisoners charged under TADA.
- ii. UP admitted detaining 5,000 prisoners.
- iii. 1993 beating of striking prisoners at Bharatpur jail, 500 of the prisoners were Sikh TADA prisoners.
- iv. Some 250 Sikh TADA prisoners in Ajmer jail sent a representation to the government in 1994 protesting their unjustified and long detention.

How many Sikhs were detained under TADA?

- i. In 1994, Jagmeet Singh Brar, MP, quoted Home Minister to give a figure of 14,873.
- ii. In July 1994, Punjab Chief Minister, Beant Singh placed the figure between 3 to 4 prisoners only.
- iii. In July 1994, K.P.S. Gill corrected the figure: "No, 700 prisoners are held under TADA."
- iv. In August 1994, the National Human Rights Commission chairman, Ranganath Mishra gave a figure of 17,000 till July 1994.
- v. In July 1995, the NHRC, quoting Punjab statistics, revised the figure to 17,529 as of July, 1994.
- vi. Mishra gave the breakdown as:

arrested	15,289
bailed out	4,402
discharged	2,788
acquitted	7,408
in jail	<u>399</u>
total	14,997

Less:

Accounted as above	14,997
Unaccounted balance	292

It is not clear whether the bailed out, discharged and acquitted persons were dead or alive.

- i. Many prisoners appealed to the courts not to acquit or bail them out as they feared elimination.
- ii. Sometimes bail applications were moved by persons unknown to the prisoners.

The government has hitherto failed to provide a credible and comprehensive list of prisoners held under TADA and other black laws despite repeated requests, nor does it reveal the identity of those bailed out, acquitted or discharged. The Union

Minister of Internal Security, Home Affairs, Vidya Sagar Rao, told the Rajya Sabha on March 15, 2001, that "The Centre does not maintain information on the number of person detained under TADA and other Acts in connection with the Punjab problem."

G.S. Grewal, former Punjab Advocate General, wrote about the 250 prisoners held under TADA by the police during "Operation Black Thunder."

"The police withdrew the cases from the High Court due to lack of evidence but the prisoners disappeared. The government has failed to investigate this charge."

Information on custodial killings of prisoners by credible sources:

Director General Police Chaman Lal, who served in Punjab during this period, said in his Jayprakash Narain Memorial Lecture:

"Ruthlessly conducted cordon-and-search operations, large-scale indiscriminate arrests, unauthorized detentions in unit lines, senseless torture of mostly innocent persons leading at times to death in custody, and secret disposal of bodies with police help became the routine feature of the working of the security forces."

Senior Superintendent of Police, Azhar Alam, at a press conference held at Patti on October 1, 1997, reported in *The Tribune*, and other newspapers said:

"Terrorists who had committed five or more murders were killed by police after they were caught... The police had to resort to killing terrorists because there was remote possibility of them being punished by law due to lack of evidence... Those terrorists with four or less were not killed in fake encounters."

V.N. Narayanan, chief editor of *The Hindustan Times*, quoted a police officer: "The judicial process is dead. We kill 70 per cent of the terrorists we catch because anyone brought before the courts is promptly bailed out."

On involvement of the Central government:

Veteran CPI leader Satyapal Dang wrote in his book, *Terrorism in Punjab*:

"The fact not widely known as yet is that policemen have been told that they can extort as much money as they like from militants and extortionists and many are doing this in a big way... It is also suspected that police officers of a particular level have been given the authority to order liquidation of anti-social elements if in their opinion the man is incorrigible even if not a killer."

V.G. Vaidya, Special Director, Intelligence Bureau, in a letter addressed to DGP Punjab, K.P.S. Gill, dated December 30, 1991 (quoted by *India Today* on October 5, 1992) cautions:

"They (the district officials) should refrain from even implicitly hinting that they indulge, connive or approve of anything which is in violation of the law of the land. Their professional compulsions in executive action should not get reflected in their public utterances."

In 1991, fearing the return of popular rule and imposition of accountability, the Punjab Police made a wholesale destruction of records pertaining to their illegal acts. All the newspapers published reports of this "shred-and-burn" operation. Here is what *Economic Times* of May 12, 1991, reported:

“Certain sensitive records with the [Punjab] police are being systematically destroyed. Most of these pertain to cases of encounters. While there are no official records of terrorists who have been bumped off by the police, there are interrogation reports of militants who, on paper, have never been arrested. Then there are personal assessment reports, especially those pertaining to deserving cases, for promotion, which place on record the killing of certain militants. There are wireless messages and diaries as well. The interrogation reports, it seems, are causing the maximum problem. The Central Intelligence agencies have been actively involved in the interrogation of militants and these departments are refusing to destroy corresponding records. The police fear that a new government may try to initiate criminal proceedings against these killings, which are beyond their legal rights.”

People’s Democratic Party in Jammu & Kashmir believes that 6,000 persons have disappeared in that state. The party’s manifesto promises to investigate all custodial killings. In this state too, the police must have worked overtime to destroy all records.

The turn-Around: In 1995, when a spurt of Supreme Court judgments censoring and jailing police officers started pouring in, the police panicked and started pointing the finger at their seniors.

An apparently scared K.P.S. Gill wrote to the Prime Minister on June 1, 1997:

“The real question is whether a strategy of state terrorism was adopted by the police; and the answer is unequivocally in the negative.”

The same day, CPI leader Satyapal Dang came to Gill’s aid in a statement published in *The Pioneer* of June 1, 1997:

“The clearance for fake encounters could have only been given by political leaders.”

That the highest authority wanted to put a lid on these fake encounters and custodial killings is evident from the one-year limitation placed on the National Human Rights Commission mandate.

Conclusion: In his book, Prakash Singh, former Director General, Border Police, who served in Punjab during this period, cited the *Indian Express*, editor, Shekhar Gupta’s article, “Who is to blame for Punjab’s Past? Policing the politician” (*Indian Express*, August, 1996) and he later quoted Gupta in a televised panel discussion broadcast in August, 2001.

Shekhar Gupta wrote:

“It is easy to say now that the police in Punjab operated pretty much by themselves, killing, looting and burning at will. But then who provided K.P.S. Gill and a select band of the most trusted intelligence bureau ‘aces’ with suitcases full of unaudited cash to buy militant loyalties, to build a whole army of cats (militants bought over and used to identify and exterminate others)?

“Who authorized counter-kidnapping of militant leaders’ relatives? Who cleared lists of militants to be ‘liquidated at sight’? Which internal security minister personally pushed for the import of the universally condemned ‘truth serum’ to be administered to captured militants? Finally, if the Supreme Court were to

discover this, who would go to jail, - the minister, or the poor BSF doctor who threw the Hippocratic oath in North Block's face? The Punjab crisis saw five prime ministers and as many internal security ministers. Each one knew precisely what was going on. Some routinely boasted of how ruthlessly they were putting down the rebellion. Why are they hiding now? Why are they not charged with genocide?"



References

1. **Ved Marwah**, former Director General, National Security Guards and Special Secretary, Home Affairs in his book *Uncivil Wars*, writes about Operation Bluestar: "According to the government's White Paper, 4,712 persons were killed and 10,000 arrested in the Operation." 1-ii. **Chand Joshi** writing on Bluestar in his book *Bhindranwala, Myth and Reality*, mentions 700 troops killed and 5,000 civilians; and 1,000 people were killed in the vicinity of the Golden Temple and 10,000 taken prisoner. 1.iii. **Lt. Gen. P.N. Hoon** in his book, *Unmasking Secrets of Turbulence*, reveals that "336 soldiers were killed and 717 bodies of civilians lay on the parikrama." This does not include soldiers killed prior to the last assault or who died in hospitals later. Hoon was corps commander of an adjoining corps and his officer, Brig. A.K. Diwan had played the key role in Operation Bluestar. 1iv.: The then Prime Minister **Rajiv Gandhi** told the National Students Union of India session at Nagpur: "700 soldiers lost their life in Operation Bluestar."
2. Published in the list of identified victims compiled by **Delhi Human Rights** groups.
3. In 1990 **George Fernandes**, Union Minister for Railways, ordered an inquiry into the killings of Sikhs in the jurisdiction of the Railways in November, 1984. The writer met him subsequently and was told that the figure of deaths had risen to about 700, but as the matter was confidential he didn't want to communicate officially. Our estimate of the killings in the jurisdiction of the Railways ranges between 2,000 and 3,000. 3.2: Chand Joshi and Ved Marwah assert that 10,000 prisoners were taken against the government declared figure.
4. Figures quoted from the memorandum submitted to the Governor of Punjab, by the **Association of Punjab Civil Services** in 1993. the magistrates claimed that, going by police claims, more than 2 lakh were killed.
5. This figure does not include army personnel killed in action. According to former **Director General Punjab Police**, K.P.S. Gill, their number is almost equal to the number of policemen who lost their lives. The exact figure for policemen killed was 1,769. This means that the figure of army personnel killed would be around 1,700. The previous figure of those killed up to 1994 was 21,119. This subsequently was hiked to 26,700.