

THE SIKH DIASPORA IN CYBERSPACE:
THE REPRESENTATION OF KHALISTAN ON THE
WORLD WIDE WEB AND ITS LEGAL CONTEXT

by

DOMINIKA SOKOL

The Sikh community in India is a minority based on a religion that combines aspects of Hinduism and Islam and remained a part of India while the predominantly Islam states of Pakistan and Bangladesh were granted independence. Since the end of the 1970's, an increasing number of Sikhs have been requesting their own independent state: Khalistan. After the violent governmental intervention against Sikh separatists in 1984, a significant part of the Sikh diaspora joined the lobbying effort for independence employing a variety of methods including spreading the message via cyberspace. Considering the small size of the minority at 1.9 % of the Indian population, Sikhs have been disproportionately successful in spreading their message in cyberspace compared to other communities. So much so in fact that they have been censored by the Republic of India; in some cases illegally. This paper discusses the role that cyberspace played in the unification of the message of the Sikh separatist movement and the changing character of its website representation. It also examines the evolution of India's legal framework for information technology for protecting The Republic when the sovereignty and security of the state in cyberspace is disturbed.

INTRODUCTION [1]

Recent estimates of the Sikh worldwide population are close to 23 million. From this population, approximately 20 million live in India with the vast majority living in their homeland: the state of Punjab. The rest of the community is dispersed all around the world, with three quarters of immigrant

Sikhs living in the UK, USA, and Canada (Tatla 1999). Sikh migration out of India began with the establishment of British rule in Punjab in 1849. The period of Sikh migration can be divided into two main phases: colonial and post-colonial. Within the post-colonial phase, the period after the 1984 emigration where Sikhs fled from Punjab because of the violent conditions there is unique. Since the emergence of new information technologies the relationship and communication between Sikh communities all around the world entered a new era as they began communicating via cyberspace.

SIKHS IN CYBERSPACE [2]

Within the Indian context, the Sikh community provides a disproportionately large number of websites that represent the Sikh's religious, cultural, and political stances. The fact that the Sikh's internet activities are so copious is caused by three main factors. Firstly, an important factor is the initiative of the Sikh diaspora living abroad. This is especially true in economically well developed countries where economic, technological, and political conditions enable the easy setup of such websites. Secondly, it is due to the developed telecommunication infrastructure in the state of Punjab. Although only 33.9% of the population lives in urban areas (Census of India 2001), a significant number of Punjab residents have access to the Internet since the telecommunication infrastructure is very dense, compared to other states in India (Annual report 2005). The third is the significant measure of freedom that the Indian media enjoy compared to its counterparts in many parts of Asia, Africa, and Southeast Asia (Parathasarathya 2003).

According to my recent mappings, there are at least fifty functional websites dealing with Sikh issues. The range of topics that Sikhs cover on their websites is quite broad. The websites can be generally divided according to their topics into four overlapping categories: 1) religious and cultural websites, 2) websites providing local and specific news, 3) weblogs focusing on connecting the Sikh diaspora and 4) political websites and websites focusing on the violation of human rights in Punjab. A significant number of the last category of websites were created to promote the demand for the Sikh sovereign state of Khalistan, meaning "land of the pure."

THE POLITICALLY MOTIVATED WEBSITES [2.1]

The Khalistan movement intensified after the events of June, 1984, when the Indian army attacked the separatists hidden inside the complex of the Golden Temple in Amritsar, the holiest place of the Sikhs. Hundreds of civilians were killed during this operation called "Blue Star." The violence and derogation committed by the Indian government compelled the Sikhs living abroad to also become involved in the movement. Operation Blue Star started a decade of clashes and atrocities caused by both the Sikh separatists and the Indian army and police forces. The Sikh separatist movement reached its peak in the late 1980's to the early 1990's and was harshly suppressed by 1994. The websites supporting the separatist movement began emerging just after the real-world movement in Punjab was suppressed. Contrary to the situation in Punjab, the representation of an independent Khalistan in cyberspace persists although its character is gradually changing.

Illustrative examples of websites representing the demand for an independent territory of Khalistan are the websites of The Council of Khalistan, CoK, (www.khalistan.com) and The Khalistan Affairs Center, KAC, (www.khalistan-affairs.org). The Council of Khalistan organization has probably been the most successful within the Sikh diasporic Khalistan movement.¹ It was founded by Dr. Aulakh Singh in Washington D.C. in 1987 with the goal of promoting an independent Khalistan. The current website representation of the CoK is mainly text-oriented, as was its earlier version (Gunawardena 2002). It explicitly expresses the political and separatist stances of the CoK. The primary content on the current website of CoK is news about and the documentation of CoK activities on its homepage and a page with contact information. The rest of the website has been under construction for more than a year. The graphic representation of the CoK uses the traditional Sikh colors of saffron, blue, and white and depicts the scene of the Golden Temple in Amritsar with the Sikh symbols of the Khanda²

¹ Dr. Aulakh Singh succeeded in gaining membership for the Council of Khalistan in the Unrepresented Nations and Peoples Organisation in 1993 (Shani 2004) and also cooperated with the US Congress representatives who were defending the Sikhs in Congress (Burton 2001, 2002).

and two Nishan Sahibs.³ The Khalistan Affairs Center⁴ was established under the Panthic Committee⁵ by Dr. Amarjit Singh in Washington D.C. The aim of the KAC is “to promote the vision and creation of a sovereign Sikh state, Khalistan.” According to the aim of the KAC the website’s main purpose is the representation of the Sikh demand for a sovereign state and drawing attention to the atrocities committed by the Indian army and police forces in Punjab. The message of the KAC is pointed out by the shibboleth on its homepage: “Freedom of speech, freedom of religion, freedom to live.” A significant part of the website content forms a collection of writings by Dr. Amarjit Singh. This limited range of topics is balanced by links to news from online newspapers and media. The website of the KAC is one of a few Sikh websites that uses multimedia applications. The audio collection contains thematic speeches, lectures, and religious songs in Punjabi. The video section is represented by a 10 minute video clip composed of authentic scenes of mainly American and Canadian media coverage of the events of 1984. In the end the video points out the reluctance of the Indian government to examine the violence and violation of human rights that was happening in Punjab. Contrary to its earlier version, in which the homepage was characterized by a large image of Khanda (Gunawardena 2000), the present KAC website doesn’t include, except for the video and a rather fuzzy scene of a group of Sikh males, any graphic images representing the Sikh religion in particular. A similar shift as in the graphic representation of these websites’ goals is observable on other Sikh websites as well, and is underlining the change in the Sikh approach to promoting its aims.

² Khanda is a symbol that is common in Sikhism and constitutes the modern insignia of the Khalsa. Its name derives from the vertical double-edged sword (also referred to as a Khanda) that lies at its center. The Khanda symbol comprises vertical double-edged sword over a quoit (Chakkar) flanked by two crossed sabers (Kirpans) (Gunawardena 2002).

³ Nishan Sahib refers to the triangular saffron (sometimes dark blue) flag containing the Khanda emblem, which is displayed in front of all gurudwaras. The mast (Chola) is usually covered with the same material as the flag and is topped by a Khanda or a double-edged sword (Gunawardena 2002).

⁴ The KAC allegedly has close association with The International Sikh Youth Federation (Gill 2004), the terrorist organisation that was banned in India under the Prevention of Terrorism Act, 2002 and was added to the Terrorist Exclusion List of the USA in 2004.

⁵ The Panthic Committee is considered to be a government of Khalistan. It was founded in April of 1986 and is located in the complex of the Golden Temple in Amritsar in Punjab, India (Dilgeer 1997).

DETERRITORIALIZED KHALISTAN AND THE FOCUS ON HUMAN RIGHTS [2.2]

In the course of time the main focus of many new Sikh politically motivated websites became the issue of the violation of human rights rather than mere independence for Khalistan itself. In congruence with this fact, academic circles began, in recent years, discussing the concept of the changing principles and goals of the Sikh Khalistan movement. Shani presents the examples of various Sikh groups from around the world all of whom, regardless of their country of residence, consider the area of eastern Punjab (present day India) their true homeland (Shani 2004). So while on the one hand he speaks about the territorialization of the Sikh diaspora's identity, on the other hand he agrees with Smith who stipulates that the diaspora of the Sikh nationalists, just as all other nationalists, doesn't strive for acquiring any kind of territory (Smith 1999). Instead, they strive for a "homeland" in the sense of an historical territory that people feel to be their own on the basis of convincing assertions about ownership and times of prosperity sometime in the past. The perception of a "homeland" is, according to the Sikh nationalist diaspora, analogous to the area of the Indian state of Punjab. Nonetheless, this perception of a Sikh "homeland" doesn't completely correspond to the real borders of this Indian state because some areas that were the sights of the events that formed the Sikh community, for example the birthplace of Guru Nanak, are located in Pakistan. The Sikh nationalist organizations do not, however, claim these Pakistani sights and place the collective memory of their community within the borders of eastern (Indian) Punjab. Khalistan is further discussed as a de-localized transnation defined according to Appadurai as "retaining a special ideological link to a putative place of origin but is otherwise a thoroughly diasporic collectivity" (Appadurai 1996: 172). In the case of the Sikhs, the putative place of origin is symbolized by eastern Punjab and the Sikh diasporic collectivity has been strengthened by the events of June, 1984. That was the impetus that involved the Sikh diaspora in the movement for independence. According to Tatla, the Sikh diaspora helped, by the virtue of its position and connections within Punjab affairs, to establish an ideological framework and thereby redefine Sikh ethnicity (Tatla 2001: 161-185). Appadurai even states that Khalistan is a fictitious homeland of the deterritorialized Sikhs in the UK,

Canada, and USA. Axel similarly explains that Khalistan became a “shibboleth for a community which thinks of itself as not only a globally dispersed population but a persecuted population. Khalistanis, in other words, are more interested in a struggle for human rights – or of stopping human rights abuses against Sikhs – than they are in procuring a sovereign territory.” Axel also points out that it was the very structure of IT that caused the transformation of the Sikh movement and enabled the Sikhs worldwide, regardless of their location, to participate in decentralized mobilizations (Axel, 2005).

This tendency can be observed in many new versions of the Sikh websites, especially in comparison with the detailed study and analysis of the same websites made by Gunawardena in 2000. An example often cited in this context is a homepage of the website Khalistan.net (www.khalistan.net) with its main slogan: “Khalistan, the new global reality.” Another such example is the website of the organization Dal Khalsa (www.dalkhalsa.com). While on the present website there is no explicit expression of the demand for an independent Khalistan territory, the earlier version of the website defined the organization on its homepage as “The Pioneer Organisation of Khalistan Movement” and was claiming “Khalistan a future reality (Gunawardena 2002).” The present website’s main features are news concerning Sikh political and religious issues, some of which are linked to scanned articles from offline media coverage. The homepage also contains links to an archive of news and press releases, to contacts where one can order the “Directory of Martyrs” of 1984, and to the constitution of Dal Khalsa. The reference to the Sikh martyrs and the fact that the constitution of Dal Khalsa doesn’t even contain the name Khalistan, again supports the statement that the Sikh activists’ strategy has changed. Current websites still look for a certain level of independence and are focused on drawing attention to the atrocities that happened in Punjab and accusing the government of India of human rights violations.

INDIAN LAWS RELATING TO INFORMATION TECHNOLOGY AND MEDIA [3]

Since many of these websites are openly discrediting the democracy of the Indian state and are spreading anti-Indian messages the Indian government developed a legal framework to protect itself. Ever since the Internet came to India the government has sought to control how people use it, with little

success. The political establishment had, at various times, toyed with the idea of blocking access to particular sites and holding Internet service providers and cybercafés responsible for the sites that people browsed. Due to public outcry against such measures, however, nothing really came of these plans (Parathasarathya 2003: 6-7).

So far, India has only one IT law: the Information Technology Act, 2000. Its primary purpose is the provision of legal recognition of e-commerce, e-records and documents, and digital signatures and is enabling legislation allowing the application of other laws to the Internet, electronic communication, and other IT tools. The offences listed in the Act relate to tampering with computer software source code, hacking, publishing false digital signature certificates, and the publishing of obscene matter. There is no mention of any political work in the section on offences. Network service providers will not be held liable for information available on the Net if they can prove that this was done without their knowledge (Information Technology Act, 2000). The IT Act, however, enables the application of other laws to material on the worldwide web and therefore laws relating to printed publications can apply to the Internet as well (Parathasarathya 2003: 6-7).

LAWS RELATING TO MEDIA [3.1]

Most of the restrictions on traditional media in India are constitutional provisions under Clause (2) of Article 19, which provides reasonable restrictions on the freedom of expression (Kanungo 2001). Apart from this, the media is still governed by a number of laws dating back to the British era. Foremost among these being the Official Secrets Act, 1930 and the Indian Penal Code, 1860. The Official Secrets Act prohibits the obtaining and publication of secret government documents. Several of its provisions are in conflict with the Freedom of Information Act, 2002, which itself took two years to legislate, having been tabled in 2000 after much dallying by successive governments. Defamation (which can also be invoked by individuals), is punishable under the Indian Penal Code, which can also be invoked for any material that is prejudicial to the sovereignty and integrity of India or incites animosity between different social and religious groups. The Criminal Law (amendment) Act, 1961 was enacted to stop activities prejudicial to the safety and security of India (Kanungo 2001).

In 2001, the Prevention of Terrorism Ordinance (POTO) was promulgated, and had some provisions that could be used against the media. Section 3 (8) placed responsibility on all persons to disclose information which is known or believed to be of material assistance in preventing any terrorist activity to the police. Nonetheless, interviews with terrorists/criminals/those espousing the separatist cause are carried by all sections of the media and trenchant criticism of the government and expose of scandals and scams are quite common (Parathasarathya, 2003).

There is no law enabling pre-publication censorship of the press. The only time this occurred was during the Emergency State of 1975-77 when the press was subjected to censorship. No law was passed to enable this but the suspension of these fundamental rights meant that the right to freedom of expression could not be enforced (Parathasarathya 2003).

Doubts have been raised about whether the laws applying to the print media can be used against websites which are hosted outside of India. A Delhi court ruling in 2002 makes it clear, however, that a website hosted outside India cannot claim immunity from Indian laws, so long as its material is available for viewing in India (Parathasarathya 2003).

Although the Indian media (unlike its counterparts in many parts of Asia, Africa, and Southeast Asia) enjoys a large measure of freedom, this is not to say that successive governments have not harassed individual media organizations, but rather that media-related laws have rarely been used to do this. The government usually opens investigations related to financial irregularities, excise duty evasion, or income tax evasion and uses this as an excuse to conduct raids on offices (Parathasarathya 2003).

An example of the banning of a website due to its anti-Indian content, before the institutional framework and process of banning such websites was established, is the case of Burning Punjab (www.burningpunjab.com) in 2001. The website was established the 15th of September, 1997 by the now deceased Sukhbir Singh Osan, a Sikh lawyer and journalist from Chandigarh. The website contained news, opinions, political scenarios, and human rights issues in the context of violence against the Sikh community. The Indian government had banned the viewing of Burning Punjab in Punjab and a few neighboring states. When that did not shut down the site, the website was labeled a "newspaper", was brought to trial and was blocked in Punjab,

Haryana, and Delhi (Burton 2002). As early as a year prior, in March of 2000, the general secretary of the organization of Reporters without Borders, Robert Menard, sent a certified letter to the Indian authorities in protest against unlawful censorship and persecution of Sukhbir Singh Osan (Journalist sanctioned 2000) who was receiving death threats from governmental entities (Burton 2001). Five years after the banning, a new website under the same name emerged in 2005, with the URL www.burningpunjab.net. This website serves as a reminder of the activities of Sukhbir Singh Osan and although it is not complete it demonstrates the persistence of the Sikh movement in cyberspace.

CERT-IN [3.2]

In February 2003, in exercise of the provisions of Section 67 and Section 88 of the Information Technology Act, 2000 the Indian Computer Emergency Response Team, CERT-In (www.cert-in.org.in) was created to be the “the single authority for issue of instructions in the context of blocking of websites” (Notification no. G.S.R. 181 (E) 2003). CERT-In can be approached by 9 institutions listed in the notification and is obliged to verify the authenticity of their complaints. In case of a justified complaint the CERT-In shall instruct the Department of Telecommunications, DoT, (www.dotindia.com), the main authority of Indian Internet service providers, ISPs, to block the website.

The first case of a blocking of a website under the IT Act 2000 and CERT-In occurred in September of 2003 when the DoT ordered all Indian ISPs to block the URL of the discussion group “kynhun” related to a militant movement from the state of Meghalaya (Noronha 2003; Yahoo Website Blocked 2003). The discussion group was accused of spreading anti-Indian messages and discrediting the government of both the Indian Republic and the state of Meghalaya. Although all the Indian ISPs were trying to obey the order of the DoT and block the discussion group hosted by Yahoo! Inc. they were not able to block just a single discussion group and therefore had to block the access to all Yahoo discussion groups. This procedure generated lively public discussion concerning the censorship of the Internet and this case was considered, by some, a violation of the freedom of speech (Dikshit 2003).

CONCLUSION [4]

This paper strives to identify and describe the changing character of the website representation of the Sikh political movement demanding independence and sovereignty for the Sikh community. The Sikh politically motivated websites were in most cases set up by activists of the Sikh diaspora living abroad that became deeper involved in the movement after the Punjab deaths and violation of human rights in 1984. New information technologies played an important role in the inclusion of the diaspora since they enabled the Sikhs abroad to create a new platform for the movement in cyberspace. The key impact of these websites is not only caused by their technical capabilities but mainly by their strategic use capability. This involves contacting and collaborating with human rights organizations, mobilizing the Sikh worldwide diaspora, and gaining financial support. The evisceration of the time and space distinctions on the Internet enables minority groups to distribute images of varying authority and power across space in order to establish a hegemonic and indisputable representation of a particular place or space (Gunawardena 2002). Web activism is a powerful tool by which non-state actors can alter the global powers. They are able to reshape perceptions of the mediascape that used to be a monopoly of the state. However, the case of the Sikh Khalistan movement contributes to the suggestion that “Web transforms global politics in a way and to an extent that is more modest than was apparent even a few years ago. Web activists have an impact, but they do not overthrow states or necessarily even redirect public policies. The change is wide-ranging rather than deep. It has occurred globally but has not resulted in conventional political change (Dartnell 2006: 92-104).”

The new means of communication, due to which Sikh activists could meet virtually, regardless of their location, contributed to the emergence of the concept of a so called deterritorialized Khalistan. This change of concept is also characterized by a shifting of the focus of website presentation to human rights violations on the civil population in Punjab by the Indian government, and therefore discrediting the democracy of the Indian state. The Indian legal framework enabling the banning of websites that disturb the sovereignty of the state developed gradually with the arrival of the 21st cen-

ture and has not, so far, significantly hindered web activities of the Sikh political activists.

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