Government's Poor Record of Accountability at Home Heightens Concerns

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India: Investigate Alleged Overseas Murder Plots
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(New York, December 15, 2023) – Indian authorities should conduct thorough and impartial investigations into allegations that government agents were involved in assassination plots against Sikh separatists in the United States and Canada, Human Rights Watch said today. The Indian government has already been linked to online disinformation campaigns against academics and activists living abroad.

The Indian government's systemic failures to prosecute security force personnel for extrajudicial killings and other serious abuses in India raises broader concerns about its willingness to address transnational repression – abuses committed against nationals outside the country.

"India's alleged involvement in assassination plots in the US and Canada suggests a new and notorious leap in extrajudicial killings," said Elaine Pearson, Asia director at Human Rights Watch. "The Indian authorities' repeated failure to hold police and military personnel accountable for unlawful killings demonstrates the need for more credible investigations."

In September 2023, Canadian Prime Minister Justin Trudeau accused India of involvement in the killing of a Canadian citizen, Hardeep Singh Nijjar, a prominent Sikh separatist leader, on June 18, in British Columbia. The Indian government dismissed the allegations as "absurd."

On November 29, US authorities announced charges against an Indian national, Nikhil Gupta, whom they allege was recruited by an unnamed Indian government official to arrange a contract killing of a Sikh separatist leader in the US. The Indian authorities said such actions were "contrary to government policy" and announced a high-level inquiry committee to investigate the allegations.

While the indictment for conspiracy to commit murder does not name the intended target of the plot, it was widely reported to be Gurpatwant Singh Pannun, the general counsel for the US-based Sikhs for Justice. The group advocates the secession of Punjab state from India to create the independent nation of Khalistan for Sikhs, a minority religious group in the country. The alleged plot was foiled by US authorities, according to the prosecutors.

The public indictment refers to the Indian government official as "CC-1," a "Senior Field Officer" with responsibilities in security management and intelligence. Gupta, allegedly working at the direction of the Indian agent, contacted an individual he believed was a criminal associate for help to contract a hitman for the murder. But the associate was actually a confidential source working for US law enforcement, and the "hitman" was an undercover US law enforcement officer.

The indictment also alleges that Gupta was linked to the killing of Nijjar in Canada. Gupta allegedly told the undercover US law enforcement officer on an audio call that Nijjar "was also the target" and "we have so many targets." Separately, according to US prosecutors, Gupta also confirmed that Nijjar was the target he previously mentioned as the potential Canadian "job," saying that eventually "some other guy did this job ... in Canada."

The Indian government lists both Nijjar and Pannun as terrorists under its counterterrorism legislation. Some Canadian and US-based Sikh separatist groups have promoted violent attacks in India.

The allegations of Indian government involvement in targeted killings abroad come amid increasing reports of serious human rights violations against activists in India. The Bharatiya Janata Party (BJP)-led government has attempted to silence dissent using intimidation and harassment of critics through raids and arbitrary arrests, including under the draconian Unlawful Activities Prevention Act, the primary counterterrorism law. The Washington Post alleged online harassment, reporting that an organization linked to Indian intelligence agencies "combined fact-based research with unsubstantiated claims to paint U.S. government figures, researchers, humanitarian groups and Indian American rights activists as part of a conspiracy, purportedly led by global Islamic groups and billionaire George Soros, to undermine India."

The BJP government's ultranationalist ideology promoting Hindu supremacy has fueled and encouraged violence against religious minorities, especially Muslims and Christians, but also attempted to label Sikh farmers protesting against government agriculture laws as Sikh separatists. Police and other authorities have failed to hold supporters of the BJP and members of BJP-affiliated groups to account for violence, often instead targeting members of victim communities or their advocates.

Indian laws shield Indian police and military personnel from accountability despite allegations of torture and extrajudicial killings over many years. Indian intelligence agencies lack any independent oversight. All government officials and security force members are protected under section 197 of the criminal procedure code, which provides that no court can recognize any offense, with the exception of sexual offenses, alleged to have been committed by a public servant in the discharge of an official duty without approval by the central or state government. Such approval to prosecute is seldom granted.

Soldiers have additional immunity when internally deployed under the Armed Forces Special Powers Act (AFSPA). AFSPA, in effect in Jammu and Kashmir and several northeast states, grants wide powers to arrest, shoot to kill, and occupy or destroy property in counterinsurgency operations. India's Supreme Court has said that all killings by security forces should be investigated and that such force was not permissible "even in an area declared as a disturbed area under AFSPA and against militants, insurgents and terrorists."

While new allegations of extrajudicial killings against the military continue, the government has refused permission to prosecute. In April, the Indian government denied permission to prosecute soldiers accused of killing six coal miners in Nagaland's Mon district in December 2021. The state police had filed charges in June 2022 against 30 soldiers, including a major, after a special investigation team found the military had shot the miners "with a clear intention to kill."

There has been a spike in extrajudicial killings by police in some BJP-run states such as Uttar Pradesh and Assam, where the chief ministers have promoted or condoned such killings to ostensibly control crime. Uttar Pradesh's chief minister has publicly said that criminals in his state will "either be sent to jail or killed in police encounters."

Extrajudicial killings increased more than fourfold in the state after he took office in 2017, according to government data. From March 2017 to September 2023, police shot 5,591 suspected criminals and other people, killing 190 in "police action." After the BJP leader Himanta Biswa Sarma became chief minister of Assam in May 2021, his government's "zero tolerance policy" on crime also led to an increase in police killings. By September 2021, the police had reportedly killed 27 people in alleged extrajudicial killings and injured 40 others.

Indian authorities should stop targeting activists and dissidents at home and abroad, and instead uphold international and constitutional obligations to protect the rights to life and liberty, freedom from torture, freedom of expression, association, and peaceful assembly, and the right to a fair trial, Human Rights Watch said.

"The Indian government needs to do a lot more than issue denials in response to alleged involvement in grave abuses both at home and abroad," Pearson said. "The authorities need to stop silencing critics and allowing security forces to commit violations with impunity."

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