

## ABOUT ENSAAF

Ensaaf's mission is to end impunity and achieve justice for mass state crimes in Punjab, India by documenting and exposing human rights violations, bringing perpetrators to justice, and organizing survivors to advocate for their rights. Impunity means the institutional refusal to hold perpetrators of human rights abuse accountable. Ensaaf, which means "justice" in many South Asian languages, believes that impunity is the root cause of ongoing abuses and perpetually violates survivors' rights to truth, justice, and reparations. Therefore, we must defeat impunity for mass state crimes in order to protect and enforce human rights in India.

## ENSAAF IN BRITISH COLUMBIA

In May and June, Ensaaf gave presentations in the Vancouver/Surrey area of British Columbia, Canada. On May 12 and 13, Ensaaf presented to audiences at the Gurdwara Khalsa Darbar, Gurdwara Sukh Sagar, and Dasmesh Darbar, in addition to being featured on the Punjabi-language radio station, Sher-E-Punjab. On June 9 and 10, Ensaaf returned to Vancouver with the Sikh Research Institute to commemorate the 23<sup>rd</sup> anniversary of the Indian Army attack on the Harmandir Sahib complex in Amritsar in June 1984. This visit consisted of a youth forum and a candlelight vigil, hosted by the Canadian Organization of Sikh Students. Ensaaf thanks all of the hosts and the Vancouver/Surrey Sikh community for making these events successful.

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## UPCOMING PROJECTS

*Ensaaf continues to work on strategic initiatives with its international human rights partners, slated for release in fall 2007 and early next year, including international advocacy and a report on impunity. One such project is discussed below.*

### Benetech: Quantitative Analysis

Ensaaf is pleased to partner with the Human Rights Data Analysis Group (HRDAG), a Benetech Initiative. Using a variety of sources of documentation, including thousands of articles from the Punjab *Tribune*, Ensaaf is compiling data on the scale of fatalities during the height of police abuse under Punjab Police chief K.P.S. Gill. HRDAG will provide quantitative analysis, based on scientific best practices, of this empirical human rights data. Rigorous statistics quantifying violence can depoliticize arguments, help end impunity by exposing the facts, and begin the process of justice and historical clarification.

HRDAG develops database software, data collection strategies, and statistical techniques to measure human rights atrocities. This technology and analysis is used by truth commissions, international criminal tribunals, and non-governmental organizations around the world.

## SIKH COALITION LIBRARY PROJECT FEATURES ENSAAF REPORT: 20 YEARS OF IMPUNITY

The Sikh Coalition, along with its partner organizations, has launched the Library Project to combat bias against the Sikh community with education. The goal of this project is to provide libraries with balanced and accurate information on Sikhs and Sikhi. There are close to 20,000 libraries in the United States and over 3,000 libraries in Canada. If the project is successful, university students researching Sikh beliefs and lay readers curious about Sikhs will have a wealth of resources from which to learn. Over time, the Sikh Coalition hopes to ensure that every library contains its package of 10 books and 2 DVDS. The second edition of *Twenty Years of Impunity: The November 1984 Pogroms of Sikhs in India*

is part of this collection.

*Twenty Years of Impunity* clearly demonstrates that senior political party officials and police sponsored, organized, and executed the November 1984 massacres of over 3,000 Sikhs in the days following the assassination of Prime Minister Indira Gandhi. The second edition further establishes that the recent government willfully ignored evidence implicating specific perpetrators. The report includes analyses of the Nanavati Commission's report and Prime Minister Manmohan Singh's speech, which failed to actively acknowledge or confront the horrors of the massacres. The report succinctly articulates the failings of the Nanavati Commission and the Action Taken Report after a thorough consideration of the evidence at the government's disposal.

The second edition of *Twenty Years of Impunity* is a key factor in the Sikh Coalition Library Project's goal to help others gain a thorough knowledge of Sikh issues.

**Twenty Years of Impunity is Now Available  
[www.elliottbaybook.com](http://www.elliottbaybook.com)**

The 2nd edition of Ensaaf's groundbreaking report is available online for \$10 plus shipping. The report serves as a critical wake-up call to the Indian government to implement the rule of law to redress mass state crimes.

## UPDATE ON BHALLA COMMISSION PROCEEDINGS

Ensaaf continued to attend the hearings of the Bhalla Commission of Inquiry, established by the National Human Rights Commission in the Punjab mass cremations case, throughout April. Ensaaf also continued to provide litigation support to petitioner Committee for Information and Initiative in Punjab (CIIP).

### Background

In January 1995, Jaswant Singh Khalra released official records, claiming they proved that security forces in Punjab had been secretly cremating thousands of bodies as unidentified. He further alleged that these secret cremations were of people "disappeared" by security forces for their purported involvement in the separatist movement from 1984 to 1994 in Punjab. Khalra's documentary evidence included entries in firewood purchase registers from crematoria in Amritsar district when police officials deposited bodies and purchased wood to burn the bodies. The registries also identified the officers depositing the bodies, and, in some cases, the identities of the bodies.

In April 1995, the Committee for Information and Initiative in Punjab (CIIP) moved the Supreme Court to demand a comprehensive inquiry into the mass cremations. The Supreme Court ordered the Central Bureau of Investigation (CBI) to investigate these crimes. In December 1996, the Supreme Court referred the matter to the National Human Rights Commission (NHRC), observing that the CBI's inquiry report disclosed a "flagrant violation of human rights on a mass scale." The December 1996 report by the CBI showed 2,097 illegal cremations at three cremation grounds of Amritsar district. However, this number did not accurately represent the total number of individuals illegally cremated in Amritsar. Interviews with cremation ground workers disclosed that multiple people were often cremated with the firewood normally required for completely burning one body, and Khalra himself discussed over 6,000 cremations in Amritsar district.

The Supreme Court appointed the NHRC as its *sui generis* body in the Punjab mass cremations case, with the powers of the Supreme Court under Article 32 to redress fundamental violations of human rights. Unfortunately, over the past ten years, the NHRC ignored the fundamental rights violations that had occurred throughout Punjab and shielded perpetrators from accountability. On October 9, 2006, the NHRC effectively closed the case, failing to investigate any cremation cases or record the testimony of a single victim family and relying exclusively on admissions and denials of state agencies to reach its determinations.

Based on the Punjab Police's ability to identify as many as 663 more bodies during the proceedings and an admission by the Solicitor General that procedural requirements were not followed, the NHRC found that the police had not followed the rules, guidelines, and procedures required before cremating the dead bodies of the identified persons. The Commission stated that it did not need to consider international precedents. In its over ten years of proceedings, the NHRC awarded Rs. 1.75 lakhs compensation to the next of kin of 1,051 individuals for violation of the "dignity of the dead." In these cases, the police did not admit custody of the individual prior to his death and cremation. The NHRC also awarded Rs. 2.5 lakhs to the next of kin of 194 individuals for the violation of the right to life, where the Punjab Police admitted custody prior to death but did not admit to the unlawful killing.

Further, in its last major order on October 9, 2006, after agreeing to CIIP's arguments for comprehensive reparations and guarantees of non-repetition, the NHRC concluded that no directions to the government were necessary: "We have no doubt

that the State of Punjab as well as the Union of India are alive to their obligations in this behalf and would take appropriate steps which would also restore institutional integrity.” Again, the NHRC clarified that it was not expressing any opinion about culpability. Regarding the remaining 814 unidentified bodies, the NHRC appointed a Commissioner of the rank of a retired High Court Judge for receiving evidence and conducting an inquiry in Amritsar to identify the remaining bodies within eight months. The NHRC has held hearings regarding the proceedings before this Commission of Inquiry.

### Recent Hearings

The Bhalla Commission began proceedings on December 15, 2006. Ensaaf's March newsletter provided an analysis of the Bhalla Commission's first three and a half months of operation. The article discussed the Bhalla Commission's lack of transparency and impartiality as demonstrated by its holding ex parte meetings, excluding the petitioner CIIP; the restrictions imposed by the NHRC that limit survivor participation in the Bhalla Commission to 70 families only; the Bhalla Commission's refusal to expand its inquiry beyond Amritsar; Ensaaf's discovery of a fraudulent identification by the Punjab Police; and the Punjab Police's forging of identities of cremation victims in order to protect police collaborators, among other issues.

The Bhalla Commission continued to hold hearings through June 2007. Justice Bhalla has relied on the Punjab Police to confirm identifications, without probing into the police's methods of investigating these identifications. He has failed to develop his own methodology or conduct his own investigations, and also rejected the proven methodology proposed by the petitioners. When the petitioners have independently submitted identification information to Justice Bhalla, he has accepted the identification only if the Punjab Police have confirmed it.

If the Punjab Police have failed to confirm an identification submitted by the petitioners, Justice Bhalla has effectively required the petitioners to provide further evidence amounting to directly witnessing the illegal cremation or dead body. For example, Justice Bhalla has rejected affidavits from family members who have attested to witnessing the abduction of their relatives and observing their relatives in the illegal custody of the police on dates that correlate with the illegal cremations. However, because the family members did not witness the actual illegal cremation or see their relatives' dead body at the crematoria or in the custody of the police, the witness affidavits were found inadequate. Justice Bhalla specifically rejected hearsay evidence in determining identity. This counters international law that relaxes evidentiary standards and holds circumstantial and testimonial evidence, including hearsay, to be admissible

in cases of disappearances and extrajudicial executions, recognizing that the State most often controls the evidence necessary to prove the crime by traditional standards of evidence. (For further information, please see the joint brief submitted by Harvard Law Student Advocates for Human Rights and Human Rights Watch before the NHRC, available at: <http://www.hrw.org/pub/amicusbriefs/punjab.pdf>). This impermissible stricture also contradicts Justice Bhalla's previous in-court statements where he said that formal rules of procedure and evidence were not applicable in this context and he was not functioning as a court. Despite placing these requirements on the petitioners to prove their cases, Justice Bhalla has failed to require the Punjab Police to offer any proof or explanation when it rejects the identifications.

Based on assertions by the Punjab Police of duplications in CBI records, the Bhalla Commission has reduced the total number of unidentified cremations under its jurisdiction to 800 cremations. Justice Bhalla accepted the existence of these duplications because the Punjab Police asserted them through an affidavit. As of June 8, the total number of identified persons out of those 800 unidentified cremations stood at 78.

For a background to the Punjab mass cremations case, please read Ensaaf's publication issued in January 2007: *India Burning the Rule of Law*, available at: <http://www.ensaaf.org/pdf/reports/cremations.pdf>.

## **SUPPORT THE MOVEMENT FOR JUSTICE!**

Ensaaf is an independent 501(c)(3) nonprofit organization supported by contributions from individuals and foundations. Together with your contributions, we can defeat impunity for mass state crimes and protect and enforce human rights in India. Ensaaf represents your voice for justice and human rights in public forums, media outlets, judicial bodies, and at the United Nations, so that India cannot bury its crimes.

Recurring donations are now possible through our website: [www.ensaaf.org](http://www.ensaaf.org). As little as \$10 a month will make a significant contribution to document human rights violations, advance key legal cases, and empower survivors to advocate for their rights. In addition to donating online, you can mail donations to: **Ensaaf**, PO Box 25731, Portland, OR 97298-0731.

All donations are tax deductible in the United States. Ensaaf is also eligible for matching contributions from corporations. For more information, please call 503.259.3235 or email: [info@ensaaf.org](mailto:info@ensaaf.org).