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Sikhs v. Republic of India

Dated: June 05, 2014

To: Honorable Ivan Šimonović
Assistant Secretary General for Human Rights
OHCHR - UN Headquarters
New York, NY 10017, USA
E-mail: petitions@ohchr.org; registry@ohchr.org

Re: June 1984 Operation Blue Star Against Sikh Vatican - India's unpunished crimes against Sikhs

Sub: Set Up A Tribunal To Investigate And Prosecute Military Invasion of and Massacre At The Sikh Vatican, The Golden Temple; and
Recognize Sikhs' Right To Self Determination In Indian Occupied Punjab As Per Charter Of The United Nations.

Charges & violations i) Article 3 of the Geneva Convention (III) of the 1949 relating non-international armed conflict;
ii) Article 13 and 16 of the Protocol II for The Protection of Victims of Non International Armed Conflicts;
iii) UN General Assembly Resolution 3314 of 1974 prohibiting use of armed force to deprive people of right to self determination

ABSTRACT

30th Anniversary of Operation Blue Star - India refusal a religious minority was punished for demanding abolition of Article 25 of the Constitution of India and for demand for right to self-determination - attack on and desecration of Sikh Vatican - massacre of thousands of Sikh pilgrims - cover up of the atrocities committed against Sikhs - blatant violations of International Treaties - recent discovery of British Government's involvement in planning the operation.

Submitted by:

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INTRODUCTORY INFORMATION:

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Sikhs for Justice (SFJ) a US based human rights organization, believes and adheres to Universal Declaration of Human Rights. SFJ endeavors to create an environment in which minorities - regardless of race, religion, language, gender, or ethnicity – can freely exercise their right to “self determination” as enshrined in the Universal Declaration of Human Rights and United Nations Covenant on Civil and Political Rights.

Sikhism is the 5th largest religion with 28 million followers throughout the world. Sikhs in India comprise 1.8 % of the total population with majority living in the Indian occupied Punjab.

We urge the United Nations to set up a tribunal, on the lines of ICTY (International Criminal Tribunal for the former Yugoslavia), to investigate and prosecute India's crimes related to June 1984 military invasion of and massacre at the Golden Temple, the Sikh Vatican. This attack clearly violated the basic humanitarian law provisions for the protection of the civilian populations and for the protection of cultural objects and places of worship as set out, inter alia, in Article 3 Common to the Geneva Conventions of 1949 and Protocols Additional I and II to the Geneva Conventions. In our view, this attack also constituted an act of aggression according to the General Assembly Resolution 3314 (XXIX) of 14 December 1974 due to the status of the state of Punjab under the terms of the right to self-determination.

One of the holiest day in June 1984 was chosen to launch this attack to maximize the loss of human life. Sri Akal Takht, the highest temporal seat of Sikhism, was reduced to rubble and the Sikh Reference Library, an irreplaceable collection of books, manuscripts, and artifacts bearing on all aspects of Sikh history, burned to ground. Thousands of Sikh pilgrims were first caged and then shot at point blank by the Indian Army.

Indian Government claimed¹ that the Operation Blue Star was the "last resort" and was carried out to rid the Golden Temple of the leadership of Sikh separatist movement, particularly Sant Jarnail Singh Bhindranwale, head of Damdami Taksal. Ex Indian Military Chief General Sinha's clear advise² against the Operation Blue Star along with the use of seventy thousand troops, gunship helicopters, tanks and chemical gas, belies the Indian Government's claims.

The evidence shows, that the real reason for using such an appalling level of state force against Sikhs during June 1984 was not to “flush out,” a handful of separatists, but to destroy the fulcrum of a mass movement launched by Sant Jarnail Singh Bhindranwale for abolition of the Article 25 of the Constitution of India and demand for right to self-determination.

Explanation II to the Article 25(2)(b) of the Constitution provides that "reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly". This clause of the Constitution of India takes away the separate religious status and identity of Sikhism.

Anthropologist Joyce Pettigrew explaining the purpose of the Operation Blue Star, states that: "The army went into Darbar Sahib not to eliminate a political figure or a political movement but to suppress the culture of a people, to attack their heart, to strike a blow at their spirit and self-confidence."

¹ *Subramaniam Swami*: "Government of India master-minded disinformation campaign to create legitimacy for its actions. Its goal was to 'make out that the Golden Temple was the haven of criminals, a store of armory and a citadel of the nation's dismemberment conspiracy.'" Imprint, July 1984, "Creating a Martyr", pp. 7-8.

² *SK Sinha* (Retired Indian Army General): "The Army Action was not the 'last resort' as Prime Minister Indira Gandhi would have us to believe..." Lt. Gen. SK Sinha, Spokesman, 16th July 1984.

Days before the "Operation Blue Star", Indira Gandhi imposed strict "Press Censorship"³ to suppress the civilian death toll and other related details which could make the official reasons for Military Operation doubtful and could expose the real motives behind the attack on the Golden Temple. Brahma Chellaney, a reporter for the Associated Press (AP), faced criminal charges⁴ in connection with his reports on military invasion of the Golden Temple. Chellaney reported that several Sikhs inside the Golden Temple complex were shot by Indian Army after having their hands tied behind their backs.

Government of India claimed that only 493 civilians were killed in Operation Blue Star. However, BBC correspondent, Mark Tully, who was present in Amritsar during the operation estimated the civilian death toll to be over 2000. Anthropologist Joyce Pettigrew, the author of the book "The Sikhs of the Punjab: Unheard Voices of State and Guerrilla Violence", places the number of civilian casualties to be more than 5,000.

June 1984 Army action by the Indian Army against the Golden Temple in Amritsar was in blatant violation of UN Charter, Treaties and Protocols. 30 years on, no investigation inquiry has been conducted by the United Nations into the catastrophes perpetrated upon Sikh community for demanding right to self determination.

Article 3 of the Geneva Convention (III) of the 1949 specifically provides for the protection of civilians and prohibits, torture, cruel and inhuman treatment during non-international armed conflicts such as Operation Blue Star. The Convention further binds that Red Cross should be given access to treat and care of the wounded. Article 13, of the "Protocol relating to "The Protection of Victims of Non-International Armed Conflicts" binds every states for "protection of the civilian population" and Article 16 provides for the "protection of cultural objects and of places of worship". The "Definition of Aggression" as adopted by the UN General Assembly Resolution 3314 of 1974 specifically reaffirmed that it is "the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence".

With regard to Operation Blue Star, the undisputed facts are: it was a military action launched by the Indian State against Sikh separatists; was carried out to punish⁵ the Sikh separatists lead by Bhindranwale who were demanding right to self determination in Punjab⁶; was carried out in a religious place⁷, the most sacred shrine of the Sikhism; several thousand civilians⁸ including women and children were summarily⁹

³ *The New York Times*: The Truth on Trial - In India: Editorial October 23, 1984: "Foreign journalists were barred from Amritsar after the assault, but Mr. Chellaney, an Indian national, was able to remain."

⁴ *The New York Times*: The Truth on Trial - In India: Editorial October 23, 1984: A warrant is out for the arrest of an Indian journalist who provoked displeasure by doing his job too well. Brahma Chellaney of The Associated Press was in the Punjab last June when Prime Minister Indira Gandhi ordered the attack on Sikh extremists occupying the Golden Temple in Amritsar.

⁵ "We have broken the back of the Sikhs and we will get them elsewhere." - M. M. K. Wali, Indian Foreign Secretary, June 7 1984, Canadian Broadcasting Corporation, Radio 740, *As It Happens*.

⁶ *Joyce Pettigrew*: The Sikhs of the Punjab: Unheard Voices of State and Guerrilla Violence, Zed Books Ltd., London, U.K. 1995, page 35.

⁷ *David Graves*: The Telegraph London, June 15, 1984: "In the Akal Takhat built by Guru Hargobind and the supreme seat of the Sikhs, the Stench of death still lingered. It seemed inconceivable that this was the holiest shrine of a major religion – the equivalent to the Sikhs of the Vatican and Canterbury Cathedral."

⁸ "On Saturday, medical workers in Amritsar said soldiers had threatened to shoot them if they gave food or water to Sikh pilgrims wounded in the attack and lying in the hospital." - *Christian Science Monitor*, June , 1984

⁹ *Ram Narayan Kumar/Georg Sieberer*: The Sikh struggle: Origin, evolution and present phase. "The Army which had suffered a heavy toll in three days of battle went berserk and killed every Sikh who could be found inside the temple complex. They were hauled out of the rooms, brought to corridors on the circumference of the temple and

executed¹⁰ by the attacking Indian military and several thousand civilians¹¹ including children aged 2 to 12 were also taken prisoners by the Indian Army. Thus, the evidence overwhelmingly proves that India blatantly violated the above listed UN treaties during Operation Blue Star.

Operation Blue Star and its aftermath is aptly summed up by Professor Cynthia Keppley Mahmood, a known Researcher of Sikh issues at University of Notre Dame, as "India's crimes of 1984 began with its assault on, and the massacres at the Golden Temple and dozens of other Gurudwaras across India in the first week of June 1984, and continued with the nationwide government-sponsored pogroms of November 1984. In many ways, the crimes still continue, not just in the cover-up and the sheltering of the criminals, but in actual outrages by the government and its minions to date."

All the crimes that India committed during the first week of June 1984 have remained hidden and gone unpunished for past 30 years. With the recent discovery of UK's involvement in Operation Blue Star, it becomes even more pressing that United Nations must intervene and investigate the crimes committed by India during Operation Blue Star.

We, therefore, urge the United Nations to:

- a) Set up a Tribunal to investigate and prosecute India's crimes related to June 1984 military invasion of and massacre at the Golden Temple, the Sikh Vatican;
- b) Condemn India's use of force against the Sikh community during Operation Blue Star and afterwards, in retaliation to their demand for right to self determination an act of "aggression" according to the General Assembly Resolution 3314 (XXIX) of 14 December 1974 which prohibits "use of force" to deprive people of the right to self determination.
- c) Recognize that Sikhs have right to self determination under UN Charter, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

with their hands tied behind their back, were shot in cold blood. Among the victims were many old men women and children". New Delhi : Chanakya Publications, 1991 vii, 396 p. ; 22 cm.

¹⁰ "... a team of doctors... examined 400 corpses, including 100 women and 15 to 20 children, all under five and including a two-month-old baby." - *Associated Press*, 13th June 1984

¹¹ *Ram Narayan Kumar*, *The Sikh Struggle and The Sikh Unrest & The Indian State*. "The Operation Blue Star was not only envisioned and rehearsed in advance, meticulously and in total secrecy, it also aimed at obtaining maximum number of Sikh victims, largely devout pilgrims unconnected with the political agitation. The facts should speak for themselves."



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