ADMINISTRATION OF SIKH GURDWARAS & SETTLEMENT OF DISPUTES - A STUDY OF SIKH GURDWARA JUDICIAL SYSTEM

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Submitted By :

GURDIP SINGH

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CHAPTER 1

INTRODUCTION

I N T R O D U C T I O N

The comparative study of the eminent religions reveals that almost all religions, are in agreement with each other in their ethical precepts and perceptions but do differ in their metaphysical and ceremonial aspects.

Sikhism is youngest of all the major religions in the world. It came into being in the beginning of the sixteenth century when the people of the Punjab became Sikhs (disciples) of Guru Nanak (1469-1539), the founder of the Sikh faith. Being a younger, it is a religion with modern, progressive and scientific outlook. It had rejected the ritualism, orthodoxy, feudalism and formalism from the very outset.[1]

Sikhism is a religion which originated, developed and flourished in India. Sikhism was born in the Punjab and most of its followers are in this State. Yet many have migrated to other parts of India and the world and many more in America and Europe have embraced it. Though Indian in origin, Sikhism is a universal religion, it is not at all sectarian, it is not a kind of Indian or Punjabi nationalism. Rather it visualises the entire world as one family and all religions and worship as fundamentally one aiming at the realization of the same one God.[2]

It is regret to state that Sikhism is misunderstood by the Central Govt. of India and the group of Society in the recent past as Sikhism has multi faces of aspects of life. A sikh is a warrior, a Saint and both at a time. Politics is a part of religion in Sikhism. They are non separable. Sikhism has inherited these values of Warrior & Saint. Govt. pressure or pressure of group of societies can not succeed in separating these values from Sikhism, Sikhism being a separate group of society. They follow their own virtues.

Some people think that Sikhism is a synthesis of Hindu Bhakti and Muslim Sufism. According to them, it is a combination of the Aryan idea of immanence and the semitic idea of transcendance, its monotheism is ascetic as that of the Islam but

it is intent on Mukti or liberation as Hinduism.[3] It is also said that Sikhism preaches the best of Hinduism and Islam and it represents Hinduism and Islam in their maturity.[4] Some others regard Sikhism as an offshoot of the Bhakti Movement, the Hindu mystic renaissance of the middle ages and thus hold it as a sect of Hinduism.[5]

Quite recently, it was argued that Indian Constitution and legal system do not recognise Sikhism as an independent and distinct religion. Appending of explanation II to article 25 of the Constitution and application of Hindu Personal Laws to the Sikhs was advanced as an argument to make this point. This assertion is fallacious. Explanation I to aticle 25 expressly recognises the separate identity of Sikhism. Explanation II also does not annihilate the independent character of Sikhism. It specifically refers to Sikhism as a religion. Even otherwise explanation II is strictly for the purpose of Article 25(2)(b) and has no application outside the purview of that sub clause.[6] Similarly the application of Hindu Personal Law to sikhs is not relevant to treat them as followers of Hindu religions, because it is applicable to every Indian who is not a Muslim, Christian, Parsi or Jew. In the context of doctrine, Hindu religion is different from Sikh religion. It is only for the purpose of

application of Hindu Law that they are clubbed with Hindus. Thus Sikhism is an independent and separate religion and Indian constitutional and legal system recognises it as such.

Nevertheless, the preamble of the Indian Constitution, declares the Secular concept of the State and it is significant to note that the slow but sure corrosion is being caused by the Secular trend to their religious postulates and postures.

Both Secularism and Sikhism are higly emotionally charged subjects. Secularism, because it happens to be one of the three basic pillars of political creed of the Indian polity today, its enshrinement under the inspiration and direction of such national heroes as Mahatma Gandhi and Jawahar Lal Nehru, in the political programme of the post-independence India, has lent to it, an aura of sanctity, as an article of faith, beyond questioning or enquiry. Sikhism has for the last over a hundred years been involved so profoundly in the questions of securing its own identity and preserving it that it quite naturally looks askance at all attempts at rational enquiry. The basic thrust of the Sikh studies for the last over a century has been towards scholasticism which means placing reason at the service of the revelation. The situation is further complicated by the fact of

the Sikhs, as a religious and culture group, being in a precarious minority, at the same time as their being highly politicalised and vocal about their interests and grievances. Such a situation is the least conducive to any searching probe into motivations and the directions of a social group. That is why even though the processes of Moderniztion, Westernization and urbanization, which are the carriers of secular ideas and modes of behaviour, have been impinging with ever increasing intensity upon the basic tenets of Sikhism and the practical lives of innumerable Sikh individuals all over India and abroad, no serious attempt has so far been made to understand the implications of Sikhism surviving as a public faith in a fast secularizing world. This is in glaring contrast with the situation in the Christian world.[8]

Sikhism in the recent years of its history has been concerned with the concepts of secularism mainly as a political minority for securing the object of self-determination. In this endeavuor, however, it was engaged with the Indian version of the concepts of secularism.

As it is understood in India today the concept of secularism is primarily meant to be a political formula "for conceiving the

cultural reality within a political frame work." As an operative idea it may be interpreted essentially as negative in character, implying only anti-communalism. The positive contents of this essentially negative usage of the concept of secularism may be interpreted only as a religious-pluralism or multi-religionism. The Indian State has been conceived and continuously interpreted not as an anti-religious or even a non-religious state but as an arbiter, so for as religious matters are concerned between the various religious groups of India, in the interests of Social justice and peace. In this form of political formula, Indian secularism is valid only in a a static social situation and does not provide either for movement forward or change. Doubts in recent years have been raised about the merits of secularism in this limited political context even in a static social situation like the one in the times of Akbar, the Great.[9]

Our interest presently is not in secularism as a political formulas which fails except in a one significant aspect, in offering any guidelines for formulating response, especially of the various religions to the challenges posed by secularism and the carriers of this process such as modernization, rationalization and Westernization. The exception is only with regard to the theory of finality which is the corner stone of

every religious faith. The political arrangement between various religions that is fashioned by Indian secularism has at least one great distinction. It ensues from a basic acceptance of the postulate that even though each religion may be distinct and different from all others for various historical and cultural reasons, it can not enforce any special claim as being the only and final embodiment of the internal religious truth. By conceding validity to other religious faiths within their respective group boundaries each religion accepts, whether explicitly or implicitly, some shedding off its claims of superiority over others. This acceptance of the necessity of co-hearing within a plural religious situation acts as a great leaven for promoting anthropocentric humanism within the theocentric faith of each religion. If acceptance of plural religious situation and the validity of each religious tradition with in its own sphere of influence were the only issues posed by secularism for religious faith, Sikhism is much better placed than most other faiths.[10]

In fact, it is not Sikhism alone that is affected by the trend ; it is a universal problem that all religions have to face. I am confident that Sikh faith has an inbuilt mechanism that can absorb successfully the essential spirit of secularism,

namely, an abiding interest in the self-dependence of homo-sapiens and their alround betterment. The very fact that the Sikh Scripture, which is a living embodiment of the spirit of the Gurus is an anthology of spiritual compositions, not only of the Sikh Gurus but also of numerous Hindu and Muslim saints, is in itself a proof positive of the catholicism of the Sikh faith and is in consonance with the spirit of secularism. The Sikhs are no run aways from life and their contributions to the fields of Agriculture, Technology, Defence, Sports and Commerce, speaks volumes in favour of their love of life.[11]

Therefore, Sikhism is neither a synthesis of Hinduism and Islam[12] nor it is just a sect of Hinduism.[13] Guru Nank's basic inspiration was indigenous, he either rejected or gave a totally different meaning to the doctrines of Hinduism and Islam. So Sikhism is an independent and distinct system of thought.[14] It is a new organic growth evolved from the existing system of thought to meet the needs of the humanity. Sikhism is having all the attributes of a world religion. It has its own Church, scriptures, institutions, signs and symbols, which may be traced from the established Sikh Gurudwaras.

First Guru of the Sikhs, Guru Nanak laid the foundations of

a Sikh Nation when he decided to create a new society for eradication of social tyrannies of Brahminism and political oppression of Turko-Afghan rulers. For the first purpose he set up Sangats (Local associations of Sikhs) and Guru Gaddi(pontificate); thus he created a new Church. These Sangats formed the units of spiritual empire of the Sikhs.

Earlier, the places of worship including those of the Sikhs were known by the name of "Dharamsalas" which literally meant a religious place or a religious rest house. But it generally denoted building used for devotional singing and prayers. So to begin with the place where sangat congregated was known as Dharamsala and later on when Guru Granth Sahib was proclaimed as the Guru by the tenth Master and it was installed in the Dharamsala, it came to be called as Gurudwara.

The abode of the Guru, that is whereever Guru Granth Sahib is installed, is a Gurdwara.[15] Thus Gurdwara virtually means such a public place of worship where Shri Guru Granth Sahib is installed.[16] It is not the building which is so important, it is the gathering together of the Sikhs in the presence of Guru Granth Sahib which gives the Gurudwara a special place in the Sikh life. The preference of Guru Granth Sahib is indispensable

in a Gurdwara because the Sikhs bow before it and not before the bricks and walls. In a Gurudwara, Guru Granth Sahib is enthroned for daily exposure and reading and for presiding over regular ceremonial congregational prayers, singing of hymns and religious discourses. Religious celebrations commemorating the historical events are also celebrated in the Gurdwaras.

The setting up of Dharamsalas(Gurudwaras) is attributed by some to the commandants of the God Himself. It is said God addressed to Guru Nank, "As the Vaishnavas have their temples, the yogis their as-an and the Muslim their mosque so your followers shall have their Dharamsala."[17] Therefore, the Gurdwaras are centres of religious life of the Sikhs. Most of the Gurdwaras are founded by or in honour of the one or another of a galaxy of their ten gurus.[18]

Before we proceed to discuss the Gurdwara and its functions, It is necessary to examine the term 'Sikh' itself as the current view point of the scholars has discarded the orthodox definition of the Sikh. Therefore, it is also essential to look into the history of its origin and development in brief. Sikh the title

assumed by the first ten leaders of the Sikhs, a religious group originating in the Punjab district of northern India. The word Sikh is derived from the Sanskrit **Sisya** ("disciple"), and all sikhs are disciples of the Guru (spiritual Guide or teacher).[19] The first Sikh Guru, Nank, established the practice of naming his successor before his death (1539), and from the time of Ram Das, the fourth to reign, the gurus all came from one family. Guru Nanak also emphasized the mystical transference of the personality of the Guru from one individual to another "as one lamp lights another," and many of his successor used as a pseudonym the name Nanak.[20]

As the Sikhs developed from a pacifist to a militant sect the role of the Guru took on some of the features of a military leader in addition to the traditional ones of a spiritual guide. Two Sikh leaders, Guru Arjun and Guru Teg Bahadur, were executed by order of the reiging Mughal emperor on grounds of the political opposition.[21] The tenth and last Guru, Gobind Singh, before his death(1708) declared the end of the succession of personal Gurus. From that time on the religious authority of the Guru was considered to be vested in the sacred scripture, the **Adi Granth**, while the secular authority rested with the elected representatives of the Sikh community, the **panth**. The ten Sikh

Gurus and the dates of their reigns were [22] :

1. Nanak (died 1539), the son of a Hindu revenue official, who attempted in the new religion founded by him to bring together the best features of both Hinduism and Islam.
2. Angad (1539-52), a disciple of Nanak, traditionally given credit for developing Gurumukhi, the script used to write down the Sikh scriptures.
3. Amar Das (1552-74), a disciple of Angad.
4. Ram Das (1574-81), the son-in-law of of Amar Das, and the founder of the city of Amritsar.
5. Arjun (1581-1606), the son of Ram Das, and the builder of the Harimandir (Golden Temple), the most famous place of pilgrimage for the Sikhs.
6. Hargobind (1606-44), the son of Arjun.
7. Har Rai (1644-61), the grandson of Hargobind.
8. Hari Krishen(1661-64), the son of Har Rai; he died of smallpox at the age of eight.
9. Tegh Bahadur (1664-75), the son of Har Gobind
10. Gobind Rai (1675-1708), who assumed the name of Gobind Singh after founding the fraternity known as the Khalsa.

Recently, the definition of Sikh given in Hindu marriage Act, 1955 has been criticized vigorously by critics.

Section 2(b) of the Hindu Marriage Act, 1955 provides that this Act applies to any person who is a Buddhist, Jaina or Sikh by religion. Similar provisions have been made in Sec. 2(b) of Hindu Succession Act, 1956; Sec. 3(b) of Hindu Minority and Guardianship Act, 1956 & Sec. 2(b) of Hindu Adoptions and Maintenance Act, 1956.

But examination of these sections shows that :-

(i) the term 'Sikh by religion' has not been defined in these Acts.

(ii) However, explanations added to these sections show that a person can be sikh by religion on the basis of his or her birth. In other words, if parents are sikh by religion, the child is also sikh by religion as long as he does not change his or her sikh religion by conversion to another religion. Thus the principle that a person may belong to a particular religion on the basis of his or her birth/blood has been recognised in these Acts.

(iii) Further, if one of the parents of the child is Sikh by religion or the child has been abandoned both by his father and mother or whose, parentage is not known, the

child is sikh by religion if he or she is brought up as a member of sikh tribe, community, group or family.

(iv) A person may be sikh by religion by conversion or re-conversion to sikh religion.

(v) These Acts do not make any distinction between Amritdhari Sikh, Sahjdhari Sikh and Patit Sikh. For the purposes of application of these Acts to the sikhs, all categories of sikhs are placed on the same footing.

(vi) It has also been provided in these Acts that the expression 'Hindu' in these Acts also includes a person 'sikh by religion' for the purpose of applications of these Acts to the Sikhs.

2. Section 2(n) of Delhi Sikh Gurdwaras Act, 1971 provides that "Sikh" means a person who professes the Sikh religion, believes and follows the teachings of Sri Guru Granth Sahib and the ten Gurus only and keeps unshorn hair (Keshas). If any question arises as to whether any living person is or is not a Sikh, he shall be deemed respectively to be or not to be a Sikh according as he makes or refuses to make in the manner prescribed by rules the following declaration :-

"I solemnly affirm that I am a Keshdari Sikh, that I believe in and follow the teachings of Sri Guru Granth Sahib and the ten Gurus only, and that I have no other religion."

Section 2(w) of the Draft proposals made by S. Harbans Singh Committee on the subject of All India Sikh Gurudwaras Bill provides that 'Sikh' means a person who professes the Sikh religion, believes in one God and follows the teachings of Guru Granth Sahib and the ten Gurus and keep unshorn hair and does not profess any other religion:

Provided that notwithstanding anything contained in any judgement or order of any court to the contrary 'Sikh' shall include all persons belonging to any Sampardai or sect of the Sikh origin including Nirmalas, Sewa Pathis, Nihangs and Udhasis, who keep unshorn hair and believe in one God and follow the teachings of Guru Granth Sahib and the Ten Gurus.

Section 2(9) of Sikh Gurdwara Act, 1925 provides that "Sikh" means a person who professes the sikh religion or, in the case of a deceased person, who professed the Sikh religion or was known to be a Sikh during his life time.

If any question arises as to whether any living person is or

is not a Sikh, he shall be deemed respectively to be or not to be a Sikh according as he makes or refuses to make in such manner as the (State) Government may prescribe the following declarations :-

> I solemny affirm that I am a Sikh, that I believe in the Guru Granth Sahib, that I believe in the Ten Gurus, and that I have no other religion.

The Dalam Committee (1986) has also prepared a draft on the subject of All India Sikh Gurdwaras Legislation. But the complete draft of the definition of the term 'Sikh by religion' has not been made available to a common sikh. However, according to the news published in the newspapers, the draft of Dalam Committee has provided that the term "Sikh" will include "sehajdhari" persons (as in the 1925 Act) who will be eligible to be coopted or nominated members of the Central or regional or State Boards. But the condition of being a "keshdari" has been laid down for being a voter, while there is an additional condition that only "amritdhari" Sikhs will be eligible for election to the membership of the Central, regional or State Boards.

But after reading what has appeared in the newspapers, one may say that it does not give complete or sufficient information regarding the definition of the term "SIKH" provided in the

aforesaid draft prepared by the Dalam Committee.

An examination of the relevant provisions of Delhi Sikh Gurudwaras Act, 1971, Draft proposals made by S. Harbans Singh Committee and Sikh Gurdwaras Act, 1925 show that :-

In Delhi Sikh Gurdwaras Act, 1971 and Draft Proposals made by S. Harbans Singh Committee, it has been made essential for a person to be a "Sikh" by religion that he keeps unshorn hair (Keshas); whereas Sikh Gurudwaras Act, 1925 does not expressly provide so. In Delhi Sikh Gurdwaras Act, 1971 and Draft Proposals made by S. Harbans Singh Committee, it has been made essential for a person to be a "Sikh" by religion that he not only believes, but also follows the teachings of Sri Guru Granth Sahib; whereas Sikh Gurdwaras Act, 1925 only provides that "Sikh" means a person who professes the Sikh religion. These Acts also provide that a "Patit" does not cease to be a Sikh, but only suffers from certain disqualifiactions in respect of certain matters. I am of the opinion that definition of the term"Sikh" provided in the Sikh Gurdwaras Act, 1925 has stood the test of the time and it has certain advantages against the definition provided in Delhi Sikh Gurdwaras Act, 1971.

After a brief survey of Sikh, Sikhism and Gurdwaras let me proceed to the main heading - What is Sikh Gurdwaras, its significance in the life of a Sikh and its functions.

(a) SIKH GURDWARAS AND ITS FUNCTIONS IN DIFFERENT SOCIO-RELIGIOUS AND ECONOMIC CONTEXTS

The congregation (Sangat) i.e, an assembly of truth seekers, and the holy Word as contained in Guru Granth Sahib, has got a prominent place in Sikhism. It is no exaggeration to say that around these two institutions the whole of Sikhism revolves. Guru Nanak said that in carrying on his mission he relies on nothing but the Word and the Sangat.[23] Describing the significance of Sangat, Bhai Gurdas, a Sikh Savant says "One disciple is a Single Sikh. Two form a holy association and where there are five present, there is God himself.[24] As regards the importance of the Word. Guru Ram Dass said, "the Sikh who practices the Guru's Word is one with the Guru" Much more sanctity and respectability came to be attached to these two institutions when Guru Gobind Singh bestowed Gurushiip and personified himself in the Granth and the Panth.[25]

The installation place of Guru Granth Sahib and the meeting place of the Sangat (panth) is called "abode of the Guru or Gurdwara. The gurdwaras are the integral part of Sikh faith. Actually Sikh and Gurdwara are inseparable from each other. These are traditional centres of the religious, political, social and cultural life of the Sikhs.[26] It is not just a place of worship or a religious centre, but much more than that. According to Principal Teja Singh, they (the Sikhs) have their religion in their temples which are not only places of worship but training grounds of social science,public deliberations and other kinds of practical religion as well.[27] Another winter gives a beautiful account by saying, "The Sikh temple is a school for the students, a monastry for the divine scholars, a dispensary for the physical sufferers a free kitchen for the hungry and needy, an asylum to the unprotected, a fortress for the honour of the female sex and an inn for the wayfarer.[28]

Bhai Kahan Singh Nabha, a noted scholar of Sikhism describes, there can be a school, a hospital, a kitchen for the needy attached to the Gurdwara. It can be used for giving protection to women and providing resting place for travellers.[29] it can further be used for propagation of religion. Thus apart from being a place of religious congregation and worship, the

Gurdwaras are also a rest house for travellers, a school for the children and the adults as well, a catering place for free food (Guru ka Langar) to one and all, a meeting place for social functions and some times a dispensary also. These are the additional attributes of a Gurdwara. Thus the Gurdwaras are the traditional centres of religious, social, political and cultural life of the Sikhs. In fact these are founded to serve the humanity. Such a multifarious role is assigned to the gurdwaras not by historical accidents but by the Gurus themselves. Guru Nank himself setup a Dharamsala(Gurdwara) at Kartarpur and demonstrated its role. It functioned as a fulfledged commune where besides path, kirtan, katha, lodging and boarding of itinerants, Guru toiled alongwith his disciples in tilling the land. Thus Guru demonstrated the unity of work and worship aiming at the wellbeing of the people-material as well as spiritual. Guru Amar Dass developed the institution of "Langar" and "Pangat" emphasizing the equality of all human beings in this Gurdwara at Goindwal. He made it a condition precedent for each of his visitors to have his meals in company with all others. Even Akbar, The Mughal Emperor, had to fulfil this condition before he could see the Guru.

Public Welfare was foremost in the mind of Guru Ram Das

when he founded Amritsar, a central place for worship and gatrhering. He invited traders and artisans to settle in the city. Guru Arjun Dev, who completed the project Golden Temple, founded the town of Taran Taran and opened an asylum for lepers there. Guru Har Gobind, besides maintaining the traditions,also encouraged the sports like Wrestling, Horse Riding, Archery, Hunting and Running etc. He, himself participated in the training of these sports. The last of Sikh prophets, Guru Gobind Singh regularly held annual sports festival at Anandpur Sahib on Hola Mohalla.[30]

Thus the all round well being and development of the Sikhs is the concern of the Gurdwara. This is the role assigned to the gurdwara originally. And with the development of the society, the obligations of the Gurdwara have increased manifold. The leaders of the Gurdwara reform movement in the first quarter of this century promised with the people that if they acquire the control of Gurdwaras, they will properly utilise the income and property of Gurdwaras whereby Sikhism will be propagated to every nook and corner of the world. Every Sikh will be educated. Technical and Industrial schools shall be opened and unemployment shall be eradicated. Evils like drinking, litigations etc. shall be rooted out. Free dispensaries and schools shall be opened along with[31]

Gurdwaras in every village. The leaders were not making the hollow propaganda. In fact these are the various functions and obligations which are imposed upon the gurdwaras by the Gurus. The managers of the Gurdwaras should see that these multifarious roles assigned to the Gurdwaras are properly played by them.

Thus the religious centres (Dharamsalas) were established along with the foundations of Sikhism which being a congregational religion and not an individualistic one requires these centres for its dissemination. So whereever Guru Nanak went he founded Dharamsalas for the dissemination of his mission. The Gurdwara being the abode of the Guru, the Sikhs go there to be in the presence and company of their Guru for spiritual benefit. This is a place of remembering Lord's name and his greatness and sing his praises and virtues along with Sangat. "At Gurdwara, one listens to God's praise, meeting with Satguru one utters God's praise from one's mouth.[32]

Though the term "Gurdwara" became popular later but references mentioning its spiritual significance are available in the Adi Granth.For example "Guru ordains to go to the Gurdwara and remember the Lord"[33] and "one learns a lot by going to Gurdwara"[34]. Therefore it is prescribed as a religious duty of all the Sikhs to visit the Gurdwara daily, to listen to the recitations from

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Guru Granth Sahib.

Some of the Gurdwaras are associated with the Sikh heroes who willingly and valiantly suffered martyrdom. The history conscious people as the sikhs are, held the holy places in great reverence.

The Gurdwaras are part and parcel of the social life of the Sikh community. Besides the historical ones the Gurdwaras are constructed by the Sikhs at all the places whereever they have been. So it is correctly said that whereever are Sikhs, there are Gurdwaras also. In fact it is difficult to imagine the Sikhs
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without their Gurdwaras. As the Sikhs are scattered throughout the World, the Gurdwaras also dot every place of importance, in every nook of the Globe. Thus the social life of the Sikhs is very largely centered around Gurdwaras. The various ceremonies connected with the birth, baptism, betrothal, marriage, and obsequies are performed in the presence of holy group and often
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within the the precincts of Gurdwara.

The Gurdwaras are unique amongst religious institutions for meeting equal treatment for all regardless of religion, race, colour or sex etc. Every one can enter Gurdwara. Every one is to

be seated on the carpets spread on the floor irrespective of status and position. To discourage caste distinctions and untouchability, Karah Prasad, a preparation of wheat flour, ghee and Sugar, is distributed at the end of the service to all present Guru Ka Langar, i.e., free community kitchen is open to all pilgrims, travellers and others without any distinction whatsoever. Thus practical lessons of equality are imparted in a Gurdwara through the institutions of Sangat and Pangat. Gurdwara is also a most appropriate place for learning humility and service to human beings. A contemporary account of the Gurus describes that "Men from all the four Varanas freely entered into Sikh Dharamsalas and partook the scared prasad and free meals in Guru ka Langar",- It may be relevant to mention here that sub clause (2)(b) of Article 25 of the Indian Constitution, authorising the State to make laws to throw open the religious institutions to all the classes and sections of that religion is unnecessarily extended to the Sikhs through Explanations II of that Article because Sikh gurdwaras are already open for one and all.

The Gurdwaras are convenient eating and meeting places. The Gurdwaras also have provision for free lodging of pilgrims. The historical Gurdwaras also provide free food for victims of floods,

earthquakes, riots and political upheavels. The role of Gurdwaras at the time of partition of the country in 1947, the Indo Pak wars in 1965 and 1971 and Sikh massacre of November, 1984 is worth applauding.

However, the Gurdwaras command great political significance. Early in the present century, the freedom movement of India took its roots in the most dedicated (even violent) form in some of the Sikh temples (as in California, Vencouver, Malaya and Hong Kong) that the Sikh colonists had established abroad.[38] The movement for the reform of Gurdwaras of 1920's emerged itself entirely with non-violent struggle for freedom of India. All the political leaders on the national scene including Pt. Madan Mohan Malvia, Mohd. ali Jinah, Mahatma Gandhi and jawahar lal Nehru supported the movement. One Chapter of this movement was described as first decisive battle for India's independence.

All the heroic expeditions, religious-cum-political struggles of the Sikhs were started, guided and controlled from these sacred places specially from the Akal Takhat due to the notion that religion and politics are inseparable for the Sikhs. The Gurdwaras also serve as a meeting place to discuss and decide political questions besides the religious ones. Akal Takhat, an

historical shrine, is the supreme temporal authority of the Sikhs. It can issue commandments for the guidance of the community. Many historic decisions of far reaching importance had been taken at the Akal Takhat.

The Sikh shrines historically have always given protection to political refugees like Prince Khusro during the Mughal period and many freedom fighters during the struggle for Indian independence in British Raj days. Even during the Emergency of 1975-76, the Akalis masterminded a struggle against it from these very shrines.

(ب) ADMINISTRATION OF GURDWARAS, THEIR SOCIO-RELIGIOUS BASE AND RATIONALE

Once a Yogi asked Guru Nanak to work a miracle, he replied that in carrying on his mission he relied on nothing but the word and the Assembly.[39] Wherever he went, he left behind him a Sangat or association of his followers, with an injunction to build a Gurdwara or Temple for the purpose of meeting and singing his hymns together. So that in a short while where sprang up a network of Sikh temples all over the country.[40]

Each Sangat was in charge of a leader appointed by the Guru, the position of this leader, as we learn from the life of Guru Nanak written by Sewa Dass in about 1588 was called Manji as he sat on a Manji or cot when preaching to the people.[41]

After Guru Nanak through the creation of twenty two Manjis or diocese and fifty two Pirahs or parishes, the mission work became more regular, but the sphere of its activity became narrow, as the forces it had created in the Punjab required the constant presence of the Guru there. The organisation of the Sikhs had gradually progressed unmarked until under Guru Arjan it
42
became a power to be counted with. Each district was under masand. That these massands were not tax-gatherers as is often alleged, will appear from the Dabistan-i-Mazahib, which says that they propagated religion, and the money they brought yearlyto the Guru was a voluntary offering of the Sikhs who brought themselves to a masand according to their means, whose duty was to preach religion and be responsible to the Guru for the Sikh organisations in his diocese. At the end of the year, on the Baisakhi day, he was to come to the Guru with a company of Sikhs to render account of the offerings received and to report on the progress of Sikhism. Amritsar with the Golden temple and the sacred book installed in it became the central place for the Sikhs. The Guru was the Central unifying personality and in spite of the change in succession, was held to be one and same as his predecessors.

MANJI SYSTEM

By the time of the third Guru, Sikhism had expanded considerably and it became difficult for the Guru to look after all his devotees. Therefore, Guru Amar Dass founded a new organisation to cater to the needs of the increasing Sangat and to propogate the Sikh faith further. He divided the whole country under his spiritual influence into twenty two manjis diocoses.The person in charge of each manji or centre was called sangatia or manjidar as he was to preside over the Sangat (congregation) and propagate. Sikhism by sitting over the manji(cot) while the sangat sat on the floor. They were to look after the missionery work in their regions and collect voluntary offerings in cash or kind from the devotees and to pass that on the Guru for the use of the langar, construction of Dharamsala or to help the poor. Thus the local congression(Sangat) managed the sikh religious places through the manjidars or missioneries who were appointed by the Guru.

Ram Dass, the fourth Guru, upgraded and reorganised the existing system to make the missionery work more effective and comprehensive. The missionaries got a new name masand.[43] They were the full time religious preachers. It was the duty of the Masands to collect the offerings from the Sikhs and deposit in Guru's

treasury twice a year on the Diwali and Baisakhi day and also to report in the work of religious propagation. The masand system was a most satisfactory and effective system in the beginning. The masands used to earn their livelihood by honest labour. They were selected for their piety, integrity and devotion to Sikhism and were honorary officers.[44]

For his building activities Guru Arjan Dev required money so he issued a direction that every Sikh should contribut one tenth(deswandh) of his income for the religious and charitable purposes. The Masand system, which Guru further elaborated and reorganised, was effective in collecting the Deswandh and preaching the doctrines of Sikhism. the masands further deputed their agents for different places because the number of Sikhs had increased considerably. Bhai Gurdas confirms the fact that during the days of Guru Arjan Dev, Sikhs became a powerful force with a distinct social and moral code. Thus the masands performed the duties honestly, devotedly and creditably. They together with the sangat formed the pivot of the Sikh organisation and served the Sikh cause creditably for quite some time.[45]

In due course of time , the sangats at different places had established the Dharamsalas and these were looked after by

the Masands, the fifth Guru himself went to so many places for preaching and further consolidating the missionary work and putting a new life in masand organisation. But Guru HarGobind, the sixth Guru, could not go to distant places because of his various preoccupations. But during this period, The masands appear to have become somewhat indifferent. It is perhaps because they did not wholeheartedly approve the war like activities of the Guru and the lack of time with the Guru to supervise over them. But the Guru was so powerful and his personality so impressive that no one could dare to defy him openly. Depositing the offerings in the Guru's treasury did not remain a regular practice. But masands or priests incharge of the various sangats and Dharamsalas utilised the offerings for running the free kitchens and other religious and charitable purposes. They did not look upon these as their personal property as yet.

The masand system deteriorated gradually after the sixth Guru. The reason for this was the loosening of the control from the central authority. The opponents of the Guru, who were claimants for Guruship won over some of the masands who started defying the Guru. Guru's position and prestige weakened because of the bickering and it provided the masands an opportunity to become independent entities.Another reason of this deterioration

as that office of the masand had become hereditary in the families of first incumbants and gradually fell into unworthy hands, who were neither serious about their episcopal duties nor possessed the requisite integrity in respect of financial matters.[46] Besides, the unearned money in their hands without any check whatsoever from above had itself the corrupting value and it degraded most of the masands from their lofty characters. They started living a luxurious life. Because of their loose moral, too much worldliness, avarice and intransigent attitude they lost their usefulness vis-a-vis the Sikh movement.[47]

During the brief pontificate of the child Guru HarKrishan, the masands came out in open support of Ram Rai and other claimants of Gurship. They became so audacious by the time of Guru Teg Bahadur that they denied him entry into the Hari Mandir.[48] Guru Teg Bahadur spent most of the time in travels out of Punjab. Therefore he could not pay any attention to the activities of the Masands. In the battle of Bhangani which Guru Gobind Singh fought against the hill chiefs, the armed masands with the exception of their leader Kirpal, left the Guru.[49] Thus the masands who had been foremost among the Guru's auxiliaries became the greatest counterpoise to his authority in the course of time. So the masands became despicable in the eyes of Guru Gobind Singh. The

degradation of the masands is obvious from Guru's remarks in the Dasam Granth.

If anyone serves the masands, they say fateh and give us all thine offerings, Whatever belong to you should hastily be offered to none but overselves. Think of us night and day, and mention not anyone's name, even by mistake. If they hear of anyone desirous of giving, they run to him even if it be night and they are pleased not unless they receive something. By putting oil into their eyes, they make people believe that they are shedding tears. If they find anyone wealthy among their adherents, they serve him the food and see that he takes it. If they find him to be poor, they give him nothing, even if he begs, they do not show him their faces. These wild animals bring about people's destruction and never utter a word in praise of God.[50]

Thus the masands had become corrupt and oppressive and they acted as tyrants in extracting the money from the people for their personal pleasures in the name of the religion. They plundered the poor Sikhs and threatened those with Guru's curse who resented their conduct. Guru Gobind Singh, who was extremely unhappy with the system, issued Hukamnamas to the sangats to send their offerings direct and not to have any dealings with the

masands. Then he asked them to capture the masands and produce, them before him on their production, charges against them were read to them and they were asked to explain or reply. And in case of their failure to do so the Guru announced punishment. According to Bhai Sukha Singh, "After having been convicted of their jobbery, some were consigned to the flames of a bonafire and after spilling oil on their heads they were burnt, while some other were hung on the gallows or pierced with arrows or burnt on the hearth place.[52] And finally Guru Gobind Singh abolished the agency of Masands in 1699 and established a direct link with his disciples.[53] He created the Khalsa. In those days, in the official technical terminology, such a land was called 'Khalsa' which had a direct link with the King and had no intermediate link of the Jagirdars. Similarly Guru abolished the intermediatery masands and had the direct dealing with his disciples by creating the Khalsa. Guru Gobind Singh not only abolished the system of Masands, but also prohibited the Sikhs from having the social intercourse with the descendants or followers of Prithi Chand, Dhir Mal, Ram Rai and Masands who had fallen away from the tenets and principles of Guru Nanak.[54]

Thus organisation, which served the cause of Sikhism for several decades was brought to an end when it became notorious

and corrupt. The Dharamsalas or Gurdwaras which were under the management and control of the Masands passed on to the sangat which was to operate through the agency of Five Beloved Ones (Panj Piaras). As a result of this, organised priesthood was abolished among the Sikhs for ever.

The next phase of Gurdwara administration starts with the arrest and execution of Banda Singh Bahadur in 1716. There occurred a large scale prosecution of the Sikhs and they had to take refuge in the hills of Shivalik, local jungles and deserts of Bikaner. Thus all the baptized Sikhs, were forced into exile on whose heads the price was put. In these circumstances they could not directly manage their Gurdwaras. The Sikh shrines during these days passed into the hands of those who believed in Sikhism but would not go to the extent of dying for it, who professed Sikhism but did not confirm to outward signs and symbols of Sikhism, a kind of disguise adopted to escape prosecution.[55] They called themselves Sahajdhari(gradual adopters), a kind of informal sikhs.[56] Most of them were Udasis and some of them were Nirmalas[57] also. All these rendered valuable services to Sikhism by keeping the Gurdwara open and going. They not only looked after the shrines but also helped their brothers in exile by way of supplying food, shelter information and arms sometimes at the risk of their own lives.[58]

The Udasis and Nirmalas, who were managing Sikh shrines in the early eighteenth century were men of high moral character and were highly respected by the Sikhs. They devoted themselves mainly to reciting of Sikh scriptures of which they were very well versed and expounding the teachings of Sikh Gurus.[59] They did serve the Gurdwara but could not protect the shrines against desecration, in which cases heroes like Baba Deep Singh, Baba Gurbaksh Singh and Baba Mehtab Singh will come to the rescue. So during these difficult times, these cleanshaven people managed the Gurdwaras fairly well and conducted themselves very creditably.

The income of the Gurdwaras being very small, there was no likelihood of the Mahants to be corrupt. Beside the Gurdwara offerings and money was looked upon as poisonous if it was diverted to provide.[60] But during the second half of the eighteenth century, these managers of the Gurdwaras started acting independently discouraging the participation of sangat in their affairs. They reverted[61] to the Hindu religion practices in the Gurdwara. They started nominating their successors and to claim as sole masters of the Gurdwaras properties and offerings. As a result the tradition of purity and austerity deteriorated.[62]

Later in the eighteenth century, the Sikhs emerged from the jungles and they established misils in the Punjab. The Sikhs took over the management of Harmandir Sahib, Amritsar and some other shrines but most of them remained with the Mahants.[63] The Sikh chieftains liberally granted the lands to the Gurdwaras and constructed palacial buildings of the Gurdwaras. S. Baghel Singh of Karorsinghia misl devoted himself primarily to the construction of Gurdwaras after the conquest of Delhi. Later Maharaja Ranjit Singh decorated Harminder with marble and gold leaf. He also rebuilt other historic gurdwaras and gave handsome endowments to most of the Gurdwaras and also the religious places of other communities. The increase in the income of Gurdwaras became a source of corruption in the Gurdwaras management and the degradation of personal character of the priests and mahants.

After obtaining the political power, the Sikhs slackened spiritually, brahminvad and rituals entered the area of Sikh temples, arti, idol worship and other such practices became the daily routine of Gurdwaras. Though Guru Granth Sahib was recited there but it came to be worshipped as an idol and as a fifth veda. Sikhism was being given Vedantic interpretation without attributing any distinctiveness to it. Even among the Sikh

ruling class marriage by chanting of mantars, going on pilgrimage to Hardwar and Banaras and Sati were common practices. A Sikh scholar remarks contemptuously that these practices became common during the reign of superstitious Brahmin ridden Maharaja Ranjit Singh. Thus there was no improvement either on the spiritual side or the secular administration of Gurdwaras during the days of Sikh rule in Punjab.

While above studies reveal that there were basically traditionally two systems of administration of Sikh Gurdwaras. They were Manji system and Masand system. These system although worked well in its initial stage and little longer after its inception, but soon fell under great criticism due to their indiscriminatory operation and misuse of power. So much so that at one time, the Masand had been foremost among the Guru(Guru Gobind Singh) auxiliaries, became the greatest counter poise of his authorities in course of time. Not only this, they became corrupt and oppressive. They also acted as tyrants in extracting the money from the people for their personal pleasure in the name of religion. Therefore in the course of time the Sikh society voiced against the system and uprooted the traditional management and control of Masands and passed over the

administration of Gurdwaras to the Sangat, which was to operate through the agency of Puni Piaras and thus organised priesthood Masand system was abolished among the Sikhs for ever. However the Sikhs being warrior passing most of the time for battle, they could not go in the depth to find out a better system to manage the Gurdwaras. Therefore, the beginning of eighteenth century saw an upward and downward trend in the management of Gurdwaras, While the Gurdwaras were in the hands of udasis and Nirmalas. But later in the mid eighteenth century the administration of Gurdwaras again headed towards deterioration. In the end of eighteenth century once again the adminstration of Gurdwara was toned up by establishing the Misils system. In fact during this period the Gurdwaras obtained political power. Although during the period of Maharaja Ranjit Singh all went well but later on the system of administration was abused by corrupt practices. With the passage of time much awakening was experienced by the society and this resulted in number of movements leading to the passings of Sikh Gurdwaras Act, 1925.

The foremost question arises whether this act has been successful in removing the drawbacks of the earlier traditional system. If yes, how far it has been successful, if no what were the reasons of failure for this mismanagement of Gurdwaras and

its judicial system. What measures can be adopted to improve the administration of Gurdwaras and its judicial system. This would be the field of my study under research. The provision of the Sikh Gurdwaras Act 1925 would be examined and will be observed that what can be done in the legislative and what sort of education is required to begin to Sikh masses for taking their helping hand co-operation in the smooth management of Gurdwaras and its judicial system. It is significant to note that the S.G.P.C. is the main body which manages and administers the Gurdwaras. A lot of hue and cry has been roused in the recent past in favour of an All India Gurdwaras Act by the virtue of which the S.G.P.C. will get tremendous powers in the field of territorial Jurisdiction as well as administration. There is aneed to look into the functioning of S.G.P.C. and other ancilliary of the Gurdwaras Act, 1925, by which the Gurdwaras were administered. It is to be seen whether all is well behind the veil. It will be significant to take into account the socio-political factors which are prevalent and suggest whether the same system may be continued as thers is need to bring a change in the management and judicial system of Gurdwaras.

It is an irony that there is no system in the world which

can manage the religious bodies without any criticism which is bound to be there with the changing degree of faith and education and economic aspect of the religious society. However Christianity and Islam have been among the group of religions whose administration has been successfully done by such bodies which has hardly fallen to criticism. Why the Sikh Gurdwaras administration is lacking the grip as, now-a-days, Sikh Gurdwaras are being misused.

The present researcher will suggest whether the present system or system suggested under proposed All India Gurdwara Act to administer the Sikh Gurdwaras are in tune with the constitution of India and the socio-religious morality of the people. I will find out whether a constitutional body is to be set up to administer the religious institutions in place of a staturory bodies established under different acts of different religions. Whether there is such possibility which can keep a guard eye to the affairs of different religions and keep a harmonious relation with each other. It is beyond doubt that the Sikh Gurdwara Act, 1925 has utterly failed to administer the Sikh Gurdwaras in efficient manner and a lot of mal-practices have erupted in the managing and judicial bodies constituted

under the act to administer the Gurdwaras. It is not a hidden fact that the Govt. has not been able to implement this statuary provisions of the Act. Although the managing bodies are to be constituted on democratic election system, but the Govenment has utterly failed to implement the statutory provisions to hold the election of their bodies. I will examine and analyse the factors and reasons responsible for not implementing the statutory clauses under the present research.

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12. Dr. Gopal Singh, The Sikh Review (calcutta) Sept, 1982 P.5

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PP.33-34 Bhai Kahan Singh Nawab has written a scholary booklet on this theme Hum Hindu Nahin (Dharam Parchar Committee, S.G.P.C., Amritsar.

14. Guru Arjan Dev has expressed the distinctiveness of sikhism in the following terms:-

"I have broken with Hindu and the Muslim. I will not worship with the Hindu nor like the Muslim to Macca.
I shall put my heart at the feet of the one Supreme King. I shall serve him and no other.
I will not pray to idols,nor say the Musilm Prayer. For we are neither Hindu nor Musselmans".
(Adi Granth) P.1136.

Guru Gobind Singh has also ordained :" The Khaisa should be distinct from the Hindu and the Muslim"(Rehtnama Bhai Chaupa Singh).

" The sikh is to keep his observances distinct from those of other people of all the four Vanas. He should have

dealing with everybody.But his belief and programme of life should be different all the same : Suraj Parakash Rut 3. Adhyaya 50"

15. The new Encyclopaedia, Britannica, Volume IX P.805 Gurdwara in Punjabi it means " doorway to the Guru, or guide" the place of worship of the sikhs, a religious group of India. The gurwara contains on a cot under a canopy- a copy of the Adi Granth, the sacred scripture of the sikhs. It also serves as a meeting place for conducting the business of the congregation,holding wedding and initiation ceremonies, and in the more histroically important gurdwaras, as a centre of pilgrimage during festivals. A free kitchen and frequently a school for Sikh childern are attached to the Gurdwara.

The chief gurdwara is the Harmandir, the "Golden Temple" at Amritsar (Punjab State), but every Sikh family endeavours to set aside one room of the house for the reading of the Adi Granth, and this room is also called a gurdwara. When entering a gurdwara a Sikh takes off his shoes, washes his feet, and covers his head. The service usually consists of the opening of the book, singing of hymns,reading and discussion of a text,prayer,distribution of Karah Prasad (a

preparation made of equal parts of wheat flour,suger,and clarified butter), and dispersal. During the period of Mughal Persecution of the Sikhs, the management of some Gurdawaras (and the considerable Lands and Funds attached to them) passed into the hands of Hindus caretakers (Mahants),After years of increasing agitation on the part of the sikhs, the British Government passed the Sikh Gurdwara Act in 1925 returing control of the Gurdwara to the sikhs.The Gurdwaras of the Historic importance are now managed by an elected body known as the Shiromini Gurdwara Prabandhak committee (Committee of Shrine Management)

16. Justice C.S. Tiwana in Balbir Dass V. S.G.P.C., AIR 1980 Pb. H.P. 43,45

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19. The New Encyclopedia, Britannica Volume IX P 807.

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23. Bhai Gurdas, varon I P. 42

24. Teja Singh, Sikhism-its Ideals and Institutions, (Khalsa Bros. Amritsar, reprint 1978 P.39)

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27. Teja Singh, Essays in Sikhism, (Lahore, 1944) P. 180

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29. Encyclopedia of Sikh Literature.

30. Kashmir Singh-Law of religious Institutions-Sikh Gurdwara's G.N.D. University Amritsar 1989, P. 101

31. Ch. Partap Singh, Nankana Sahib de Shahid, (Gurmat Sagar monthly magazine, New Delhi) Feb 1984, p.11

32. Adi Granth P. 1075

33. I bid.,p. 554.

34. I bid.,p. 757.

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36. S.K. Bajwa, The Sikh Gurdwara Act (unpublished M.A. dissertation, Punjabi University, Patiala) 1971 p.3

37. Khushwant Singh, A History of the Sikhs, Vol II 1966 P. 193

38. Gopal Singh, History of Sikh People (WSUP) New Delhi, 1979 P. 30

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40. Teja Singh, Gurdwara Reform Movement and Sikh Awakening (1922) SGPC Amritsar (Report 1984) P. 2

There were centres of his mission in Junagarh, Kamrup,

Surat, Cuttack, Behar, Johar (Sbathu), Nanakmata Kumaon Hills, Khatmandu, Perisan Golf,Kabul, Jalalabad and other places. Many of these temples, such as the Nanakana at Surat, Nanakmata in Kumaon, inspite of long isolation, are still intact, although most of the incumbents of these places are not conversant with the Sikh scripture of Sikh thought. Remnants of old sangats still exist in Colombo, Madras, satur Kanjliban, Adilbad in Hyderabad Deccan, Mirzapur Deccan, Chittagong, Dhubri in Assam and other places in the East founded by Guru Teg bahadur or Diwan Mohan Singh of Patna. Very old copies of Guru Granth Sahib and autograph letters of Guru Gobind Singh addressed to different Sangats are found at these places. From the Var XI of Bhai Gurdas we get a list of prominent Sikhs who lived in kabul, Kashmir, Sarhind, Thanesar, Delhi, Fatehpur Sikri, Agra, Gwalior, Ujjain, Burhanpur, Gujrat, Suhand, Lucknow, Piragraj Janupur, Patna, Raj Mahal, Dacca and other places. In an odd Manuscript copy of Guru Granth Sahib, written in 1675, is founded the story of a Sikh's travel in the Deccan, called Hakikat Rah Mukam, from which we gather something about the Sikh Sangats and temples scattered over Southern India and Ceylone.

41. I bid pp 2,3.

Bhai Lallo was preaching in the North and Sheikh sajjan in the South-West of Punjab. Gopal Dass Was in Banaras, Jhanda Bedi on Bushair, Budhan Shah in Kiratpur, Mahi in Mahisar, kaljug priest's son in Jagganata Devlat in Lushai (Tibet), Salis Rai in Patna and Bihar, Raja Shiv Nath in Ceylon, and a hast of other workers were scattered over the whole territory visited by Guru Nanak.Connection with the centre was kept up by the constant visits of Sikhs to the Guru.

42. I bid, P. 3

The Sikhs in those days used to pray "May there be hundreds and thousands of Sikhs in every city and hundreds of thousands in every country" " May the Guru's Sikh become hundreds of Thousands, year countless in the world, and may a Sikh Temple decorate every place". Bhai Gurdas; Vars XIII 19 and XXIII 2 Khafi Khan says about the Sikhs "their Guru lived like a faqir near Lahore; Even from the beginning he had established sangats and Temples "in every city and town of note under a saint".

43. G.S. Nayyer, The Rise and Fall of Masands, The Spokesman Weekly, Annual Number 1981, p-61.

The word 'Masands' is also having the similar meaning as 'manji' or cot which was used for the Sikh missionaries earlier. It meant deputy or agent of the Guru; Some historians are of the view that the word masand came to be used during the contificate of Guru Arjan.

44. Gurbachan Singh Naggar, The Rise & Fall of Masands, the Spokesman Weekly, Annual number 1981, p. 2, Teja Singh, The Gurdwara Reform Movement and Sikh Awakening (1922) S.G.P.C. Amritsar (Reprint 1984) P. 11

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50. Bachittar Natak, Chapter II, Section XIII.

51. Maculife, The Sikh Religion Vol. IV PP. 316-17.

52. Guru Bilas Patshahi Daswen (lahore 1412) Adhaya 11.

53. The word is derived from the Arabic word "Khalsa" which mean pious, pure or straight.

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55. Teja Singh, Sikhism-its Ideals and Institution, P. 69, Mohinder Singh, The Akali Movement, P. 4.

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60. Bhai Gurdas, Var XXXV, P. 12.

61. S.S. Gandhi, Gurdwaras in Eighteenth Century, The Spokesman Weelky (Guru Nanak Number, 19878) P. 19.

62. Kashmir Singh :-Law of Religious Institutions-Sikh Gurdwaras, G.N.D. University Amritsar, 1989. P. 116.

63. The priests & Heads of the Gurdwaras came to be known by this by this time.

CHAPTER 2

ADMINISTRATION OF GURDWARAS

(I) "ADMINISTRATION OF GURDWARAS IN RETROSPECT"

After the annexation of the Punjab to the British Empire in 1849;the management of most of the Gurdwaras continued to be in the hands of the hereditary Mahants whohad acquired vested interests in them. They had started converting the Gurdwaras (trust)property into their personal...possession in flagrant

violation of the Guru's injunctions.The land attached to the Sikh Gurdwaras was registered in the name of Mahants under the defective system of land registration introduced by the Britishers. Thus the law made the position of Mahants virtually as independent as that of persons owning private property. .In this way the care takers of Gurdwaras became their owners.In these circumstances the Mahants became independent of the control of the Sangat, which earlier used to be consulted in the management of the shrines and the endowments attached thereto. Thus the Mahants assumed an arrogant attitude towards the disorganised and powerless Sangat. They defied the sangat not only in the matter of disbursing the Gurdwara income but also in the observance of religious worship and cermonies.

The management of Harimandir alongwith, the nearby Akal Takht,which was in the hands of 'Khalsa Council'Comprising of revered Sikhs during the Sikh rule was taken over by-the British Government immediately after the annexation of Punjab.. The affairs of the Goldan Temple began to be managed by the Agent to the Governor General. He appointed a Sikh'as manager of the Golden Temple which had been so far under the control of Panth through local Sangat'[1].The Britishers intended to control the Gurdwara indirectly giving the impression of non-interference in the religious affairs of any community.

These managers, Mahants had celebrated the annexation of the Lahore kingdom by the British by illuminating the holy precints of Harimandir Sahib on March 30,1849 about which the first British Deputy Commissioner of Amritsar announced to the world how happy the holy priests of Golden Temple were on the British having put an end to the Sikh Regiment.[2] The holiest of the Shrines, was further misused by the authorities for honouring General Nicholson, the notorious personality who had crushed the Indian Mutiny of 1857 with the ruthlessness and brutality and played the drama of his conversion to Sikhism.[3] The same perfidious and sacrilegeous act was repeated when Brigadier General R.E. H. Dyer, the butcher of Jallianwalas Bagh, wsa honoured and declared a sikh by the Government appointed[4] Sarbah (Agent) of the Golden Temple and the Akal Takhat. Besides, the Namdharis, the Ghadar heroes, the organisers of the Kamgatamaru and that of the Singh Sabha movement were also got condemned from these high seats of Sikh faith.[5]

The declared policy of the British Government of religious neutrality, protection of all religions and interference with none[6] was not allowed in practice as regards the Sikhs and their Temples. Instead the Gurdwaras were used for political purposes by the Government to consolidate its power and to criticise the

political opponents from there. The brittishers comonrehended that the Gurdwaras were the source of inspiration and power for the sikhs and, therefore, the control of the Gurdwaras was essential for the continuance and strengthening of the british regime. This is evident from the contents of a letter written by Mr. R. Egenton, Lt. Governor of Punjab to Lord Ripon the Viceroy of India on August 8, 1881, which reads as follows :-

'I think it would be politically dangerous to allow the arrangement of Sikh Temples to fall into the hands of a committee emancipated from Government control, and trust your Excellency will assist to pass such orders in the case as will enable to continue the system which has worked out successfully for more than thirty years.

Thus the Gurdwaras like Golden Temple, Akal Takhat, Darbar Sahib, Tarn Taran etc. remained under the supervision and control of the Governmnet appointed Sarbrah and other Gurdwaras were in the hands of Government patronised Mahants. The condition in Gurdwaras was quite deplorable.

In these days, many practices which were opposed to the tenments of Sikhism had become common in the Gurdwaras. Idol worship was not considered taboo. Pandits and astrologers

The managers of the Gurdwaras worked as puppet in the hands of the officials. For example, the Sarbrah of the Golden Temple and other Gurdwars was always busy in pleasing his appointing authority, the Deputy Commissioner of Amritsar. The Karah parsad was taken and served in the houses of the local police officials and the magistrates. The Gurdwaras offerings were misappropriated by the Mahants, managers and priests. Costly gifts to the temples were not deposited in the Gurdwara treasury but were taken to the homes of these people.

The Government was not paying any heed to the resolution and appeals of the Sikh reformers. Rather, it was interested in maintaining the status quo and was backing the mahants who were misusing the Gurdwaras in defiance of the wishes of the Sikhs.The Sikh reformers also tried to obtain the help of law courts to obtain the popular control of the Gurdwaras. This attempt failed because of inherent weaknesses in the legal process and unsympathetic attitude of the officials.

Section 92 of the Code of Civil procedure, 1908 was relevant provision to stop the misuse of the income etc. of the public trusts of religious nature.Under this provision the reformers could file suit against the Mahants only after obtaining the

permission of the Deputy Commissioner. The Deputy Commissioner, being the supporter of the vested interests, generally denied the necessary permission. In cases, where such permission was obtained, suits could not be instituted for want of exorbitant court fees prescribed by the law.[10] And in cases where the suits were formally instituted, the reformers could not have the necessary patience to wait indefinitely for the conclusion of civil suits. And even if the judicial process was to be quickened, it could not be of much help as most of mahants had managed to get themselves registered as owners of the Gurdwara properties with the connivance of the officials. Thus the Sikhs were convinced of the inadequacy and ineffectiveness of the legal remedies to reform.

The methods of reform through public pressure on Mahants also did not work. The Mahants readily agreed to mend their ways when confronted with strong public pressure, but would revert to their usual practices when the pressure subsided.[11] These factores, coupled with the political discontent and disillusion,[12] compelled the Sikhs to resort to direct action. Thus the struggle for reform of Sikh shrines started.

STRUGGLE FOR REFORMS

The demolition of the boundary wall of Gurdwara Rikab Ganj, New Delhi on January 14,1914 to provide a straight road to the Viceregal Lodge marked the beginning of the struggle. The Sikhs were perturbed and there was great agitation against the Government action. When the agitation restarted, after the suspension during the First World War, and a Shahidi Jatha (a band of Martyrs) started for Delhi to do the job itself, the Government relented and reconstructed the wall on December 1, 1920. Next notable achievement of the reformers was at Gurdwara Babe De Ber, Sialkot on October 5, 1920 where they succeeded in taking over the Gurdwara under popular control and getting it accepted by the Commissioner of Lahore inspite of mutation of whole Gurdwara property in favour of the Mahant.

After these initial successes the reformers turned their attention towards holiest of their shrines, Golden Temple and Akal Takhat, Amritsar. These also came under their control on October 12, 1920 when a number of Sikhs alongwith the so called untouchable went to the Golden Temple with karah parsad.[13] A cointroversy ensued on the refusal of priests to accept it. The controversy was resolved by consulting Guru Granth Sahib which clearly favoured the reformers.

While the priests of Golden temple compromised. Those of the Akal Takhat vacated their seats to be taken over by the reformers. The reformers appointed an adhoc committee of 17 members headed by S. Teja Singh Bhucher to look after the shrine. They also utilised the oppurtunity to call a meeting of the Sikhs on November 15, 1920 by issuing a Hukamnama from the Akal Takhat. However the Government did not approve of this change. The Deputy Commissioner, Amritsar constituted a provisional committee of nine Sikhs the very next day and within a month that provisional committee was replaced by body of 36 members. This was done to outmanoeuvre the move of the Sikhs.

MANAGEMENT THROUGH COMMITTEE

In pursuance of the Hukamnama, sarbat Khalsa (a general assembly representing all the Sikhs) met in front of Akal Takhat on 15th November 1920 to make arrangements for the management of Harimandir Sahib and other Gurdwaras. All the delegates were Amritdhari Sikhs and regular contributors of Daswandh.[14] This assembly resolved to constitute a committee of 175 members to control all the Gurdwaras inside as well as outside Punjab. All the members of the provisional committee formed by the Government were diplomatically included into it. This committee was named as

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[illegible] [illegible] [illegible] [

members were to be nominated by the elected members. The Sikh states were also given representation on this body from where one fourth members were to be nominated by the Sikh Maharajas. After adopting this constitution, the SGPC got itself registered as a corporate body on April 30, 1921 undre the Societies Registration Act 1860 Elections under this constitution were held in July 1921 next month the remaining one fifth members were nominated and then all of them were subjected to same type of scrutiny as that of previous committee. The term before the SGPC was to bring the Gurdwars under the Panthic control and management by removing the corrupt Mahants. Thus the SGPC emerged as a pioneer in the struggle of Gurdwara reform. It was purely a religious body aiming at the religious, cultural and moral upliftment of the Sikhs.

On 14th December 1920, a political organistion of the Sikhs, Shiromani Akali Dal was constituted which also made a considerable contribution in the struggle for reform of Sikh Shrines. It took upon itself to execute the decision of the S.G.P.C. by occupying the particular Gurudwaras through its jathas under the direction of the latter. Akali Jathas were sent to different historical Gurdwaras. A number of Mahants surrenderd

their Gurdwaras to the Akalis but that the Mahants of some important Gurdwaras like that of Nankana Sahib, Panja Sahib, Tarn Tarn etc. resisted since the Government was interested in maintaining the status quo, the Akalis came in direct confrontation with it.

Incidence of Tarn Taran

On a complaint before the general body of the Sikhs at Akal Takht about dishonouring two girls by the Mahants, a jatha of 40 Sikhs reached Tarn Taran on January 26,1921. Inspite of complete non-violence, two Akalis were murdered by the priests. By an official order the entry of priests into the Gurdwaras was banned and it came into the hands of reformers. It was the first test of non-violence of the Akalis and the first place in the struggle where they had to shed their blood. But this was just a prelude to the greater tragedy at Nankana.

Nankana Tragedy

Gurdwara Nankana Sahib, richest of all the Sikh shrines, was administrated by a Mahant who indulged in drinking and adultery and was guilty of inviting dancing girls inside the sacred precincts and spending lakhs of rupees out of Gurdwara funds in

offerings presents to the officials and construction of houses for his relatives.[16] Some incidents of raping the women, who had come to worship, by the pujaris also came to light. The Sikhs generally resented over these profane practices. The SGPC, by a resolution, called upon the whole Sikh Panth to assemble at Nankana Sahib on March 5 and 6, 1921 to think over the matter. On hearing that the Mahants had started making the murderous plans to teach the Sikhs a lesson, some of them decided to give him a surprise by reaching before the appointed day and taking the possession of Gurdwara when he will be out of station. Some how the Mahant got the news and made the necessary preparation. And when on 20th February, a jatha of about 150 Sikhs entered the Gurdwara, the gates were closed behind them and all of them were mercilessly butchered. This tragedy was termed as a "unprecedented event"[17] a "ghastly outrage"[18] and a "horrible crime" unparalleled in the history."[19] Mahatama Gandhi described it as"more barbarous, more caluculated and more fiendish than the Dyarism of Jalianwalas".[20] He eulogised the action of the Sikhs as an act of National bravery. The Mahant also tried to obliterate all the traces of the killed by burning their corpses. The official complexity seemed obvious in these killings where no arrangement was made inspite of known tension and the police and other

officials reached six hours after the occurance of the tragedy. The event enraged the Sikhs and a force of 22000 Akalis marched towards the gurdwara to take its possession forcibly. The Gurdwara was placed under military guard. The marchers continued to proceed inspite of warnings by the Deputy Commissioner. Ultimately the authorities yielded and handed over the gurdwara to the Sikhs.

Keys Affair

The Akalis had to start another agitation to get back the keys of the treasury(Toshakhana) of the Golden Temple which were taken from the Secretary of the SGPC by the Deputy Commissioner of Amritsar. Thousands of Sikh went to jail and many sikh leaders were arrested and prosecuted. Finally, the government yielded when on January 11, 1922 it declared in the Punjab Legislative Council:-

The government has accordingly decided to make a final withdrawal of its connection as Executive Government with the management of the Darbar Sahib and to leave any further proceedings, that may be thought necessary, To Sikh community itself. So far as the Government is concerned, it is prepared to leave the administration as it now stands, in the hands of the

Gurus Ka Bagh Morcha

took it as a challange and volunteers started reaching making large scale arrests on charge of riot, theft, trespass unlawful assembly etc. The SGPC intensified the agitation by sending Jathas varying in strength from fifty to two hundred. The Jathas were brutally and mercilessly beaten to unconsciousness. About two thousand Sikhs were treated in this manner.

Many national leaders came to see this ideally non-violent spiritual struggle. The Akalis received a hearty response and support from all sections of the Society. Police atrocities against the non-violent satyagrah stirred the conscience of the people and won for them sympathy and admiration at national and international level.[24] The Indian National Congress passed a resolution eulogising the "unexampled bravery of the Akalis who had set a great and noble example of non-violence for the benefit of the whole nation"[25] Pt Madan Mohan Malviya an eye witness to these cruelties, while addressing a gathering of 1300 persons at jallianwala bagh, Amritsar on September 19, 1922 bitterly criticised the in-human and uncivilised oppressive policy of the government. In his eloquent speech he referred to the non-violent sacrifices of Akalis in moving terms and took off his turban and bowed in homage to them.[26] Impressed by their non-violent sufferings., he said, "I cannot resist asking every Hindu home to

have atleast one male child initiated into the fold of Khalsa. What I see here before my eyes is nothing short of miracle in our whole history."[27] Another eye witness, a Christian missionary, Mr. C.F. Andrews described the official action as in human, brutal, cowardly and incredible to an Englishman and a moral defeat of England."[28] He told the Governor of Punjab that he had seen with his own eyes hundreds of Christs being crucified at Guru Ka bagh.[29] He remarked,"A new heroism, learnt through sufferings has arisen in the land. A new lesson in moral warfare has been taught to the world."[30]

After failing to brow beat the struggle, the Government wanted to extricate itself out of this situation. A retired Govt. Official came to its rescue who formally took this land in lease from the Mahant and then did not object to the Akali's cutting wood or using the land as Gurdwara property. About 5600 persons arrested in the compaign were released after sometime.

Jaito Affair

Soon after the conclusion of Guru Ka Bagh Morcha, Maharaja Ripudaman Singh of Nabha was deposed and exiled from his state due to his favourable disposition towards the nationlist forces and the Akalis. The Akalis violated the ordinance issued by the

new administration of Nabha by holding meetings and discussing "the abdication"> when some of them were arrested for making political speeches, the Akalis took it up as a challenge and extended the Diwan indefinitely. For doing this they started on Akhand Path (Continous reading of Guru Granth Sahib) which was disrupted by the Nabha Police on September 4, 1923 in their bid to arrest the Akalis including the one who was reciting the holy granth. To assert the sanctity of the Sikh ritual and right to free worship, small jathas (bands) of 25 Sikhs started to be sent to Jaito from Akal Takht, Amritsar after a pledge of complete non-violence. As soon as these Jathas entered into Nabha state territory, they were arrested, mercilessly beaten and left in far flung areas. About 500 Akalis were treated in this way within a period of Seven months.[31]

On October 12, 1923, the Punjab Government declared the Akali Dal and the SGPC unlawful association as they constituted a danger to public peace and arrested the members of their executive bodies and charged them for "waging a war against the king." This added fuel to the fire. It was decided to send big shahidi Jathas (martyr's band) of 500 Akalis. The first jatha was scheduled to reach Jaito on February 21,1924 third anniversary of Nankana tragedy. They were asked to stop by the administrator at

a distance of 150 meters from the Gurdwara. When the members of the Jatha continued to march forward, fire was opened upon them causing some 300 casualities including about 100 killed. Seeing their comrades fall wounded or dead, the members rushed forward to seek martyrdom and literally ran into the jaws of death.[32] The cruel act was vehemently criticised by the public and press. Mr. J.A. Jinnah,Pandit M.M. Malviya and 45 others moved motion in the Imperial Legislative Assembly to censure the Government.

A week later another Shahidi Jatha of 500 started from Amritsar. However, this was not fired upon contrary to general expectations. Seventeen such jathas were similarly arrested and jailed. Pandit Jawahar lal nehru was also arrested alongwith when he came to sympathise. The first draft of the statement prepared by him in the Nabha jail to be read before the court reveals the nationalist attitude towards the movement; its concluding lines were:-

I rejoice that I am being tried for a cause which the Sikhs have made their own. I was in jail when the Guru ka Bagh struggle was gallantly fought and won by the Sikhs. I marvelled at the courage and the sacrifices of the Akalis and wished that I could be given an oppurtunity of showing my deep admiration of them by

some form of service. That oppurtunity has now been given to me and I earnestly say that I shall prove worthy of their high tradition and fine courage Sat Sri Akal.[33]

Sikhs from all over the world came to participate in the struggle. After having failed to suppress the movement, the Government removed the restriction on the Akhand Path and also passed Sikh Gurdwara Act in July 1925. Thus the struggle for the reform of Sikh shrines came to an end.

In the whole movement for Gurdwara reform 400 lives were lost, about 2000 were wounded, 30,000 Sikhs went to jail and Rs. 15 lakhs was paid as fine.[34] The Akali Movement as it is popularly called, started from the demand of rooting out the corruption and non-Sikh practices from the Gurdwaras culminated to the demand for removal not only of the Mahants but also of the British Government which was considered reasonable for the evils in the Gurdwara management.Thus the cause of religious reform co-mingled with the national freedom, and what began as a confrontation over management of religious shrine on the amongst of Sikhs themselves, ended as a battle between the British and Sikhs.

The Akalis Movement brought about a change in the character of a Sikh Guurdwaras which became powerful centres of dissent

from loyalist institutions. It caused a final breach between the
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Sikhs and the Government shuttering the myth of 'Sikh Loyalty". The Sikhs came to be known as a force to reckon with throughout the world. It was proved that the Sikhs are not only good warriors but also the best peaceful and non-violent agitators. So the myth that the Sikhs are by nature violent also proved wrong. The Akalis successfully demonstrated the practicability of the non-violent satyagrah which they had inherited from their Gurus and was being preached by Mahatma Gandhi. Thus the effectiveness of the instrument of non-violence was tested and credibility came to be attached to it to be used later in the struggle for national freedom. In fact the British feared this movement much more than the non-violent civil disobedience campaign of Mahatma Gandhi. One confidential official memorandum expressed it as follows:-

The Akali movement is likely to be a cause of much greater concern than the civil disobedience campagin instituted by Mr. Gandhi.....(whose) propaganda makes its appeal mainly to the urban classes, which lack both the stamina and physical courage to oppose successfully even small bodies of police; the Akali campaign is essentially a rural movement and its followers are men of fine physique with a national history of

slought of partition. There was no other community which has experienced miserable life in those days. However the brave Sikhs soon came out from the dilemma & worst phase by their own hard work and brought a green revolution. In this phase the Government although has extended some help, but most of their job was up to the point of lip service. The beginning of the second phase gave a jolt to the sikh masses. With the China attack and in this series the wars of 1965 and 1971 took the life of maximum number of Sikh soldiers. The sacrifices in the war has brought the direct effect on the Sikh society leaving behind thousands of widows. Again the Government remained a silent spectator. Nevrtheless after 1971, the Sikhs were becoming financially well of therefore the social evil got a way to enter and prevail in the houses of Sikhs. The liquor became the fashion. In the same phase there was a tremendous migration of Sikh masses abroad and foreign currency sent back by the migrant to their families created a separate class among the Sikh masses. Although these factors seem to be merely social but their impact was bound to happen in the life of a Sikh, ultimately effecting the administration of Gurdwaras, since Gurdwaras keep a direct and foremost place in the life of a Sikh. Besides other factors the unemployement among the youth, decreasing the quota for the

selection of Sikh personels in the armed forces, non attention of the Government during the phase of industrial revolution towards the community had been the other causes effecting the administration of Sikh Gurdwaras implicitly.The situation now,has become very much complicated because of political ignorance of the Govt. for the reasons of the factors mentioned above. Although number of solutions were forwarded by the political groups to improve the situation but nothing has been done by the Government. Instead the Government has been sprinkling fuel to the fire and played mercilessly with the sikh masses by rejecting the genuine demands of the Sikhs. If the administration of Gurdwaras and judicial system is to be improved one has to keep the above factors in mind and considering these factors the solution is to be brought forth. The Government should immediately take a step by accepting the justified demands and provide constitutional protection and machinery for the good government of Sikh Gurdwaras.

"THE IMPACT OF SOCIAL CHANGE AFTER INDEPENDENCE"

In the contemporary phase of its history, Sikhism has had to confront numerous new movements of ideas such as of humanism, rationalism, socialism apart from the onslaughts of various denominational religions which it withstood earlier. The challenge of the denominational religion could and was met by a fall back upon fundamentalism and greater stress upon raising guards against violation of the outer group boundaries of Sikhism. But the new movements of ideas outside the realm of religion have been increasingly involving sikhism, both as a faith and as a cultural tradition, in the challenges posed by ideas of humanism, democracy and socialism which seek to deny to religion any basic role in the social world. Attempts have been made to establish affinity between these ideas and sikhism but one could not miss in these attempts an inner anxiety arising from a conviction of the superiority of these modern ideas and a desire to conform to them. However, the question to be really faced is whether all these ideas can be accommodated and co-related to the Sikh faith without disturbing its inherent religious character. Sikhism being a product of a movement of reniaissance in medieval India and with its long tradition of

active involvement in the historical responsibility for the world in which a Sikh as an individual lives or is made to live has obviously a capacity to absorb the shock of most of the modern secular ideas.

In this respect a subject of special significance relates to the concepts of human personality and human society evolved by Sikhism. Sikhism by and large believes in the human individual being the abode of the divine spark and is therefore, not overtly concerned with divinity in abstraction from human reality and significance. And before the human individual the Sikhism holds out the ideal of a thoroughly cultured, wide-awake, and committed personality which actively seeks and realises fullest expression of all the latent faculties of man.[39]

The concept of human personality can very easily be accommodated to the ideals of a modern secular man. Similarly the concept of society in both of its aspects i.e. of congregationalism in the form of Sangat and of non-interference and even acceptance of the right of other similarly-organised groups to exist and flourish also make social accommodation of

Sikhism to modern social groupings possible.

Sikhism evolved both these concepts of human personality and human society and social commitment in the confrontation, in its very infancy, with the religious formalism of Brahmanism on the one hand and the political-cum-religious persecution by Islam on the other. In the process Sikhism did evolve its typical forms and rituals as well as distinct political ambitions and from these ensues an interest in its ability or otherwise to perceive and resolve the conflict between the religious and secular and secularism which is becoming ever sharper with the onward progress of the processes of secularism. It will, however, depend ultimately on the capacity of contemporary Sikhism to redefine its understanding of its own identity in the contemporary context and its role in a fast-changing world.[40]

However, it is significant to analyse the behaviour of the leaders towards Sikhs during freedom struggle and change in their attitude when they formed the Govt., after independence and the recently reached stage where the Sikhs demand a recognition as a Nation in the union of India.

In pre-Independent India, the British Government authorities, in view of the historical and political position of the Sikhs in India, accepted the fact that the Sikhs were the third political party in India and were the legitimate heirs of the political sovereignty to be transferred to the people of India. While the Muslims demanded and got an independent sovereign state, the Sikhs accepted the assurances solemnly given by the Indian National Congress that "no Constitution of free India shall be framed in such a way as does not afford to the Sikhs full opportunities for development and growth in accordance with their own genius and spiritual necessity." On this understanding, the Sikhs relinquished their bargaining power as the third party in the political life of India. But they were betrayed. In 1950, when the Constitution of India was actually framed, the assurances to the Sikhs were summarily rejected. The Sikhs, therefore, have the feeling that they were summarily rejected. The Sikhs, therefore, have the feeling that they were relegated to the status of serfdom, or a second class citizens.

In October 1947, when Sikhs, wounded and mangled, were

treking out of west Pakistan into India, the newly appointed government of Punjab thought it fit to issue a secret policy directive to its officials to deal with the Sikhs as a people who were habitual criminals outside the pale of political protection, and to bring it home to them where they stood in the free India of the post August 1947 era. This was leaked out and known to Sikh leaders and through them to the masses. The impression that had been caused by this foolish thinking cannot be erased unless somehealing balm is applied.

At the time of the partition of the country, because of Mountbattens, and other relevant factors, the Government of India had, leanings towards the West, but some prominent Sikhs and through them many of the Punjab peasantry, who form the real backbone of the country, had attuned their political thinking primarily towards Russia. Sikhs, therefore, had friendly relations with Russians, which was not liked by the British. And through the British, the suspicion was passed on to Indian leaders. Despite all the sacrifices which the Sikhs made and the blood they spilled for the freedom of the country, they have not

been able to wash off the suspicion. The irony of circumstances is that the thinking of the government of India has now turned towards U.S.S.R.

The exodus from West Punjab of a major section of Sikhs, about whom the circular was issued, demobilisation of several categories of personnel from the armed forces, and the conscious reductionsin the intake of Sikhs in the defence forces, added to their suspicion that they were not treated as honoured citizens of India.

The tale of discrimination and injustice against Sikhs is now well recognised at all levels, and even pro-government elements openly admit the malady. In his keynote address the Chairman of the Convention of 5th July, 1981, enumerated the Sikh grievances as under:-

"No one is more aware of the Sikh grievances than us intellectuals, who have gathered heretoday. A state based on the Punjabi language has been carved, but many Punjabi speaking areas were left out for wrong, and I should say blatant communal

reasons, due to the erroneous premises on which the Shah Commission built its report. I myself protested against it in the Rajya Sabha, when the Punjab Reorganisation Bill was on the anvil. I do so now again with your permission with all the emphasis at my command.. To link the question of Chandigarh with the transfer to a neighbouring state of our cotton producing belt of Abohar and Fazilka has not been accepted by any party, more particularly by the ruling Congress Party of the Punjab. We need more irrigation facilities and power, not less and less. We need more sugar and cotton and cement mills and want at least 60% of our savings through banks to be investedin the Punjab not 32% as at present. We want more of medium and heavy industries. At present we have 2 to 3% share out of huge investment employed in the country in this vital sector. We want better prices for our produce, which has made Punjab the bread basket of the whole of India and wiped out chronic dependence on food imports from abroad, and humiliation and the loss of national self-confidence associated with it..... We do not seek to be displaced from the Lands which we have made to blossom with

flower and fruit from sheer waste land as the Tarai region of U.P. or in Haryana or in Sri Ganga Nagar in Rajasthan.....Punjabi must be recognised as a second official language in Delhi, Haryana and Himachal Pradesh, and lastly we do not want interference of the Government in the affairs of the Gurdwaras."

If these are the grievances of Sikhs in the eyes of a person who is known for his leanings for the government, why should a hue and cry be raised, if Akalis, who represent a majority of Sikhs, raise these along with some other genuine grievances why should some interested persons be allowed to smear the Akalis black in the eyes of the public to browbeat them? It is one thing to dominate a people and another to conquer their hearts. A true and lasting solution shall have to be found out. It must be rooted in justice and fairplay and in fear of God, by whatever name it may be called in the current fashionable circles, and not by denigrading the Sikhs, as stooges of Pakistan or United States of America.

There is another very important factor, which should not be lost sight of in this connection. Those who accuse the Sikhs of pro-Pakistan leanings, are either ingorant of Sikh history or are deliberately making such false insinuations to suit their purpose of creating an anti-sikh atmosphere,so as to deprive them of achieving their legitimate aspirations. The amount of killings, and tyranny which the Sikhs have suffered at the hands of the Mughals and Afghans, or the holocaust just before partition should not be forgotten only because a disgruntled politician here or a mad man there has raised his voice in favour of Pakistan. It will be a naive man who will think that Sikhs will ring their own death-knell by joining hands with such forces. There is no doubt that the Sikhs have a soft corner for Americans, but this does not stem out of any political considerations but is an expression of admiration for the goodness and generosity of disposition that Americans had extended to Sikhs in their country for about half a century before partition. However, the Sikhs are too small in numbers to affect relations between India and U.S.A.

Thus sikhs are neither for Pakistan nor are they in a position to influence the foreign policy of U.S.A. vis-a-vis India. They are solidly behind the collective wisdom of the country, the Parliament, which is the real determinant of India's international policies. The majority community always tries to blackmail the Sikhs, but this policy, "to give the dog a bad name and hang it" does not always pay, because the dog may bounce back some time and bite, leading to deep and painful "injections".

Another relevant factor is the behavioural attitude of the Sikhs in elections towards the dominant political party, i.e. Congress. From the pattern of voting in elections after partition, it would be manifestly clear that the majority of the Sikh electorate had always been in the opposition and the Hindu majority and a Sikh minoriy sub-servient to them, continually contrived legistative majority in Punjab. If the Hindu majority were to search its heart honestly it would find that this is due to its antipathy to the sentiments of the Sikhs. The Sikhs in the Congress are not considered the representatives of the majority of Sikhs and are freely termed as decoys to demonstrate

to the world that they are in prominent positions in the Government.

India has a written Constitution and a dual polity of its own type. There are two seats of authorities-the centre and the states. Every effort was made in framing the Constitution to provide maxium scope to the units to develop, function freely and enjoy local authority. The centre and the states exercise power within the four corners of the constitution. In every state there are, firstly subjects of the national importance and secondly, subjects of regional and local importance. Their allocation is made by the Constitution. Proper balance is maintained between the centre and the states, while dividing the subjects between them. There are three types off powers, firstly powers exclusively assigned to the centre; secondly powers exclusively to the states, and thirdly powers belonging both to the centre and the states i.e. concurrent powers, which are distributed in writing by the Constitution between these two authorities in three ways:- (i) the subjects to be dealt with by the centre as well as states, i.e. concurrent list.

(ii) the subjects to be dealt with by the centre are given in the central list; and

(iii) the subjects to be dealt with by the states are enumerated in the state list.

The Constitution, therefore, has supremacy, which is rightly observed by different constituents. Given that premises, if Sikhs are accepted as the nation which they are, in fact, how will such an act affect the provisions of the Constitution? Basically it will give mental satisfaction to the Sikhs that they are honoured and trusted citizens of the Union of India. And it will not violate the constitution one bit.

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In 1973 the Shirmoni Akali Dal, in its annual conference at Anand Pur Sahib, passed a resolution for granting more autonomy to Punjab State, as it was the only way the Sikhs could progress economically, politically and religiously. The resolution defined the distribution of powers between constituents of the Fedration i.e. centre and the states. This is now the main bone of contention between the Akalis and the

Government on the basis of which the Akalis are dubbed as secessionists. This resolution has got its own background, and if one has a look at it in this context, one will find that the Akalis are justified in making the demand.

The Sikhs have brought about green revolution in Indian Punjab, which is now the granary of the country. They have now converted a state deficit in foodgrains into a surplus one by dint of their labour and hard work. That has been achieved not through concession of the centre or any other organisation, but entirely due to their inherent instinct for land labour. A Sikh is the best farmer in the world and wherever he went whether to Canada or Australia or United States of America, he had shown his mettle and had brought about the green revolution. This has resulted in the swelling of government coffers, but the Sikhs have gained precious little from that. The youth of the Punjab is running away from it to the western or Arab countries in search of employment, because there are no employment opportunities in their own motherland. They have been deprived of this opportunity because of the individual discrimation

against the Punjab. There is no heavy or major industry, nor even a cement factory worth the name. Of the investment in the public sector, which is to the tune of about Rupees forty thousand crores for the country, since the commencement of planned economy in 1951 the share of the Punjab comes to around 1 or 2%. In the absence of a majorindustry, there is no oportunity for the growth of ancillary units for gainful employment of the people of the state. Some argue that Punjab is a border state and capital investment in the state is likely to be lost, if and when there is a war. The Punjabis take it as a lame argument because owing to the developments in the war industry there is no part of the country which can be said to be truly immune during a conflict.

The protagonists of the resolution say that Punjab is being bled white by grain produced by it being taken away without compensation in the form of licences for big industries. A major share of the State's cotton production and molasses are exported to other states, where cloth is manufactured and then imported by the Punjab at higher prices. The central politicians offer 'Tifal-Tasalian' (props to the children), but the Punjabi is now

too shrewd to be satisfied in this way. The politician instead of removing this irritant, dub the demand as anti-national.

The government knows that given equal opportunities for the growth of grain produce Punjab surpasses other States in results, by dint of hard labour of its agriculturists and their deep knowledge of growing crops scientifically. Yet the Government refuses opportunities to the Punjab in the supply of water and power facilities. Otherwise, where was the sense in delaying the execution of the Theim Dam Project and in supplying proportionately more energy to Haryana, Himachal Pradesh and Rajasthan? The Akalis allege that by this process, the Punjab is being converted into a colony for the supply of raw material to other States.

The claim of the Akalis for greater autonomy for the Punjab, has independent support from different persons and authorities. Almost a decade back the Raja Mannar Committee made a study of centre state relationship and said in its report;-

"Though the Constitution set up a federal system, it must be admitted that there are several provisions which are

inconsistent with the principles of federalism. There are unitary trends, and in the location of powers, there is a strong bias and tilting of scales in favour of the centre.

There is a theme of subordination of the states running right through the Constitution."

This is not consonance with the spirit of the Constitution. The President, Mr. N. Sanjiva Reddy, has also objected to it and raised his strong vioce that the unitary trends have been strengthened by the centre in actual practice. In this lecture which he delivered on 31st October 1981 ib Integration of India' on Sardar Vallabhbhai Patel's 106th birth anniversary, he referred to the vastness nad diversity of the country and said that they "Make it almost impossible for central authority in distant Delhi to deal with the multifarious problems in different parts of the country, promptly and efficiently.....

Firstly the centre has no different or more efficient machinery than what was available to the states: secondly the political and administrative authorities at the state level were

better informed and would react and respond more readily to a situation than a remotely situated central authority.

It must be quite frankly recognised on past experience that a central authority cannot claim greater experience, wisdom or objectivity or greater unanimity from extraneous influence. Inept administration at the state level cannot be remedied by arrogation to itself of more power by the centre.[42]

The Sikhs, though small in numbers, are a forceful, living and aggressive minority. Their individuality can be spotted at sight and not long ago in historical terms they had an independent kingdom of their own. They are devoted to their heritage and draw their sense of Nationhood, their pride, in themselves. If they are not accepted as a nation in The Union of India their ego and pride will always he irksome for both the Government and the Sikhs. To keep such a minority unhappy and disgruntled cannot be in the interests of a wise government. If such a position continues, causes of discontentment are likely to crop up at random and will keep the government busy in subduing it at heavy cost.

The Sikh Nation will be an inseparable and integral part of the country. At the most the Sikhs will claim the following rights:

1. The right to their own language;

2. The right to their own customs, traditions and culture;

3. The right to their own institutions;

4. The right to adequate political representation;

5. The right to free practice of their religion.

The Constitution of India over and above other rights common with other citizens has already granted them these rights in the following terms:

i. Freedom of conscience and free profession, practice and propagation of religion ;

ii. Freedom to manage religious affairs and to own, acquire and administer properties for religious and charitable purposes;

iii. Freedom as to attendance of religious institutions or religious workshop in certain educational institutions;

iv. Specific provisions just like other minorities.

In the face of these constitutional provisions, why should the government keep an irritant alive by refusing the Sikhs their claim to be treated as a nation? In its wisdom the government would recognise it before it is too late.

The opposition to the demand is basically based on Sikh phobia. The governbment as well as the majority community entertain strong suspicion that the Sikhs will not be finally satisfied with declaring themselves as a Nation, but that later they will ask for Khalistan with the ultimate object of seceding from the Indian Union altogether. It has been publicly alleged both in Hindu gatherings and in government inspired meetings that the demand for Khalistan has been instigated by certain foreign

powers and the atmosphere is surcharged with the feeling that these powers are our neighbour, Pakistan and the United States of America. The Shirmoni Akali Dal, which is the religious and political body of the Sikhs and which represents a majority of them, has uneqivocally and publicly denied these allegations.[43] Some eminent public men have also openly repudiated these insinuations as false and baseless and have called upon those who thus slander the Sikhs, to agree to have the truth sifted by an impartial forum of public inquiry. The President of Shiromani Gurdwara Prabandhak Committee, Sh. Gurcharan Singh Tohra, though protagonist of Sikhs as a Nation (see Appendix - 3) has never asked for a separate homeland for Sikhs, nor has he supported Khalistan.

Other responsible Sikh leaders have made public statements to the effect that the demand of Khalistan has practically no support amongst Sikhs in general in India, and those settled in foreign countries and that the movement is the work of a few misguided persons. There is not a single individual with a public image or any organisation with a public

following, which has supported this movement.

The Sikhs are sensitive lot, and cannot bear interference in their legitimate rights. However, there is a feeling that within their own Nation certain interested politicians are trying to make capital out of the situation. Some of them hold meetings and conventions simply to carry favour with the government. Other play a double game by bowing in public to governmental authority and spitting fire when speaking to Sikh congregations. In effect, they act as agents provocateurs for creating riots or disturbance.

to equip the priests with the task they must be trained in the training centre particularly established for this purpose. And to make this system success, it would be imperative to keep the establishment of the Gurdwaras in limit. The priest would be well paid public servant. A system may be evolved for his suspension and removal. However, initially, his tenure must be for the life. The sikh children and society must be tought compulsorily the teachings of the Gurus and highesteem should be created in the minds of the society about the Gurdwaras and this is only possible if the Gurdwarasare seen honestly and play a positive & constructive role in the social life of the people.

SUFFERINGS OF SIKHS IN INDEPENDENT INDIA

It is significant to mention here the contention of S. Kapur Singh I.C.S.[44] taken during his speech delivered in Parliament in 1966, which throws light towards the plight and predicament of Sikh sufferings. He said :

"I will, for want of time, skip over the story of the Sikhs

sufferings during the last 18 years in an Independent India under the political control of political and anglicised Hindus and will merely refer to the reply which Pandit Jawahar Lal gave to Master Tara Singh in 1954, when the latter reminded him of the solemn undertking previously given to the Sikhs on behalf of the majority community, Pandit Jawahar Lal Nehru cooly replied, "the circumstances have now changed".

If there is one thing that the Sikhs know too well, it is that now the cicumstances have changed.

Anti Sikh Bill

Let us now briefly examine the immediate ancestory of the present Bill. It was on 21st March, 1966 that the Minister of Home Affairs set up a commission presided over by a Supreme Court judge, requiring the commission, firstly, to examine existing boundaries of Hindi and punjabi regions of Punjab to set up Punjab and Haryana states; secondly by applying linguistic principles as they have resulted in the 1961 census figures; and thirdly, to determine boundaries that do not involve breaking up

of tehsils. All these three guidelines given to the commission by the government of India are, when they are properly examined by people who understand the realities of politics, heavily loaded against the Punjab State, and have the effect of reducing Sikhs to even more political ineffectiveness than at present. Nor has the Shah Commission failed to take full advantage of the instrument of discrimination thus placed in their hands by the Government of India. They have, firstly, arbitrarily truncated and reduced, as much as they could, the existing Punjabi region, and secondly, applied all principles of demarcation with a left-handed justice made use of principles where it could harm the Punjab and not used it where it could harm the resultant territoriaI interests of Haryana or Himachal Pradesh. For instance, Dalhousie has been taken out of punjab and given to Himachel because it is hilly, while Morni which is of a higher altitude than Dalhousie has been taken away to be bestowed on Haryana, because its residents are Hindus, which is the same thing as saying that they are Hindi-speaking.

Thus, this story goes on and every conceivable stratagem

has been adopted, through truncating its areas, through divesting it of its utility undertakings in public sector, and through neutralising its limbs of governmental apparatus and by robbing it of its Capital city, and by forging, the so-called, common links to reduce the Punjab State into a glorified Zila Parishad, and to achieve these sordid and unedifying objectives, the judiciary has been made use of.

Misuse of Judiciary

Madam Chairman, permit me to say that if there is one political crime greater than any other, the ruling party has committed during the post-Independence era, it is frequent employment of judiciary for quasi-political purposes, and the result is that the Working Committee of the Shirmoni Akali Dal has passed a resolution on the 20th July 1966 which reads:

After Having Carefully Viewed the findings, the reports and judgments of judicial and quasi-judicial Tribunals and Forums that have dealt with matters and cases involving important Sikh interests.

COMES TO THE CONCLUSTON, that the entire judicial machinery and the judicial process of the Independent India under influences of a certain section of political Hindus, is prejudiced and has been perverted against the Sikh people in India in relation to their just and legal rights."

Madam Chairman, here if might be honestly asked, and I am sure there must be many honest Members in this house, who might ask the question as to what is this tiresome talk, this man is talking about-the Sikhs interests in a Secular, democratic India-where is the question of the Sikhs being discriminated Against? There are no Sikhs or Hindus in a democratic secular set up, and the Constitution has already established it in this country. To this, I can give a very simple reply. Constitutional provisions are not the Same thing as day-today political realities. As for the democracy, its form is one thing and its substance is quite another thing. Those who equate them are treacherous without art and hypocrites without deceiving. The Munduk opanisad, our ancient scripture, tells us that samsara is the manifestation of four modifications of self, the Atma, and is called as chaturpad.

Likewise, a modern state, that is the Government, has four estates; the parliament, the Executive, the Judiciary and the press. The concrete realities of these four alone can furnish an acid test as to whether the Sikh problem in india is a real problem or not.

To our executive and the judiciary, reference has already been made by me. I now purpose to make a reference to parliament, this august House, which is deserving of our highest respect, and its diginity is the diginity of the people of India and hence inviolable. Nevertheless, the Sikhs are aware that, under the existing Constitutional arrangements, they cannot send more than a couple of their own representatives to the Parliament and even they may not always be heard freely. How many times has it happened in this house, in the recent past, that particular Members of the minority communities have been made aware, in no uncertain manner, that they must not-must-never say this thing or that,or else a hearing might be denied to them.How many times the disciplinary wrath of the house has fallen on individuals, without hearing them and without letting them subsequently submit

that their punishment was not in order?

And, lastly, the press. We have a free press here and lively and impartial Press- on the whole. But, what is it like when it comes to dealing with Sikhs, that is, politically vocal Sikhs or questions largely concerning the Sikhs? In the days of his Clash with Beaver-brook, Baldwin said the press:

"Power without responsibility, the privileges of harlots throughout the ages".

And I say no more. I have said enough to explain the background of the Resolution No 2 of the Working Committee of the Shiromani Akali Dal, passed on the 20th July, 1966, wherein occur the following passages in relation to the scope of this Bill:

"SIKHS RESOLVE AND PROCLAIM their determination to resist through all legitimte means, all such attempts to devalue and liquidate the Sikh people in a free India, and consequently,

DEMAND that the following steps should be taken, forthwith, by the rulers, of India to assure and enable the Sikhs to live as respectale and equal citizens of the Union of Indian

namely, First, the Sikh areas deliberately and intentionally cut off and not included in the new Punjab to be set up, namely, the area of Gurdaspur District including Dalhousie, Ambala District including Chandigarh, Pinjore, Kalka and Ambala Sadar, the entire Una tehsil of Hoshiarpur District, the areas of Nalagarh, called Desh, the Tehsil of Sirsa, the Sub Tehsils of Tohana and Guhla and Rattisa Block of District Hissar, Shahbad block of District Karnal and the contiguous portions of the Ganganagar District of Rajasthan must now be immediately included in the new proposed Punjab so as to bring all continguous Sikh areas into an administrative unit, to be the Sikh Homeland, within the Union of India.

Second, such a new punjab should be granted an autonomous constitutional status on the analogy of the status of Jammu and Kashmir as was envisaged in the Constitution Act of India in the year 1950."

Political goal of Sikhs : I am coming to close, on behalf of the Sikh people represented by the Shiromani Akali Dal, I reject the entire scheme of this Bill, and oppose it. I call

upon the Government to take necessry legislative measures to solve the problem of the Punjab in the light of the Resolution of the Shiromani Akali Dal, just refered to."

The above speech is an eye opener and expose the Govt. conspiracy to crush Sikhs, it is really funny that if the Sikhs are as good citizens as others, why their justified demands have not been met out since long. Why are they being exploited at all borders since independence.

The change in the Central Govt. has brought a way of new hope to solve the problems of Sikhs. The Govt. must not miss this opportunity and should come forward with open mind and must fulfil the long pending demands. The Golden Temple and Akal Takhat should be constitutionally recognised as a highest seat of the Sikhs on the line of vatican city which keeps the high place among Christians and Macca among muslims respectively. Since it would require a indepth study to draw the structure of the kind of the system. I leave it to the future researcher to workon it.

(B) GURDWARAS LEGISLATION

(I) SIKH GURDWARAS ACT : Evolution, its relevance, effects and its future.

During the British regime, the administration of Sikh Temple, that is Gurdwara was regulated by certain provincial enactments. In fact the policy of non-interference in the management of religious institutions which the British Government followed in the initial stages, was not extended to Sikh Gurdwaras. The Government regarded and used the Sikh shrines as a powerful

channel for an indirect control of the Sikhs. The Sikh Gurdwaras and Shrines Act. 1922 passed by the Punjab Legislative Council was the first piece of legislation at the provincial level for the management of religious institutions.

It will be worthmentioning here the history of evaluation of management of Sikh Gurdwaras which has recently lead to a demand of Sikhs to enact an all India Gurdwara Act as there are plethora of legislation to administer several Gurdwaras in different states by corresponding acts of the States or related Gurdwara.

Sikhism evolved during Mughal period and the Management of Sikh Gurdwara during Mughal period has already been studied under the preceding chapter.

However the management of Sikh gurdwara during British regime is of fascinating interest.

GENESIS OF GURDWARA LEGISLATION

The occurence of the Nanakana tragedy on February 20,1921 had proved the complicency of the Government with the Mahants who were managing the Gurdwaras with the support and guidance of the local officials. Initially, the Government was interested in maintaining the status quo, so it was not responsive to the Akali demand of reform in the managementof the Gurdwaras. It is only after the tragedy that the Government understood the magnitude of the problem. On the other hand, the reformers had become more vocal and serious about the reform in the management of their shrines. They asked the government to play a constructive role by removing or allowing them to remove the unwarranted control of the Mahants and of the Government itself from the Gurdwaras. But

keeping in view the relations of Sikh leadership with Congress and Khilafat leaders, the Government responded with hostility and adopted a strict policy towards the reform party. But later, the Government felt that the urgency of the Gurdwara legislation which will curb the Akali movement and take away the initative from the Sikhs and will give representation to non-Sikh interests in the control and management of Gurdwaras.[46]

Proposal promulgating Ordinance

The government proposed the adoption of legislation in form of appointment of Commissioners on the lines of charity commissioners in England. On March 14,1921, Mian fazal-i-Hussain, Education Minister, Punjab moved a resolution in the Punjab Legislation council,It suggests that the Governor General should promulgate an ordinance on the subject pending the presentation and passing of the Bill in the Council overhauling the law relating to charitable and religious endowments in the province.[47] While moving the resolution, Mian Fazal-i-Hussain referred to the inadequacy of the existing legal provisions to meet the new situation. He said Regulation 19 of 1810 and Regulation 7 of 1817

did not apply to the Punjab Act XX of 1863 should also be left out of account.[48] Act VI of 1890 does not apply to religious institutions and Act XIV of 1920 was only an enabling Act.[49] The provisions of the Code of Civil procedure could only be utilised[50] but the procedure laid in that is dilatory and expensive and it did not offer an effective remedy against unworthy and incompetent trustees.

Under the Ordinance, it was proposed to set up a Gurdwara Commission consisting of three members, two of whom were to be non-official Sikhs. The commission was to take charge of all disputed Gurdwaras temporarily and to make provision for the men who lived therein. A sharp controversy arose in the Council on the composition of the Commission. The Hindu members demanded representation for the Hindus, Mohammadans and different sects of the Sikhs.The Sikh members were critical of the resolution for its scope was too wide to include all charitable and religious endowments without making any distinction between ordinary charitable trusts and the Sikh Gurdwaras.They wanted the latter to be managed in accordance with the principles of Sikhism. They complained that it did not take sufficient notice of the pecuilar

problems of the Gurdwaras. Then the talks of the sects in Sikhism and suggestions for their representation on the commission was an anathama to the Sikhs. Consequently the Sikh members of the Council decided to stand aloof when the resolution was passed.

In these circumstances, the Government realized the futility of forcing its decision by issuing the ordinance & therefore, did not proceed with it. It decided to introduce a detailed Bill for the administration of Sikh Gurdwaras. To get time for the preparation of a suitable Bill, The Legislative Council was adjourned till April 5,1921. Before the Council met again, the Sikhs were also called to put forth their views as to the form of Legislation.For this purpose, a big representative convention was held at Akal Takht, Amritsar on March 20,1921 under the auspices of the SGPC. The convention constituted a standing Committee of twelve Sikhs to discuss; if so asked, the matter of Gurdwara legislation with the Government and negotiate. It also adopted seven resolutions the important one of which was :

> "If the innocent Sikhs are not released and satisfactory Legislation of the Gurdwaras is not passed upto April 19,1921, the Sikhs will consider it an interference with their religious rights

and will be compelled to resort to all necessary means of reforming the Gurdwaras themselves."[51]

But the Government response was in the negative. Several Sikhs were arrested. So many others of them were prosecuted for wearing Kirpans and harassed for possessing axes and sticks. And in utter disregard of the Sikh sentiments, a Gurdwara Bill was presented before the Punjab Legislative Council.

The Sikh Gurdwaras and Shrines Bill 1921

Main Fazal-i-Hussain introduced a "temporary and emergent Sikh Gurdwaras and Shrine Bill in the Legislative Council on April 5,1921. The object of the Bill was to obtain information relating to the foundation, past management, rights of succession, ~~t~~ities in property and other necessary matters relating to such institutions so as to enable the Government, the legislative and the public to know on what matters legislation is necessary, to ensure that in the future these Gurdwaras and shrines shall perform their proper functions, viz. the maintenance and furtherance of Sikh religion. Another object was

to prevent tension by empowering the Gurdwara authority created under the Bill to take possession of such Gurdwaras and shrines which were notified as disputed and to manage them,and further to entertain compromises and settlements between the disputants.[52]

The Bill of 1921 was a "tiny and telegraphic measure"[53] containing only twenty sections. It provided for the appointment of Board of commissioners for the administration and management of certain Sikh gurdwaras. This Board was to consist of four commissioners who were to be nominated by the Government. One of them was to be a non Sikh (Englishman) who was to be the President of the Board. Two Sikh Commissioners were to be selected by the Government from a panel of eight to be proposed by a majority of the Sikh members of the Legislative council. And the fourth Commissioner was also to be a sikh appointed by the Government perhaps to represent the Mahants. The non Sikh Commissioner was given a second or casting vote in case of equality of votes. The tenure of Commissioners except that of the President were to be paid out of the funds of the Gurdwara under the Management of the Board.

mere party against the servants of the Gurdwaras i.e., Mahants.[56] The S.G.P.C. which met on April 11 declared the Bill as most unsatisfactory and rejected it in toto.It criticised the Bill for not recognising the fact that Sikh Gurdwaras belong to the Sikhs who had the inherent right to control and manage them and for not including any representative of the S.G.P.C. on the Board. The S.G.P.C.also decided to adopt non-cooperation[57] and offer stiff resistance to the passage of the legislation.

To cool down the tempers, the consideration of the Bill was postponed for a few months and it was presented for decision in the Council in September, 1921. The Sikh members of the council did not support it. On the other hand the Hindu members also opposed it because it was lending state aid to Sikh religious reform[58] and perhaps also because it may prejudicially affect the interests of the Mahants who were mostly Hindus. In the face of such opposition, this much advertised and widely discussed Bill was finally dropped on November 10,1921.[59]

After the lapse of this first ever Gurdwara bill, the government took some measures of interim relief to soothe the feelings of the reformers. The Deputy Commissioners were instructed to grant permission under the provisions of the Civil Procedure Code to all those who want to institute proceedings to secure better management in the Sikh shrines.[60]

Further, the Lahore High Court instructed all the judicial officers in the province to expedite pending cases of dispute over Gurdwara management.[61] However, these measures failed to satisfy the reformers and thus to provide a solution to the problem of Gurdwara reform.

The government realised that promises of sympathetic considerations and the policy of winning over the moderates by small concessions had failed to check the popular movement and there was fear that the Sikh units in the army may also be affected. The Viceroy of India advised the authorities in the Punjab to take a bold step to settle permanently this religious question by means of a Gurdwara Act.[62]

Thus the Sikh Gurdwara and Shrines Act, 1922 was passed by the Punjab legislative Council and it was a first piece of legislation at the provincial level for the management of religious institutions.

However this Act could not be implemented and was replaced by the (Punjab) Sikh Gurdwaras Act 1925 which continues to be a force. The Government is exercising sufficient direct and indirect control under the provisions of this Act even though Government authorities are specifically restrained from interfering in the Gurdwara management by the provisions of the Act. This Act applies to the territories of present states of Punjab, Haryana and to some parts of Himachal Pradesh alongwith the Union Territory of Chandigarh. This Act was supplemented by the Sikh Gurdwaras (Supplementary) Act, 1925 which was passed by the Imperial Legislature.

The Nanded Sikh Gurdwara Sachkhand Sri Hazur Apchal Nagar Sahib act was passed in 1956 to provide for the better management of a cluster of Sikh Gurdwaras in and around Nanded.[63] This Act

admits the Governmental interference to a large extent as compared with the Punjab Act.

The Delhi Sikh Gurdwara (Management) Act, 1971 (24 of 1971) was passed by the Parliament but it was immediately repealed and replaced by Delhi Sikh Gurdwaras Act, 1971 (82 of 1971) The object of the Act is mentioned as the proper management of the Sikh Gurdwaras and Gurdwara property in Delhi. The latest addition in the Gurdwara Legislation is the Jammu and Kashmir Sikh Gurdwaras and religious Endowment Act, 1973.

The Bombay Public Trusts Act, 1950 may also be applicable to
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the Sikh Gurdwaras other than the Nanded Gurdwaras in the States of Maharashtra and Gujrat. Similarly, the M.P. Public Trusts Act,
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1951. The Rajasthan Public Trusts Act, 1959 and Mysore Religious and Charitable Institutions Act, 1927 may be applicable to Sikh Gurdwaras within the areas of their operation. Bihar Hindu religion Trusts Act, 1950 specifically excludes a Sikh from the definition of Hindu in clause (e) of Section 2. Thus the Sikh Gurdwaras in Bihar State do not fall within the purview of this Act. The Gurdwaras in the State of Bihar continue to be governed

by the Religious Endowment Act, 1863 whereunder a constitution and bye laws are framed with the approval of the District Judge of Patna for the management of Takht Patna Sahib.

The Orissa Hindu Religious Endowment Act, 1959is applicable to the Sikh Gurdwaras in the State of Orissa in view of Explanation I to section I which reads, The expression 'Hindu Religion' shall include Jain, Budhist and Sikh religions and the expression Hindu and Hindu Public religious institutions shall be construed accordingly. Similarly, Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 and Utter Pradesh Hindu Publis Religious Institutions (Prevention of Dissipation of properties), Act 1962 are also applicable to the Sikh Gurdwaras because the word 'Hind' used therein inclusive of Sikh also. These acts have been enumerated with a view to give an idea of the Statutes in force in the several states. The contents

of the Gurdwara Acts are discussed elsewhere.

This may be mentioned that legislation relating to the Religious Endowments includes Central legislation as well as state or provincial legislation which are as follows :

Central Legislation

(a) Central enactments of general nature applicable to all religious endowments, e.g. Religious Endowments Act, 1863. The Charitable and Religious Trust Act,1920.

(b) Central Enactments of specific nature applicable to the religious endowments of a particular religion only e.g.the Wakf Act, 1954.

(c) Central Enactment relating to a single particular shrine only e.g. Dargah Khwaja Sahib Act, 1955.

2. State (Provincial) Legislation

(a) State legislation of general nature applicable to the endowments of all religious communities, subject to some exceptions, e.g. the Mysore Religious and Charitable Institution Act, 1951,the Bombay Public Trusts Act, 1950, the Rajasthan Public Trusts Act, 1959.

(b) State Legislation specifically meant for application to

the endowments of a particular religious community. This head includes a number of enactments dealing with Hindu religious and Charitable endowments. Muslim Wakf and Sikh Gurdwaras.

(c) State legislation governing a single particular shrine e.g., Bodh Gaya Temple Act 1949 (Bihar Act, XVII of 1949), Gangajali Fund Trust Act, 1954 (M.B. Act II of 1954), Nathdwara Temple Act 1959 (Rajasthan Act XIII of 1959), Shri Mahakaleshwar Temple Act 1953 (M.B. Act II of 1953), Sh. Jagannath Temple Act, 1955 (Orissa Act II of 1955). The Jammu and Kashmir Shri Mata Vaishoni Devi Shrine Act, 1986 (Governor's Act No. XXIII of 1986.)

Thus the idea of all India Gurdwaras legislation emerged in the course of Gurdwara Reform movement in the twenties of this century. It was articulated in reaction to the resistance shown by the Government to the passage of Gurdwara at the provincial level. The first reference to all India Gurdwaras legislation is available in one of the letters written by S. Mangal Singh, who was then acting as President of the (outlawed) SGPC. He writes:

> I think instead of trying your Bill business in the Punjab Council which is rotten, it would be brought up in Legislative Assembly. We may not succeed but we will get it all India status and Sri Malcolm Halley will simply be confused.....akali and Gurdwara Question is now an all India question.
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So the credit goes to him for having the necessary foresight. But the Akali leadership as a whole did not appreciate this idea and thus demonstrated a total lack of perception and vision. Perhaps they could not visualise the role an All India Legislation could play for the betterment of the community. Some of them thought that situation was not yet ripe to make such a demand. In their view it will be more reasonable to test the Gurdwara Act firstin Punjab and then extend it to the other parts of the Country. But in reality it was the most appropriate oppurtunity to make a demand for such a legislation especially when the active assistance of the national leaders belonging to other communities was also available.

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After the failure of Birdwood negotiations, a great Hindu leader and a nationalist as well, Pandit Madan Mohan Malviya

actively interested himself in the solution of Gurdwara trouble.[71] He picked up the idea of All India Act and planned to introduce it in the central legislative assembly in case his efforts to get it passed in the Punjab Legislative council failed.[72] He was also helped in this venture by the great Muslim leader Mohammad Ali Jinnah.[73] Pandit Malviya was of the view that All India Legislation is required because there are Gurdwaras all over India.[74] He hoped to get such a Bill passed in the Central Assembly with the support of nationalists members there. The pressure built by the Akali agitation alongwith this threat of Pandit Malviya,compelled the Punjab Government to negotiate with the Akali leadership for the passage of Gurdwara bill in the province of Punjab. Pandit Malviya withdrew gracefully when there was the good progress of negotiations leading to the enactment of the (Punjab) Sikh Gurdwara Act.

The Sikhs accepted the Punjab Sikh Gurdwaras Act, 1925 as a compromising measure as to avoid the further confrontation.[75] But some of them had set their eyes on the ultimate goal to control, manage and serve the Gurdwaras through out the country through an

all India Gurdwara legislation. Reading their aspiration correctly, Mr. Hailey, Governor of the Punjab, promised , though falsely, that if the SGPC showed an inclination to work the Bill, then the Government would like to increase its prestige and strength. To flatter the Sikhs he said that his Government was favourably inclined to Gurdwaras all over the world being affiliated under the SGPC and its controlling all the panthic activities in consitional ways.[76]

The Punjab Act was criticised by some Akali leaders particularly by S. Mangal Singh and S. sardul Singh Kaveesher, for not covering a large number of Gurdwaras situated outside the Punjab. Then the Board (SGPC) constituted under the Act, in its first ever meeting in November 1926 recommended the extensions of the Gurdwara Act to the Gurdwara all over India including those in the princely states. The demand to this effect continued to be raised thereafter from time to time. In its meeting in 1963 the SGPC decided to sponsor All India Sikh Gurdwaras Legislation in the Parliament. It constituted a committee consisting of its Senior Vice President and Legal Adviser to collect necessary information and material for this purpose.

The Central Government promised to sympathetically consider the demand for All India Gurdwara legislation in 1956 at the time of settlement of linguistic problem of the Punjab. Popularily known as Regional Formula. Again the very first clause of the Nehru-Tara Singh Agreement of 1959[77] dealt with the passing of the All India Sikh Gurdwara Act by the Government of India.

Encouraged by the promises made by the Central Government the SGPC seriously undertook the task of preparing draft of[78] All India Sikh Gurdwara Bill. S. Joginder Singh Rekhi Advocate was assigned a part time job of preparing a draft of the Bill vide resolution no. 1472 dated June 1,1956 of the Executive Committee of the SGPC. Mr. Rekhi took more than twenty months to prepare the draft.[79] The draft submitted by him was almost a verbatim copy of the (Punjab) Sikh Gurdwara Act, 1925 with a change of All India in place of Punjab. But the draft bill can be considered as a valuable document being the first attempt in this area, though it was appreciated as such.[80]

While the drafting of the Bill was going on, the Commission of India took up for consideration the revision of Sikh Gurdwaras

(Supplementary) Act, 1925 and invited the suggestions from the State Government, the High Courts and other bodies and individuals. The said Act is central legislation which was passed to supplement the Punjab Sikh Gurdwaras Act, 1925 by making adjustment in the jurisdiction of the High Court vis-a-vis the Sikh Gurdwaras Tribunal as the Commission. The SGPC and the other mistook it as if the Law Commission has under taken to revise the Punjab Act as a step towards All India Act. In this belief the Executive Committee of the SGPC passed a resolution requesting the Law Commission to consider the draft (of the All India Sikh Gurdwaras Bill which was under preparation and near completion) and recommend it to the Government to adopt it.

When Mr. Rekhi submitted the draft of the Bill towards the end of February 1958 of the SGPC, its Executive Committee passed a resolution on April 23,1958 requesting S. Ajit Singh Sarhadi, Member of the Lok sabha and also of the SGPC, to take the necessary steps to present the Bill in the Lok Sabha as soon as possible. But it is mysterious that Mr. sarhadi did not carry out the directive of SGPC on such an important issue. Probably SGPC

was never as serious as it professed by passing resolution on the subject. Since no serious effort has been made by the SGPC to get, the Bill enacted, its resolutions were mere rituals meant for Public consumption.

S. Amar Singh Saigal, a Congree MP elected from Janjgir Constitutency of Madhya Pradesh, took the initative to present the bill in the Lok Sabha in August, 1958. Due to paucity of time with the Parliament, only a few private members get the turn in this way so it was just a matter of chance that this bill got introduced in the Lok Sabha. This bill was mostly based on the SGPC draft except the provision regarding the expenses to be incurred etc.[81] It was debated upon in the Lok Sabha and then it was circulated for eliciting the public opinion.

The Sikhs generally objected to imposing of all the expenses[82] arising out of the administration of the Act including that of elections and relating to the Tribunal and the Commission on the Gurdwara funds.[83] The SGPC deferred the consideration of other provisions of the Bill till the basic objection regarding the expenses is conceded to.

Another provision of the Bill which was generally objected to was about one of the qualifications of the voter that he should know Japuji sahib by heart. It was pointed out that so many sikhs, mostly those living in the villages, will be disqualified to be voters.[84]

The condition for a voter to be able to read and write Gurmukhi was also considered unjust in the absence of 100% literacy and an illiterate can be a better believer than a literate person. There were voices from some reasonable quarters also opposing the All India Act as a whole. These included the Chief Khalsa Diwan and Gurdwaras committee of Takht Patna Sahib.[85] Some others were against the election system as such.[86] Other provisions of the Bill prescribing the minimum age of the candidates at 35 years and that of the voters at 25 years were also considered to be on the higher side. The Bill had provided for 115 members of the SGPC out of whom 100 were to be elected, five heads priests were to be ex-office members and the remaining ten were to be coopted by these 105 members. The bill also provided for direct control of the SGPC over a large number of Gurdwaras.

The SGPC called a meeting of the distinguished Sikhs at Chandigarh on 10.5.59 to discuss the Bill. On the basis of that discussion it conveyed to the Government that unless the basic question of expenses is favourably settled the consideration of other provisions is deferred. The SGPC did not take the matter with as much seriousness as it should have taken. The Lok Sabha extended the time for eliciting the publis opinion regarding the
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Bill three times. But the SGPC could not send its views during this period and asked for further extension. Perhaps it was also because almost all the members and office bearers of the SGPC were arrested in connection with the Punjabi Suba agiatation.

After sometime, the Punjab Government wrote to the SGPC that though time for eliciting opinion on the Bill has expired but it should convey its reaction to the Parliament. The letter was referred to the legal advisor who commented that since the time for expressing opinion on the Bill has expired, what is the sense of wasting time over it unless and until the mover of the Bill wants our help or guidance. Such an indifferent attitude,thinking that the Bill is the responsibility of the mover alone and the

SGPC has nothing to do with the Bill, was quite unfortunate. The opinion of the legal advisor was accepted by the Executive Committee of the SGPC and the matter has filed. In fact the SGPC people had developed the vested interests in the Gurdwara management by virtue of their long association. They, perhaps, did not relish the idea of all India legislation whereunder there might be erosion of their control by sharing of power at all India level.

The Punjabi Suba agitation has resulted in strained relations between the Sikhs and the Government. Therefore the Governmentwas no longer interested in passing such a legislation also because it might strengthen the Akalis politically. Though the Bill was referred to the Select Committee and was presented in the House againbut no further progress could be made. In the meanwhile the Lok sabha was dissolved and the Bill lapsed automatically.

It will be relevant to mention here that the Bill was massively supported. "Then Mr. Amar Singh saigal visited the various towns of Punjab in connection with the Bill he was given

a hero's welcome which was a proof of abundant support behind the Bill. In the Lok sabha also the members of all shades of opinion welcomed the Bill. However, some sporadic voices, like that of Chief Khalsa Diwan and managing Committee Takht Patna Sahib were heard against the Bill.

The same Bill of S. Amar Singh Saigal was reintroduced in the Lok Sabha, again as a private member's Bill in 1964. The Bill no. 75 of 1964 was again circulated for public opinion. This Bill also met the same fate as that of Bill no. 73 of 1958 for the same reason and under similar circumstances.

The (Punjab) Sikh Gurdwara Act, 1925 remained applicable only in the India Punjab after partition. In 1959 it was extended to the erst while Pepsu with Punjab in 1956, due to the efforts of Giani Kartar Singh. It was certainly in the furtherance of the object of centralisation of the management of the Sikh gurdwaras. Master Tara Singh, President of the Shiromani Akali Dal, unwillingly threatened to launch an agitation against this move. However, he soon realised the fertility of such a course and the justification of the extension of the Act. The Punjab Re-

organisation Act, 1966 has converted the (Punjab) Sikh Gurdwara Act into an inter state Act to be applicable in the successor states of Punjab, Haryana, Himachal Pradesh and Union territory of Chandigarh.

The all India Sikh Gurdwaras legislation is aimed to centralise the administration of all the important Gurdwaras scattered over the entire country. But certain attempts were made to decentralise the administration of Gurdwaras which were totally against the spirit of the All India legislation. Mr. Bansi lal (then) Chief Minister of Haryana openly declared that he will have a parallel Gurdwara parbandhak Committee to manage the Gurdwaras in Haryana. He wanted to weaken the authority of the SGPC and to disintegrate it by taking away the Gurdwaras in Haryana from its jurisdiction. similar intentions were shown by the Himachal Government as well. As a result, the elections to the SGPC were delayed. The threat of such a mischief was averted only when the Janta Government came to power in the centre and in all the northern states. The elections to the SGPC were conducted and the promises of passing an all India Sikh Gurdwaras Act were renewed.

In the year 1971, when there was a deadlock about the management of Gurdwaras in Delhi, a demand for the extension of Punjab Sikh Gurdwaras Act, 1925 to Delhi was made. There was nothing unusual at all because so many state Acts had already been extended to Delhi. The Government also asked the people to communicate their opinion on the subject to the authorities. Till then it was the SGPC which was controlling and managing the Gurdwaras in Delhi through the local Sikhs. But when the President of India promulgated an Ordinance and later converted it into an Act, constituting a Board to manage the Gurdwaras, it was taken as a blow to the authority of the SGPC and the forces of centralist action Sant Fateh Singh. (then President of the Shiromani Akali Dal) charged the Government of decentralising the management of the Gurdwaras in the Country. Attempts during the Janta Regime: The demand for the enactment of an All India Sikh Gurdwaras act also formed a part of the Akali Dal manifesto in the elections of March and JUne, 1977. The prospectsof bringing all the Gurdwaras in the ountry under the Umbrella of one Act seemed bright during the Janta Party regime in which the Akalis were also partners. Speaking on the four Hundredth Foundation

Anniversay Celebrations of Amritsar City at Rambagh gardens, Amritsar in October, 1977 Chaudhary Charan Singh, the (then) Home MInister of India, promised the enactment of the All India Sikh Gurdwaras Act. He announced to a gathering of a few lakhs of people in the presence of the then Prime Minister, Mr. Morarji Desai and other cabinet colleagues, that such an Act will be on the statute book by mid 1978, even prior to this, such an assurance was given by the Home Minister of India to the [88] Development Minister, Punjab.

As a first step, the President of SGPC constituted a [89] committee of five members to draft an all India Sikh Gurdwaras Bill on My 4, 1977. It was announced that the draft bill will be placed before the general body meeting of the SGPC called for [90] this purpose on August 13 and 14, 1977 at Anandpur Sahib. However, this committee never got off the mark. It is surprising that these persons did not show the sense of responsibility expected of them and take the initiative to draft the Bill.

On August 6, 1977 the Office Secretary of the Akali Dal Giani Ajmer Singh announced a six members sub-committee to

prepare and draft a Bill to be placed before the SGPC general
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body meeting scheduled for August 13. In view of the spade work already done, it would be expected that a committee of even ordinary lawyers could present a blue print of the draft Bill within the prescribed period. It was reflecting the height of incapacity of persons assigned with the job to come up to the expectations. It makes a sad commentary that they failed to prepare the present Bill. So no fruitful discussion could be held in the general body meeting. The SGPC, in this meeting empowered its Executive Committee to prepare a draft of the Bill.

Advisory Committee's Draft Bill :-

Realizing the incapacity of the SGPC to do this technical job requiring high level of education which is usefully missing in the Committee, the Punjab Government appointed an Advisory Committee for this purpose on November 4, 1977. S. Harbans Singh retried Chief Justice of Punjab and Haryana High Court, was nominated as its Chairman and S. Ajit Singh Sarhaddi, Advocate General of Punjab, S. Jai Singh Sekhon IAS Secretary Law Department of Punjab Government, S.Gurnam Singh Tir, S.

Mangit Singh Kharia, advocates, as its members. The Committee held its first meeting on November 7, 1977. As per authorisation by the Government the Committee coopted S. Bhan Singh, member Sikh Gurdwaras Tribunal, as its member. The Committee claims to have issued 14,000 copies of a long questionnaire to the interested Sikhs and Sikh organisations, inviting suggestions for the proposed Gurudwara Bill. In May, 1978 the committee submitted the draft bill to the Government of Punjab.

It seems that the draft Bill was more or less a handwork of the Chairman of the Committee alone who had not paid much attention to the views of the other members. The Chairman alone had an hectic tour of various places all over India to collect the views of the Sikhs over there. The Chairman has recorded appreciation for co-operation by other members of the Committee and for their agreement with the bill, but they had refused to append their signatures to the final report which was signed by the Chairman alone.[92] Their disagreement has come to light quite clearly later on.[93] Some clauses were incorporated in the draft by the Chairman himself without the knowledge and approval of other

members.[94] It is however intriguing. It shows that either the members did not cooperate with the Chairman or the latter did not care to get their cooperation and help in finalising the Bill. In the circumstances, the latter probability seems to be greater.

The Punjab Government referred the Bill to the SGPC which sent it back with its comments. The Panjab Government then submitted the draft to the Central Government in February, 1979. Thereafter, there was not much enthusiasm to be seen for the passing of the All India Sikh Gurdawaras Bill. It was rightly commented that SGPC and the Government have ceased to be anxious to get the Bill passed into an Act because the proposed changes would require the sharing of power exercised by the present set up.[95] The personal enquiries made from the SGPC office also warranted a similar conclusion.[96] It seems that All India Act was only a political slogan incorporated in the election manifestos. After reaping rich dividends, the politicians gave up such an idea because in their heart of hearts they knew that it will hit their vested interests adversely.

In fact, two three drafts were heard to be in circulation though these were not easily procurable. The present author got two copies of the draft from the SGPC office, of course with great difficulty, one in Punjabi and another in English, which were not in consonance with each other. No body was ready to tell that which one is the final approved one. One had to resort to guess work to determine this. The multiplicity of the drafts was quite confusing. Finally the confusion was averted only in mid 1986 when the draft Bill was circulated by the SGPC alongwith the report of the Revising Committee.

Though this draft had some flaws, but it was quite original as compared with Mr. Rekhi's draft. It had been subjected to severe ciriticism.[97] Dr. J.S. Ahluwalia[98] bitterly criticised it by labeling it as schematic, anti-democratic, anti-Sangat, ambiguous, intriguing and the one which is likely to create horizontal and vertical divisions in Sikh society and disintegrate the Sikh religious power.

The Shiromani Akali Dal included the enactment of All India Sikh Gurdwaras Act as one of the demands in its agitation

called Dharam Yudh Morcha, launched in July 1982. But the Akalis did not seem to be very serious as regards this demand. Unlike the Gurdwara Reform Movement of 1920's the enactment was not the only or even a major demand of this agitation. During the course of this agitation Mrs. Indira Gandhi, the (then) Prime Minister of India, announced the acceptance of the demand of All India Sikh Gurdwara Act in principle. She did so while addressing a huge Sikh congregation at Gurdwara Bangla Sahib, New Delhi on February 27, 1983. But she said its implementation would take some time as the managing committees of twenty five historic Gurdwaras have to be consulted in regard to the provisions of the proposed legislation. However, the statement of the Prime Minister was criticised immediately thereafter for not being specific and categorical.[99][100]

The draft bill prepared by the Advisory Committee and submitted to the Union Government in 1979 had been pending with the latter. It was reported that the draft was circulated to the states after the acceptance of demand of All India Gurdwaras act by Mrs. Gandhi. The managements of Takht Patna Sahib and Takht Hazoor Sahib had passed resolutions supporting all India

legislation. Some movements in this regard were heard and observed in the Central secretariat also. But nothing tangible came out of that.

To resolve the pending Punjab problem, an agreement between Mr. Rajiv Gandhi, Prime Minister of India and Sant Harchand Singh Longowal,the(then) president of Shrimoni Akali Dal, was concluded on July 24, 1985. The Government of India has again agreed, inter alia, to consider the formulation of an All India Gurdwaras Bill and bring forward the legislation in consultation with Shiromani Akali Dal and others concerned.[101]

In pursuance of the Accord, the Union Minister of State for Home Affairs wrote to the Chief Ministers of all states in the Union of India to make the suggestions on the formulation of an All India Gurdwara Act. A reminder was issued to all the States and Union Territories urging them to expedite their suggestions.[102] Only nine states had responded till September, 1986.[103]

On a similar reference from the Central Government, the Punjab Government constituted a Review Committee on April 18,

1986 under the Chiarmanship S. Natha Singh Dalam Minister for Information and Public Relations to revise and update the 1979 draft which had been a subject of severe criticism from various quarters since its submission. This Committee met twice and discussed the essential features of All India Sikh Gurdwaras legislation. These meetings were attended among others by the members of Committee which had prepared the 1979 draft.

The Review Committee constituted a Redrafting Sub Committee consisting of Dr. Jasbir Singh Ahluwalia IAS as its Convener and Giani Lal Singh, Dr. Gurnam Singh Tir Advocate as members at its meeting held in June 27, 1986. It was duly formalised vide notification no. 498 Gurdwaras dated August 18, 1986 issued by Secretary (Election Department) to Government Punjab on behalf of the Governor. It was to be effective retrospectively from July 5,1986 the day on which the Re-drafting Sub-Committee held its first meeting. This Committee made a clause wise study and scrutiny of the 1979 draft and made necessary amendments therein and incorporated some new provisions also in eight sittings within the span of one month. Thus a revised draft was prepared The Sub-Committee completed its work

[illegible] to have held lengthy consultations with a representative cross section of Sikh Society but it did not have the sufficient time and opportunity for the same so this new draft does not reflect the general consensus of the Sikh Community. It may be mentioned that this exercise of revising the draft do not reflect the geneal consensus of the Sikh Community. It may be mentioned that this exercise of revising the draft has taken place due to the initiative and interest of Dr. Ahluwalia. He is instrumental in bringing about the various changes in the original 1979 draft. but it is also clear that he did not have a free hand to mould the draft to his own liking. Other members have also asserted themselves to restrict him.

The revised draft was discussed by a sub-committee of the SGPC also under the Chairmanship of S. Kabul Singh its President on August 23, 1986. The members of the Re-drafting sub committee were also present in that meeting. Some minor changes suggested in this meeting were duly incorporated in the new draft. This new revised draft is named as the Dalam Committee Draft 1986.

This was submitted to the Chief Minister with fanfare on October 10, 1986 for onward submission to the Central Government.

The new draft was not made public immediately after its submission. It was kept as a secret document giving rise to suspicions, fears and rumours. Voice to make the new draft public was raised from various platforms, and by various Sikh organisations.[104][105]

Thereafter the SGPC President clarified that final decision about the draft bill shall be taken by the community as a whole. He said that neither the Punjab Government nor the SGPC shall take any final decision in this regard on its own.[106] The SGPC also promised to circulate the draft to various Sikh organisations, Sikh saints, and intellectuals for eliciting their opinion.[107] So the proposed draft is yet to be finalised as far as SGPC is concerned. It has accepted to reopen the issue under the Public pressure even though it has approved Dalam Committee Draft after getting some amendments made into it. On the other hand, the Punjab Chief Minister has announced that the draft bill be submitted to the Central Government very soon.[108]

Other development in this regard may also be noted, A five members[109] sub committee to finalise the draft proposals for the All India Gurdwaras Bill was also constituted by the Akali Dal (Badal). This Committee had asked the Punjab Government not to rush through the Bill. It felt that the proposed draft required more meaningful dialogue and thorough consideration by the Whole Sikh community. The sub-committee wanted that due weightage should be given to the views of eminent Sikhs from all walks of life. Though the Sub-Committee did not seem to be serious to redraft the Bill but attention is drawn to the fact because Akali Dal (Badal faction) has acquired ascendency in SGPC and Mr. Tohra had taken over as its President. It remains to be seen what attitude is adopted by the new Executive Committee of the SGPC in regard to the Dalam Committee Draft.

It may be observed that both the political parties Congress and Janta, which have ruled India since independence and almost all the Prime Ministers till date have endorsed the demand for the enactment of an All India Gurdwaras Act, But keeping in view the fate of various promises with the Sikhs by the political leaders at the national level, it can be concluded that there is

CHAPTER II (B) (ii)

Bodies formulated under Sikh Gurdwara Act, democratisation of Institutions and its significance from Sikh society.

Scheme of the Act;

The Sikh Gurdwaras Act, as it was passed in 1925 contained four Schedules. The first Schedule listed 241 Sikh shrines which were recognised as Sikh Gurdwaras without any further inquiry.The second Schedule listed 224(now 116) akharas, deras, dharamasalas belonging to Udasis or Nirmalas which could not be declared as Sikh Gurdwaras and thus were out of the purview of the Act.

Then the Tribunal to be constituted under the Act by the Government is to datermine whether any place not included in Schedules 1&11,should be declared as a Sikh Gurdwara and placed for management under the prvisions of part III of the Act or not. Besides determining as to which ofthe religious place is a

Sikh Gurdwara,the Tribunal is also to determine as to what rights, titles or interets in immoveable property belong to the SikhGurdwara and what compensation, if any, is to be paid to persons claiming to be hereditary office holders of such Gurdwaras. Section 38 of the Act allows the institution of a suit in ordinary court, after the expiry of statutory period for filing a petition to be determined by the Tribunal to determine the nature of a place as a Sikh Gurdwaras or otherwise and the application of the provisions of Part III of the Act to such a piece.

For the control and management of Sikh Gurdwaras,Part III of the act has provided for a central Board (SGPC), Committees of Managements and a Judicial Commission. The Board consists of 140 elected, 5 ex-officio head priests and 15 co-opted members. The SGPC now acts as the committee of management in respect of principal Gurdwaras of Punjab. In addition, it has the duty of ensuring that every committee of management deals with the property and income of Gurdwaras managed by it in accordance with the provisions of the Act. For the fulfilment of this duty, it exercises control, direction and general

superintendance over all committees constituted under the Act .

Another agency of control, the Judicial Commission consists of three Sikhs and it is intended to deal with cases arising out of internal administration of the notified Sikh Gurdwaras. The local committee for the management of Gurdwaras, other than those mentioned in 5.85,shall consist of 5 members each. If the annual income of the Gurdwara is less than Rs.3000/- all the five members are to be nominated by the board but if the income exceeds this limit only one is to be nominated by the Board and rest of the menbers are to be elected by the Sikh voters. The powers and duties of the Board and that of the committees are specifically laid down. The act also sets out the objects for which the funds of the Gurdwaras may be used.

In miscellaneous provisions, the Act has restricted the Governmental interference in the Gurdwaras administdration. It has also provided that any act of the Board or of any committee shall not be invalidated because of the defect in its constitution or any irregularity in their procedure unless these result in failure of justice.

The Sikh Gurdwaras Act,1925 emerged as a compromising measure between the Akalis (Sikhs) and the Government. While the Akalis wanted the complete and exclusive control of all the Sikh religious shrines, the Government wanted to minimize their control and to at least weaken, if could not avoid the institution of a central body. Both the sides relented to some extent and this 'remarkable piece of legislation' was put on the statute book, [110] For this 'most extra-ordinary measure and a document of immense significance for the Sikhs, the Sikhs community had paid on extraordinary heavy price.

The Sikh Gurdwaras Act was to provide a legal procedure by which Gurdwaras may be brought effectively and permanently under Sikh control and their administration reformed so as to make it consistent with the religious views of that community. [111] It provides a scheme of purely Sikh managememnt for the places of Sikh worship. The objects of the Sikh Gurdwaras Act, in the words of an official were

1. To bring all Sikh religious places under the control of the Sikh Panth,i.e. the Sikh community itself.

2. To abolish the permanent position of the Mahants or hereditary priests of temples and thus end their irresponsibility.

3. To utilize the property and income of the places for the purposes for which they were founded and thus prevent them from being wasted, sometimes in luxurious and immoral living.

4. To conduct all rituals and ceremonies according to the Granth Sahib.

The preamble of the Act also refers to the expediency of providing for the better administration of Sikh Gurdwaras and for inquiries into matters and settlement of disputes connected therewith.

In brief, the Act was passed to provide a machinery for cheap and expeditious determination of certain questions like whether a place is a Gurdwara or not, certain property belongs to the Gurdwara or not and also providing for as to how the management of Sikh Gurdwara is to be carried on. Thus the Act was intended for the better management of the Gurdwaras. In the

words of Justice Jagmohan Reddy of the Supreme Court of India:

The whole object of the Act was to reduce the chances of protracted litigation in a matter involving the religious sentiments of a large section of a sensitive people proud of their heritage'[112]

The democratic values of the Sikh Gurdwaras Act can be listed as follows;

1. Adult Sufferage;

The most remarkable feature of the Act was that it enfranchised all the adult Sikhs for the purpose of electing their'Religious Parliament' as the SGPC is sometimes termed. The SGPC was the first public body in the country which was to be elected by adult franchise.Since, a very limited number of Indians were granted the right to vote for the Central & provincial legislation at that point of time; therefor, this was a very important development on the political scene of India.

The more important part of the adult sufferage granted under the Act was that no discrimination was made on the ground

of sex. The Sikh women were equally enitled to be electors and candidates in elections to the Gurdwara Board and Committees. It may not seem to be unusal now-a days, but it was certainly so in the first quarter of the century when even the British women were yet to be enfranchised.[113]

However, there was one self-contradiction in the Sikh Gurdwaras Act . While the Sikhs of the British Punjab were authorised to elect their representatives, no such right was given to the Sikhs living in the Sikh Princely States. The princely rulers were empowered to nominate their representatives for the central body.

2. Elected Religious Organisation;

The Act and local committees provided for the election of a central representative body to look after and supervise the management of Sikh Gurdwaras in the Punjab. The central body, which is known by the name of SGPC is perhaps the only central religious organisation in the world which is constituted by a popular vote.

3. Mahants not proprietors of Gurdwaras;

The Sikh Gurdwaras Act,1925 enshrined the fundamental principle that Sikh Gurdwaras are the heritage of the Sikh Panth and would be managed and controlled by it. The Act lawfully placed the management of the Sikh shrines in the hands of the representatives of the Sikhs.Thus it was also recognised, on the other hand, that the Mahants were not the proprietors but the custodians of Gurdwaras and the properties there of.

4. Government Non-interference in Gurdwara Management;-

By passing the Sikh Gurdwaras Act, the Government declared, in unequivocal terms, its intention not to interface with the Gurdwaras, their property or their management, Section 144 of the Act lays down ;

Save as provided in this Act or any other Act it shall not be lawful for the State Government or for any executive officer of the State Government in his official capacity to undertake or assume the superintendance of any land or other property granted for the support of or otherwise belonging to, any Notified Sikh

Gurdwara, to take any part in the management or appropriation of any endowment made for its maintenance, or to nominate and appoint any office holder of, or to be concerned in any way with such Gurdwara.

Apparently, the Act imparts a limited role in the Government in connection with the Gurdwara management. Due to this fact, Gurdwara administartion is termed sometimes as "Government within a Government. The rule making power of the Government extends to matters concerning elections, the method of calculating the income of Gurdwara for the purpose of fixing its annual contribution to the Board and the manner of submitting petitions, applications or records of suits or proceedings to the Tribunal or to the Judicial Commission(s146). Besides, the government is responsible to conduct the elections and call the first meeting of the Board. The Government interference is greatly felt due to its powerto conduct the election. It holds the election at its will and not after the fixed interval. There have been gaps of 11 years, 14 years and 20 yearsin the conduct of elections.

At the time of passage of the Act, the Government assured the Sikhs that no amendmentshall be effected in the said enactment except with the approval and consent of the Central board to be constituted under the Act. The Government kept up its word and did not make unwarranted move to amend the Act. The promise was renewed by Sir, Sikandar Hayat- Baldev Singh Pact in 1944. It was only in independent India, that is in 1953 and 1954 that a number of amendments were made in the Act without the consent and approval of the SGPC.

5. <u>In-built cheap and speedy Judicial System</u>

The Sikh Gurdwara Act constitutes two adjudicative authorities, viz, Gurdwara Tribunal and Judicial Commission. The former is to decide the controversies relating to the nature of the place of worship in question and the property belonging thereto. The latter decides the internal controversies relating to the management of the gurdwara; Schedule III of the Act prescribes very nominal fees for filing petitions; claims and applications to these judicial bodies constituted specifically for the purpose. The Act envisaged immunity from unwarranted

civil litigation. It grants supermacy to the Tribunal and the Judicial Commission in adjudification of controversies relating to Gurdwaras matters. Section 36 lays down "No suit lie in any court to question anything purporting to be done by the State Government or by a Tribunal in exercise of any powers vested in it by or under this Act." Of course an appeal against the orders of the Tribunal shall lie to High Court (s34).

6. <u>Procedural Flexibility</u>

Section 145 of the Act provides that no act of the Board or its executive committee or of a local committee shall be held invalid on the ground of any defect in their constitution or any irregularity in their procedure unless the defect of irregularity has caused a failure of justice. Thus a presumption of validity is attached to the acts of the Board, its executive committee and local committees without much emphasis on formal procedure. The practice shows that procedural flexibility has proved to be counter productive as much as it gives a free hand to the local committee Gurdwaras under section 87 to conduct the Gurdwara management according to their convenience and strengthen the vested

interests. The procedural flexibility is allowed not only in regard to the acts of the Board and Committees or management, but also in regard to the exercise of powers by the Tribunal.

The events of 1921 looks very much relevant & similar even today because of the prevailing circumstances. In April 1921, the standing committee of twelve sikhs for a Gurdwara Legislation adopted a resolution and sought from the Government if the innocent sikhs are not released and satisfactory legislation of the Gurdwara is not passed upto April, 1921, the Sikhs will consider it an interference with their religious rights and will be compelled to resort to all necessary means of reforming the Gurdwaras themselves.

It is an irony that the present circumstances even after 70 years regarding the sikh problems stands unresolved and the demands of the Sikh leaders is almost the same, to release the Sikh detainees from the prison and begin the trial against the culprits of 1984 riots and so on. Infact, the Government(British) in the past had used the Sikh shrines a powerful channel for an indirect control of Sikhs. The divide and rule policy of Britisher had been vigorously practised by the Congress

Government. If the Government endeavours to sabotage the administration of Gurdwaras and its judicial system, just to facilitate to keep themself in power. It is significant to note that Sikhs' are virtually not allowed to carry and wear the Kirpan, which is one of the fundamental religious requirement of a Sikh, a s were done by britishers.

In this regard, I respectfully submit that a Kirpan by a Sikh is not only a religiously essential but it is also his fundamental right, the size of Kirpan is immaterial. Therefore restraining the elected Sikh M.P.'s to enter in to the parliament house is a sheer violation of fundamental right. The community which has done maximum sacrifice for the nation is being dubbed unpatriotic and that to by the Govt. The study of above matter reveals, the Government is tracking on the same root in dealing with Sikhs as the British Government had adopted the policy against Sikhs. The Government continuance interference with Sikh religious matters is a matter of great worry as instead of extending co-operation to sikh leaders to solve the problem. The Sikhs are being harrased at the behest of the Government.

Inspite of the highly sounding democratic value of Sikh Gurdwara Act, 1925, the real picture is very disappointing. The machinery created under the Act for the administration of Gurdwaras has totally failed for want of proper attention of Government by not implementing the provisions of the Act at one hand and on the other hand multi groups claiming to the authority to administer the Gurdwaras. In view of existing situation the Sikh Gurdwara Act, 1925 becomes redundant and should be scrapped out from the statute book and I respectfully submit in the coming pages to adopt the New Gurdwara Act.

NOTES AND REFERENCES

1. Quoted from R.R. Sahni, infra note p.10.

2. M.L. Ahluwalia(ed) Select Documents Gurdwara Re-form Movement. 1919-25; Antra of congress -Akali collabration (1985 New Delhi)XIV.

3. Sohan Singh Josh, Akali Morchian da ltihas, (Navyug Publishers, 1972) pp33 and 15.

4. Colvin, Life of General Dayer, P.201;Mohinder Singh, The Akali Movement, p13.

5. Teja Singh, Gurdwara Reform Movement, p14. A hukamnama against the Namdharis was issued in 1872, Tasht Hazur Sahib excommunicated the member of Singh Sabha and asked priest of other Takht to the same.

6. See Queen Victorial's proclamation of 1858.

7. Quoted in Narain Singh, Gurdwara Parbandh Sudhar Lehr, (Patiala) p 10.

8. R.R. Sahni (Ganga Singhed), Struggle for Reform in Sikh Shrines, Amritsar ,p.61

10. Mohinder Singh, The Akali Movement, p 17, Partap Singh, Gurdwara Sudhar Lehr, p. 85.

11. It happened in case of Gurdwara Nankana Sahib and Guru-ka Bagh (see Teja Singh, Gurdwara Reform Movement and Sikh Awakening. pp 87-88 and Quami Ekta (Punjabi Monthly) November, 1982 respectively) and other Gurdwaras.

12. The Indian Council Act, 1909 conceded Communal representation to the Muslims and not to the Sikhs. The Govt. of India Act 1919 accepted the claims of the Sikhs also. But it did not meet their political aspirations who wanted "a share in the Provincial and Imperial Councils as well as Civil administration of the country proportionate to the importance, position and services of the community" (S.

Sunder Singh, Majithia's statement quoted in Ganda Singh (edited). R.R. Sahni, Struggle for Reform in Sikh Shrines, p.44). The Act allotted to the Sikhs 10 seats out of a total of 8 in the Punjab Legislative Council. Though their population was only 12% of the total population of the Punjab they were claiming at least 30% seats in the Council. Their claim was based on the argument that the number of Sikh rural qualified voters was 27% of the total rural voters and the higher number of seats was also justified on the analogy of Bihar and Orrisa province where Muslim population constituting only 10% of the total population were granted 27% representation in the Legislative Council (R.R.Sahni, op. cit, pp 47-50).

13. An offering prepared by mixing equal quantities of Wheat, Flour, Sugar and Ghee.

14. It means paying 1/10 share of income for some Panthic cause.

15. Giani Nahar Singh, Akali Lehar in Ganda Singh(ed.) Punjab Vol.II (Khalsa College, Patiala 1962)pp 220-21.

16. J.C. Archer. The Sikhs, p 298, Mohinder Singh, The Akali Movement p. 27. Giani Partap Singh, Gurdwara Sudhar; that Akali Lehr.p 113. Sohan Singh JOsh, Akali Morchian da itihas, p. 59.

17. Pattabhi Sitaramaya, History of the India National Congress (1885-1935). Vol I p. 213.

18. S.C. Mittal, Freedom Movement in Punjab,(Concept publisher co. Delhi, 1977) 152.

20. The Times, March 11, 1921.

21. The Sikhs had followed the policy of non-cooperation during the agitation. The Sikh leaders were arrested and prosecuted under the seditious Meetings Act for discussing the 'keys affair'' which was declred as a political question and thus prohibiting its discussion. The arrested leaders refused to defend themselves in the Courts for being non-cooperators. Baba Kharak Singh made the following statement in the Court "As the Govt. is a party to the prosecution and

the judge is one of its servants. I, therefore, do not wish to make any statement. My position as presidents of the Sikh Panth is like that of the president of the U.S., France and Germany" Crown V Kharak Singh and other, Civil & Military Gazettee, Dec. 4, 1921.

22. Ganda Singh(ed), Some Confidential Papers of the Akali Movement (S.G.P.C.), p 11.

23. Teja Singh, op.cit, p. 399 ; Sohan Singh Josh, op.cit. 157; Mohinder Singh, Akali Movement p. 50 ; S.G.P.C. communiques and evidence of Harnam Singh Zaildar in the Sikh leaders case quoted in Akali te Pardesi, Oct. 30, 1922.

24. Capt. A.L. Verghes, and Amercian cinematographer, filmed the beatings of the Guru-ka-Bagh and produced a short film entitled "Exclusive Picture of India's Martyrdom" and exhibited it in America.

25. Quoted in Gopal Singh, History of the Sikh people (World Sikh University press, New Delhi, 1979, p. 657.

26. S.C. Mittal, Freedom Movement in Punjab, p.162.

27. Supra note 25.

28. File No. 914-11/1922,N.A.I. New Delhi.

29. Mohinder Singh, The Akali Movement p 53.

30. Quoted in Ganda Singh(ed) R.R.Sahni, Struggle for Reform in Sikh Shrines, p. 183.

31. Ganda Singh(ed) R.R.Sahni, opcit, p. 223.

32. Ganda Singh(ed), Some Confidential Papers on Akali Movement (S.G.P.C.)pxvi.

33. Mohinder Singh, op.cit,p. 211-12.

34. Statement of S. Tara Singh, M.L.C.,P.L.C.D., May 7, 1925. S. Naran Singh another Sikh M.L.C. mentioned during the discussion on the Gurudwaras Act on July 7, 1825 that "after the tradedy at Nankana Sahib, about 30,000 Sikhs have been sent to jail, more than 2.000 have been sentenced under

Criminal Law (Amendement) Act, 431 have been martyred, about 54 editors of various papers punished and lakhs of rupees realised as fines." P.L.C.D. reproduced in M.LO. Ahluwalia Supra note 2. p. 237.

35. See for details, Myth of Sikh Loyalty to the British in M.L. Ahluwalia, ibid, p.xxv.

36. Govt. of India Home Political Files 459 II (National Archives of India, New Delhi).

37. Richard G. Fox.Lion of the Punjab (Archives Publishers, New Delhi, 198. p. 79.

38. Kashmir Singh, Law of Religious Institutions-Sikh Gurdwaras. 1989, Guru Nanak Dev University, Amritsar p. 131.

39. Attar Singh : Secularism and Sikh Faith, G.N.D. University, Amritsar, 1973 p. 26-27.

40. Ibid p. 40.

41. Mehar Singh Chaddah Are Sikhs A Nation, Delhi Gurdwara

Management Committee, Sis Gang, Delhi, 1982. p. 86-90.

42. Ibid p. 91-92

43. Ibid p. 83-85.

44. Speech of S. Kapur Singh I.C.S. (Retd.) delivered in the Lok Sabha on 6th Sept., 1966 on a debate on Punjab Re-organisation Bill 1966.

45. N.G. Barrier, The Sikhs and their Literature, Manohar Book Service, Delhi, 1970, p. XI.

46. S.K. Bajwa, The Sikh Gurdwaras Act (unpublished M.A. dissertation, Punjabi University, Patiala 1971) p. 38.

47. Punjab Legislative Council Debates (PLCD) March 14, 1921.

48. By this Act the Government had divested itself of the charge and control of religious institutions.

49. The Charitable Endowments Act, 1890 was applicable to the administration of property held in trust for charitable purposes not of a religious nature.

50. Section 539 of the Civil Procedure Code, 1877 stands as Saction 92 of the Code now.

51. Teja Singh, The Gurdwara Reform Movement and Sikh Awakening (Lahore, 1922)pp. 312-13, Also see the Tribune March 29, 1921.

52. See the Statement of Raja Narendra Nath in P.L.C.D., April 5, 1921. p. 538.

53. S.G.P.C., All India Sikh Gurdwara Legislation, 11.

54. Ibid, Teja Singh, The Gurudwara Reform Movement and the Sikh Awakening (1922) SGPC, ASR Reprint 1984, p. 218.

55. The Tribune, April 9, 1921.

56. Teja Singh, supra note 9, p. 230.

57. K.L. Tuteja, The S.G.P.C. and First Non-Cooperation Movement, Proceedings of the Punjab History Conference, Feb 28-29, 1976. p. 245.

58. Supra note 52.

59. File No. 944/1921, Home Political, G.O.I., N.A.I.

60. See Main Fazal-i-Hussain's statement in the Punjab Legislature Council, P.L.C.D., August 11, 1922.

61. Ibid.

62. Mohinder Singh, The Akali Movement, p. 129.

63. The Bombay Public Trusts Act, 1950 which is applicable to certain areas in the States of Maharashtra and Gujrat seeks to bring under one law the religious and charritable trust relating to all the communities. But section 87 of this Act makes an exception in favour of Gurdwaras which are governed by Nanded Sikh Gurdwara, Act, 1956 (Hyd.Act 37 of 1956).

64. Section 87 of the Bombay Public Trusts Act, 1950 provides, "Nothing contained in this Act shall apply to (a).....(b) The Nanded Gurdwara, the administration of which is governed by the Nanded Sikh Gurdwara Sachkhand Shri Hazur Apchalnagar Sahib Act, 1956 (Hyd.Act XXXVII of 1956).

65. Section 80 of the Rajasthan Public Trusts Act provides that the Act is not applicable to Muslim wakfs which are governed

by Muslim Wakfs Act, 1954. But no such exclusion is made in favour of Sikh Gurdwaras.

66. Dharum Singa V. Krishan Singh, I.L.R. VII, Cal. 767; Baba Inder Singh V. Baba Kattar Singh Bedi, Civil Revision Case No. 452 of 1930, decided by the Patna High Court on 16th July, 1931.

67. See Sub-section (29) of Section 2 of A.P. Charitable and Hindu Religious Institutions and Endowments Act and clause (b) of Section 3 of U.P. Hindu Public Religious Institutions (Prevention of Dissipation of Properties) Act.

68. Letter dated August 21, 1924 from S. Mangal Singh President of SGPC to S. Daulat Singh, Secretary , SGPC published in Ganda Singh(ed). Some Confidential Papers of the Akalis Movement, p. 13 Also see p. 300.

69. Ganda Singh(ed)ibid. p. 300.

70. Supra 38, P. 146-147.
The Viceroy of India, Lord) Reading invited General Sir William Birdwood, Commander-in-Chief, at the suggestion of

Sir Malclom Hailey, the Home Member of the Viceroy's Council (Later Governor of Punjab) to negotiate with the Akali leadership to restore friendly relations between the Government and the Sikhs and to draft a mutually acceptable Gurdwara Bill. General Birdwood was known for his friendship with and popularity amongst the Sikhs. He entered into negotiations with the Punjab Government on the one hand and the Akalis inside and outside the jail on the other with the active help of Bhai Jodh Singh and Sardar Narain Singh of Gujranwala. Both the parties were having suspicion and mental reservations and the negotiations ended in a stalemate. The Birdwood Committee was finally dissolved on June 2, 1924. The Government and General Birdwood accused the extremist Akalis of obstructing the progress of talks with quite unreasonable demands. According to them the Akalis had made it a condition that all the Sikhs undergoing imprisonment or awaiting trial should be released before they would co-operate. On the other hand the Akalis and the Nationalist Leadership blamed the Punjab Government of having materially changed its policy during the course of the negotiations. Though the

efforts of General Birdwood apparently failed but in fact they were not a total failure because they indicated the lines along which a settlement in future could be explored.

71. Statement of Bhai Jodh Singh in Punjab Legislative Council, P.L.C.D. July 7, 1925.

72. Halley's letter dated October 29, 1924 to Sir Muddiman, quoted in Mohinder Singh. The Akali Movement, p. 135.

73. Telegram dated March 19, 1925 from Viceroy Reading to Governor Hailey quoted ibid., p. 77.

74. Supra Note 72.

75. See Resolution No. 1552 dated July 2, 1957 of the Executive Council of the SGPC.

76. Resume of Mr. Petman's interview with the Governor dated 11, 1925 in Dr. Ganda Singh(ed) Some Confidential papers pp. 157-58.

77. This agreement was concluded on April 12, 1959 but SGPC denounced this vide its resolution dated April 28, 1959 not

because of this clause but because of other political reasons.

78. He has been a member of the Sikh Gurdwaras Judicial Commission.

79. Mr. Rekhi started working on the draft from 16th June 1956 and completed it on 27th February 1958. All India Sikh Gurdwaras Act File, SGPC office.

80. While the draft bill was under consideration of the SGPC executive, a member remarked that the bill is not worth the amount spent over it. The honorariam at the rate of Rs. 200/- p.m. was paid and a total amount of Rs. 4000/- was spent over it.

81. See Lok Sabha Debates dated 22nd August, 28th November and 12th December 1958.

82. Clauses 49 (3) and 75 (4) (5) of the Bill.

83. A meeting was called by the SGPC to prepare a report on the Bill at Chandigarh on 10.4.59. All the distinguished speakers criticised the provision regarding expenses.

84. See the statement of Ajit Singh Bhatinda M.. in Lok Sabha Debates dated Dec. 12, 1958.

85. The statement of S.Sant Singh, Secretary, Chief Khalsa Diwan in the meeting called by the SGPC on April 10, 1959 at Chandigarh to consider the Bill, minutes in the All India Sikh Gurdwaras Act File SGPC office.

86. Statement of Prof. Harbhajan Singh in ibid and letter of S. Niranjan Singh Mudhar to the Editor of Spokesman Weekly, Sept. 7, 1959, p. 10. They were giving alternative proposals such as constituting the Managing Committee by election through Sangat or through head priests of Takhts etc.

87. The motion regarding circulating the Bill was adopted on Decemebr 12,1958 and the last date for submitting the opinion was March 30, 1959. Later it was extended up to February 15,1960 and it was further extended upto July 30,1960.

88. S. Atma Singh, Development Minister, Punjab in his letter dated August 4,1977 to S. Gurcharan Singh Tohra, President of S.G.P.C. wrote that he and S. Badal, Chief Minister, Punjab had met the Union Home Minister and discussed the All India Gurdwaras Legislation with him and he promised to get

it passed. Mr. Tohra was asked in his letter to get a draft of the Bill prepared and send it at the earliest S.G.P.C. file relating to All India Sikh Gurdwaraa Act.

89. The members of the Committee were S. Harbans Singh retired Chief Justice of the Punjab & haryana High Court, S. Surjit Singh Barnala, M.P. S. Ajit Singh Sarhadi, Advocate General of Punjab and S. Manjit Singh Khaira and S. Charan Singh, Senior Advocates. The Spokesman weekly, New Delhi, June 6, 1977.

90. Ibid. December 1977. It was for the first time that a SGPC meeting was held outside Amritsar.

91. The members of the Committee were S. Umrao Singh Patti, S. Gurbaksh Sing, S. Joginder Singh Ratra, S. Amar Singh Dosanj, S. Charan Singh and S. Shaspal Singh. The Spokeman, Nov. 7, 1977.

92. Analyst, Management of Gurdwara, The Tribune, June 5, 1978.

93. See the remarks of Dr. G.S.Tir, a memeber of the Advisory Committee " The draft before the Governmenthas been distort

by the vested interests." The Tribune Sunday Reading May 18, 1986.

94. It is evident from the fact that when clause 78 of the draft Bill, prescribing the qualifications of the Jathedars and Granthis of Darbar Sahib as to be University Graduates, was published and criticised by Daily Ajit, Jalandhar dated 2.2.82 and Indian Express, Chandigarh dated 3.2. 82, the matter was referred to the members of the Advisory Committee by the Secretary of the SGPC, one of the members himself. Three members denied of having prescribed such a qualification. Mr.G.S. Tir in his letter dated 6.2.82 and Mr. A.S. Sarhadi and Mr. M.S. Khaira in their letters dated respectively 23.2.82 and 23.3.82 denied having prescribed such a qualification. Mr. Khaira writes, "I postively remember that at no time it was decided that they shouldbe University Graduates." he further says "I have no copy of proposed Bill drafted by the Committee as they were taken back from us by the Chairman" SGPC File).

95. The Tribune, Chandigarh, September 18,1978.

96. When a responsible official of the SGPC was approached for a copy of the draft Bill he refused to give and even to show it because, he said anything they did not like will also not like to be advertised. However, S. Bhan Singh, Secretary of the SGPC was kind enough to procure a copy of the same.

97. In a private discussion a member of the Revising Committee of the bill remarked that public money to the tune of rupees thrity lakhs was wasted over it.

98. See Dr. J.S. Ahluwalia, A Study of the Draft Proposals on All India Gurdwaras Legislation, n.d., pamplet published by Guru Gobind Singh Foundation, Chandigarh.

99. The Tribune, February 28,1983.

100. Statement of S. Onkar Singh Thapar, Secretary, Delhi State Akali Dal ibid.

101. Clause 5, Memorandum of Settlement, Rajiv Longowal accord, dated July 24,1985.

102. The Tribune, Chandigarh dated September 5,1986.

103. Ibid Sept, 18, 1986.

104. Such demand was made in the Seminar on "All India Sikh Gurdwaras Legislation" organised by the Department of Laws. Guru Nanak Dev University on Oct. 17-18, 1986. See proceedings of seminar as reported in Indian Express dated 20.10.1986.

Also see a letter of S. Gurwaryam Singh, member of the SGPC to the Editor of Daily Ajit (Punjabi), Jalandhar, dated 12.10.1986.

105. The United Akali Dal in its meeting held on 17-10-86 called for the circulation of the draft bill (The Tribune dated 18-10-86). The five high priests of the Sikhs had stated that they have some doubts about the proposed draft of the Bill. They wanted the SGPC to consult various Sikh bodies like Chief Khalsa Diwan. (The Tribune 17.10.1986). The Akali Dal (Badal) questioned the character of the Re-drafting Sub-committee as being not a representative body of the Sikhs. It criticised the non-association of important Gurdwara Committees like that of Hazur Sahib, Patna Sahib and even

SGPC. (The Tribune, 17.10.86) The Sarbat Khalsa meet summoned by the acting chief of the Akal Takht, Mr. Gurbachan Singh Manochahal on Diwali day (1.11.1986) rejected the Bill stating that Govt has not secured the opinion of Sikh religious organisations. (Indian Express 3.11.1986).

106. Daily Ajit, October 20,1986.

107. Indian Express, October 22, 1986.

108. Statement of S. Surjit Singh Barnala in the State Legislative Assembly on December 16, 1986, reported in the Tribune, December 17,1986.

109. Members of the Sub-Committee are Mr. Bharpur singh, Dr. Rajinder Kaur, Mr. Mewa Singh Gill, Bhai Ashok Singh Bargrain and Mr. Gur Rattan Pal Singh.

110. Dr. Gokul Chand Narang, PLCD. Dated 6th July 1922, p. 1292.

111. Dharam Dass V. State of Punjab A.I.R. 1975, S.C. 1069 at 1074.

112. Supra p. 1079.

113. In Britain women were given the right to vote in 1928. Nineteenth Amendment to the American Constitution in 1920 granted the women the right to vote. In France, women were enfranchised only in 1944 and in India, it was the Constitution of India which granted this right women in 1950.

CHAPTER 3

GURDWARAS JUDICIAL SYSTEM

GURDWARA JUDICIAL SYSTEM

From the study of preceding chapters, we can conclude that, the passing of the Sikh Gurdwara Act, 1925 was really a great achievement of the reformers. They extracted it from the hands of an unwilling British Government after a prolonged struggle. It was something unique that the possession, control and management of hundreds of Gurdwaras and their properties were transferred and put into the hands of Sikh community by a stroke of legislation the Sikh got their claim accepted from the Government that the Gurdwara are the heritage of the Sikh panth and no outside authority should intrude in their internal affairs and management. The Act incorporates one of the inherent principles of Sikhism, i.e., equality of all the human beings by granting the equal participation to all the Sikhs including the women in the management of Gurdwaras. The provision in the Act to determine the various controversies in an expeditious manner and at low expenditure through the agencies of a Judicial Commission and the Tribunal was a Plus point of the Act.

(a) SIKH GURDWARAS TRIBUNAL

To some extent, the legislature had specified the area for the implementation of the Sikh Gurdwara Act by adding Schedule I to the Act. But it was not fully worked out because at the time of the passing of the Act, there was a large number of Gurdwaras whose character as Sikh institutions or otherwise was not settled. And then conflicting claims were being made in regard to the property of the scheduled and other Gurdwaras; For the determination of these and some other issues, an authority called the Tribunal, popularly known as Sikh Gurdwaras Act. The Government is authorised to constitute more than one Tribunal to cope up with the rush or work. In fact, two Tribunals have functioned for sometime in the beginning but mostly single to Tribunal has been there to decide the claims. The Tribunal is a judicial body the functions of which are strictly confined to the provisions of the Sikh Gurdwaras Act. At present the seat of the Tribunal is at Chandigarh.

(i) Constitution and Structure

A Tribunal shall consist of a president and two other

members. All the three shall be appointed by a government notification. A person shall not be qualified for appointment as a President of the Tribunal unless he is a sitting or retired judge of the High Court. As regards the qualifications of other two members, they can be appointed from amongst the serving District Judges or Subordinate Judges of the First Class or Barristers of not less than ten years standing or persons who have been pleaders in any court for not less than ten years. It is clear from sub-section (3) of Section 12 that while retire Judge of High Court can be appointed asa President of the Tribunal, a retired District Judge or a retired Subordinate Judge of first class can not be appointed as a member of the Tribunal. The Act does not require the President or members to be Sikhs. For the better and easier appreciation of various controversies pertaining to Gurdwaras, it would have been better if such a provision was there.

It may be pointed out that Section 12(2) provides that "Tribunal shall consist of a President and two other members...." But in the subsequent sub-sections and sections of the Act which provide for their remuneration [s12(4)], filling of vacancy

[s12(5)], procedure of taking decision in case of difference of opinion (s13) only members and not the president, are referred to. It gives the impression that these provisions refer only to the members, But actually the President is impliedly included amongst the members. To remove this misunderstanding and for the sake of clearity it is better if sub-section (2) of section 12 is worded as follows:-

" A Tribunal shall consist of three members of whom one shall be appointed as President." The Sikh Gurdwaras Act does not prescribe any fixed tenure for the President or for the members of the Tribunal. It seems that once appointed as president or a member of Tribunal a person can act, as such as long as he can and he wants unless the Government by notification directs the dissolution of the Tribunal. Though Sub-section (6) of Section 12, which provides for filling of a vacancy in the Tribunal, refers that a vacancy may occur by reason of removal, resignation or death of a member, but no where in the Act, the procedure for removal of a member is laid down. Thus to remove a member the Government shall have to dissolve whole of the Tribunal and then reconstitute it. In case the Government removes any member by

pleading that power is imliedly vested in it, it is likely that the action of the Government shall be struck down by the Courts. Such a conclusion can be safely drawn keeping in view the ruling of the Punjab and Haryana High Court in Shiromani Gurdwara Parbandhak Committee v L.S. Gill.[2]

(ii) PROCEDURE AND JURISDICTION

The Sikh Gurdwara Act, 1925 is an enactment of a special nature and is governed by its own procedure.[3] Sub Section (9) of Section 12 vestes the Tribunal with the same powers as are vested in a court by the Code of Civil procedure. The Tribunal can proceed only if at least two members are present. The decion in the Tribunal are taken by the majority. But when only the members, other than the President, are present and they differ, the matter will be kept pending till the next meeting, when the President is also present and his opinion will prevail. But if the President and one another member is present and their opinions are different, the opinion of the President will prevail (s13). Giving weightage to the opinion of the President over that of an ordinary member is not in consonance with the judicial

principles. This is not a good method of breaking a tie in adjudication. In such cases also the matter should be kept pending till the next meeting when the third member joins and decision should be taken by the majority. The position of the President should be just like that of the Chief Justice of a court who has only administrative powers in addition to the power and authority of other members. As regards adjudification is concerned, his voice should be treated just at par with that of the other members.

The Tribunal is to determine first of all, whether a place of worship is a Sikh Gurdwara within the meaning of the Act. As mentioned earlier installation of Guru Granth Sahib is necessary for a place to be a Gurdwara, but all the places where Guru Granth Sahib is installed are not necessarily 'Sikh Gurdwaras'. For the purpose of the Act word 'Gurudwara' and 'Sikh Gurdwara' are not synonymous. All the Gurudwaras are not Sikh Gurudwaras. The Tribunal is to determine if there is any controversy in this regard, if there are more issues before the Tribunal alongwith the issue that whether a Gurdwara is a Sikh Gurdwara or not this issue shall be decided first of all. Sub-section (2) of section

16 has listed certain categories of Sikh Gurudwaras and the Tribunal shall decide whether a particular institution falls in any of these categories. The jurisdiction of the Tribunal extends to the determination of all claims to properties which are claimed to be the properties of a Sikh Gurdwaras mentioned in Schedule I of the Act. When the property is being claimed as belonging to a Sikh Gurudwara and counter-claims have also been made by other persons, the Tribunal has the jurisdiction to decide as to whom that property belongs, whether to the Sikh Gurudwara or to any other person claiming it. It is open to the Tribunal not only to decide whether the property claimed belongs to the Gurdwara but also to decide whether it belongs to any of the claimants. Thus the Tribunal is fully empowered not only to give a decision as to the rights of the Sikh Gurdwaras but also of other claimants.[4]

It has been judicially accepted that judgements of the Tribunal are judgements in rem.[5] The Tribunal holds that the Mohammdans in general had no right left in the mosque, that finding must be binding on all.[6]

Another kind of claims to be determined by the Tribunal in regard to scheduled Gurdwara are that of compensation, Section 6 allows any past or present hereditary office holder of a scheduled Gurdwara to claim compensation. Such a claim could succeed on proving that he was unlawfully removed from his office and he has suffered or is likely to suffer pecuniary loss in consequences of declaration of the Gurdwara as a Sikh Gurudwara. The guidelines are laid down in section 22 which are to be taken into consideration by the Tribunal while awarding compensation. The jurisdiction of the Tribunal is unlimited as regards value. The Tribunal may order the enforcement of an agreement if it was made between the office holders of the management on the one side and the Sikhs on the other on or after January 1, 1920 (and in case of papsu area on or after 1/11/1956) and it had resulted in a change in the system of management of the Gurudwara (s.19). The tribunal is also empowered to award compensation to an hereditary holder of a Sikh Gurdwara if he has resigned or has been unlawfully removed within 12 months of the notification declaring the Gurdwara as a Sikh Gurdwara. The jursidiction of the courts is specifically excluded from the Gurdwara matters in which the tribunal is to exercise the jurisdiction (s29). The

appeals against the orders to the Tribunal lie to the High Court. And only a division bench and not a single judge of the High Court can hear appeals against the orders of the Tribunal (s34).

The purpose for which Sikh Gurdwara Tribunal was established under the Act, is now hardly there because at the time of establishment there was a large number of Gurdwaras and their character as Sikh institution or otherwise was not settled and conflicting claims were being in regard to the property of the schedule and otehr Gurdwaras. Therefore for the determination of these and some other issues a authority named the Tribunal was established under the Act. the purpose of establishing the Tribunal fulfilled long back and there is hardly any case pending with the Tribunal. Therefore, the present researcher submit to review the jurisdiction of the Tribunal. At the first instance, one can suggest to abolish it, but instead, I would like to suggest to revise its jurisdiction and give more powers to make it functional. The significant provision u/s57 is, its presiding officer of the Tribunal is considered public servant u/s21 of I.P.C. and are the paid officer of the Govt. In view of this

provision the power of the Tribunal and jurisdiction must be broaden to make it active and functional and a regular operative body under Gurdwara Act. The another significant feature of the present Tribunal is that it is a judicial body presided over by either sitting or retire Judge of the High Court. While the judicial commission is not a court neither the expenses of officer of the commission are fully borne by the Government. Therefore, I hereby submit that the judicial commission should be made judicial body and the Tribunal should be made the appellate body. Thus the appeal from the judicial commission will lie in the Tribunal and thereafter to the High Court.

SIKH GURDWARA JUDICIAL COMMISSION

1. Status, Constitution and Structure

The Judicial commission is a full partner in the management of Sikh Gurdwaras. The power and authority to administer the management of Notified Sikh Gurdwaras is vested in the Committees of such Gurdwaras, the Board and the Judicial Commission (s41). The judicial Commission is basicaly a judicial body which directly and substantially controls the functioning and operation

of the Gurdwara management. It is not a court but has all the trappings of a court. The cases before it are regarded as complaints and not as suits. These complaints are disposed of by following the procedures laid down in the C.P.C., The commission is apparantly a statutory body but not of usual type because it is not appointed and employed by the Government exclusively and it total expenses are not borne by it. The expenses of the Commission are shared by the Board and the Government in ratio of two to one, it is situated in 392 A, lawyers Avenue a building owned by the SGPC, quite adjacent to District Court, Amritsar.

The Judicial Commission consists of three members. Any Sikh who is serving or a retired District Judge,a Subordinate Judge of the First Class, or a barrister of not less than ten years standing can be appointed as amember of the Judicial Commission (S70). The members of the Commission are not allowed to hold any office of the Board or of a Committee. If a member of the Board or of a Committee is appointed member of the Commission, he will immediately cease to be a member of the Board of the Committee on the acceptance of the appointment (s72). This provision is obviously meant to ensure the impartiality of the members ,

because the Board or the Committee are usually the party in cases before it. But the members have not been able to maintain impartiality because most of them are appointed on the recommendation of the S.G.P.C. A study of the cases decided by the commission shows that these have invariably been decided in favour of S.G.P.C. legalising its various omissions and commissions.

The government of the State of the Punjab shall appoint the members of the Judicial Commission[7]. The appointment of one member depends entirely on the choice of the Government while the other two are to be appointed by it out of a list of seven persons which is prepared and maintained by the Board for this purpose. The former is generally known as the official member. The Government had been appointing the official member generally from the judiciary. A departure from this convention was made in 1960 for the first time when S. Kartar Singh Giani, Advocate was appointed as an official member. The S.G.P.C. objected to this and challenged his appointment on the plea that the official member must be from the judges and not the advocates. However, the High Court turned down the plea. Another variation in the

practice has been made in 1981 when S. Raghbir Singh Sandhu was appointed as an official member of the commission and his name was existing in the list prepared and maintained by the S.G.P.C. Thus all the three members are appointed from amongst the nominees of the SGPC. This could be interpreted as a gesture of good will of the Government towards the S.G.P.C. or good relations maintained by the member on both the sides. A close examination of the composition of the commission revealed that its members have rearly been from judicial elite. Since two out of three are to appointed from a panel submitted by the S.G.P.C., they are generally the persons who enjoy personal patronage of S.G.P.C. Majority of decisions go in favour of S.G.P.C. Thus, the commission helps in increasing the institutional influence of S.G.P.C. It is alleged that some of the members are frequent visitors to the S.G.P.C. office. They freely mix with the people instead of wearing a cloak of judicial aloofness. Rather the office is used to develop relations to promote their legal practices. Some of them continue to be active participants in politics. Sometime back, one of them was reported to have changed loyality from one faction of Akali dal to another.

The members of the Commission are to appoint one of themselves as a President, but if they fail to do so, The Government shall appoint one of them as President. Since its inception, the Government had to break the tie only once in 1957 when there were two claimants for presidentship.

Section 79 of the Act provides that the Government may remove any member of the Commission(i) if he refuses to act or becomes, in the opinion of the Government incapable of acting or unfit to act as a member (ii) if he has abstained from more than three consecutive meetings of the Commission or (iii) if it is proved by inquiry that he has flagrantly abused his position. The exercise of power of removal of a member of the Judicial Commission under clauses (i) to (iii) of Section 79 is obviously exercise of the power in the wake of the object and policy of the [8] Act as laid down in the preamble and the main body of the Act [9] Clause(IV) of Section 79 provided that the Government could remove any member if he has served as a member for more than two years. The Clause has been held to be unconstitutional by the [10] High Court for being arbitrary and muguided and hence violative of Article 14 of the Constitution.

It is interesting to note here that in March 1983, the Punjab Government issued a notification exercising it powers under Clause(iv) of Section 79 removing the President and another member of the judicial Commission from their respective officers. This was an act of utter ignorance and negligence on the part of the Government because the power was sought to be exercised under a provision which was non-existent because it had been declared ultra vires of the Constitution. It also shows callous indifference and ignorance on the part of the Government towards it. The affected persons filed a writ petition in the High Court challenging their removal. It is further interesting to note the indifferent and ignorant attitude of the bar towards the Gurdwara Laws. One of the senior most advocates of the High Court argued, interalia, that the commission being an inter-state body, the Punjab Government alone could not pass any order under section 79 of the Act.[11] The learned advocate was, perhaps, ignorant of the fact that by a notification dated October 19, 1978, the Central Government has substituted the words 'The State Government' in Section 79 with "The Government of the State of the Punjab."[12] Therefore, the present position is that the Punjab government can remove the members of the commission if any of the charges

mentioned in clauses(i) to (iii) of Section 79 is proved against them. As regrets the dissolution of the Commission as a whole under section 83, it is not allowed if there is any proceedings pending before it. Therefore, Sections 79 and 83 suggest that the tenure of the members of the Commission would be life tenure, and as the High Court has said, in judicial officers,"a life tenure is not unknown to law"[13] The legislature has not intended any limit on tenure of the members of the Judicial Commission. Has it intended, it should have provided a fixed tenure for a term of years or a tenure terminable at a certain age of the incumbent. It may be pointed out that though life tenure in judicial offices is not unknown but it should be conceded to persons of exceptionally high calibre. So when legal provision are quite clear, extra care should be taken to appoint persons of high judicial calibre and moral character as member of the commission.

From the above illustrations, it is very much clear that the S.G.P.C. has been successful in getting nominated official members of his own choice by the Government. Thus the commission has been acting and protecting the interest of S.G.P.C. and had rarely been a impartial body. Therefore, I respectfully submit that to make it a impartial and independent judicial bod, the

officer of the commission must exclusively be paid by the Government and there tenure should be for three years and after completion of 3 years term shall go back his original posting and the commission should be a regular and primary court for the disputes regarding Administration of Sikh Gurdwaras and appeal shall lie in the Tribunal as suggested in the last going pages. To make this judicial body a more active, regular and functional, I suggested that the officer of this Judicial commission must be appointed by the Government and paid by the Government and should be amongst the judicial officer of the state with primary qualification given under the Act. If such members are not available within the existing judicial officers the Government must go for recruitment of such officers. Therefore this body has to play a significant primary role.

PROCEDURE AND JURISDICTION

The Judicial commission shall, for the purpose of deciding any matter within its jurisdiction, have the same powers as are vested in a court by the Code of Civil Procedure. The Commission is also to follow the procedure as laid down in the code of Civil

Procedure in the conduct of its proceedings (s76). In appropriate cases, the Commission can also issue temporary injunctions and

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can make temporary arrangements,. It is important to mention here that just as a Civil Court is empowered by Section 21 of the Arbitration Act to refer any matter of difference between the parties in any suit for arbitration on the request of the parties, The Judicial Commission is not authorised to refer any matter for arbitration on the request of parties. Setting aside the award of the arbitrator to whom the matter was referred by the Commission on the request of the parties, Justice J V gupta

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in Udham Singh V. Hazoora Singh held the proceedings under section 142 of the Sikh Gurdwara Act is not is suit and are only in the nature of complaint made to the Commission to enquire into malfeasance etc. and hence not a dispute as contemplated by Section 21 of the Arbitration Act. It being a case of special jurisdiction which is vested in the Commission alone, the matter cannot be referred to the sole arbitrator by the parties concerned. So the judical commission cannot be treated as a court within the meaning of section 2(C) of the Arbitration Act and thus has no power of refering th dispute to the arbitrator even at the request of the parties.

A Decree of a order of the commisson shall be executed or otherwise given effect to by the District court of the district where the Gurdwara concerned is situated (S.76)(7).

Its submitted that, since the judicial commission should be made regular judicial court as suggsted in the preceding heading, the power to execute its decree should be vested with the instant court rather than vested with the district court. Further submitted that the S.G.P.C. should be disassociated from the work of judicial nature and judicial commission should be considered a primary court. The appeal from judicial commission should lie in the Tribunal.

JURISDICTION

There is no limit on the jurisdiction of the commission as regards value. Area wise, its jurisdiction extends to the whole territory which constituted Punjab before its reorganisation in 1966. The Judical commission is having the Jurisdiction over the all preceding which are expressly vested in it by the Act S.76)(1). The Act vests the jurisdiction in the juldicial commission over the proceedings of the following types:-

1. The judicial commission is an appelate Tribunal against the findings of the Board that person has incurred disability under either of section disability under either of sections 45,46,90 and 91 and thus ceased to be a member of the Board or the committee, as the case may be.[16] Further, Section 84 of the Act authorised the judicial commission to decide,where it is necessary, for the purpose of the constitution of the Board, whether a person has or has not become a patit, which is a disablity under sections 45,46,90 and 91. Thus the judical commission may directly affect functioning and operation of the Board as a body corporate by affecting its membership.

2. The concurrent appellate jurisdiction is vested in the judical commission an the Board by section 135 of the Act when any hereditary office holder is suspended or dismissed, he may appeal either to the Board or the judical commission. Such a concurrent jurisdiction unnecessarily creates confusion. It would have been better if first appeal lie to the S.G.P.C and the second

to the judicical commission. The second alternative is that S.G.P.C should be dissociated from the work of judicial nature and it should be left to the judicial commission alone.

3. The act confers jurisdiction on the commission in financial matters also. The Board may obtain an order from judicial commission against a Gurdwara committee which is not willing to devote its surplus income for the puposes suggested by the Board (S.106). Further if a Gurdwara committee does not modify its budget on being pointed out, by the Board, that it is providing for expenditure not authorised by the Act., the judical commission , on the application of the board,may call upon the committee for necessary modifications in the budget (S.123). if any committee fails to pay its conmtribution to the Board payable under section 107 the commission shall, on the application by the Board, may direct the committee to pay the sum found payable either lumpsum or by instalments(S.124). All these powers the judiciai commission exercises at the instance of the Board. Besides , the judical commission is to publish the

report of audit of accounts of the Board, if the Board fails to do so.

4. Section 130 of the Act confers co-ordinate legislative power on the Board and judical commission to frame schemes of the management. Where the Board and the committee concerned do not agree upon a scheme, the judicial commission will, on an application either of the committee or of the Board, frame a scheme of managements.

5. Lastly and most importantly, the judical commission is to exercise judical control over the day to day functioning and the membership of the Board under section 142 of the Act. This section gives power and jurisdiction to the commission in quite an exhausive area. Section 142 is couched in a language which have wide ranging amplitude.And it does not seem easy to impose any limitation on the powers conferred on the commission by the section.[17]

It allows any interested person to make an application

before the Judicial Commission against the Board or any of other persons specified therein in respect of any alleged malfeasence, misfasanc, breach of trust, neglect of duty, abuse of powers conferred by the Act or any alleged expenditure for a purpose not authorised by the Act. If such an allegation is proved the commission may award damages or costs against such a person or body and impose other penalities provided for in the said section. Like the interested persons, the Board is also authorised to make similar applications. Such applications are to disposed of by the commission in the same manner as that of other person [s142(2)]. Thus, by implication, the Executive Committee and the Committees are excluded from becoming applicants before the Commission under section 142.

The Punjab and Haryana High Court has held[18] that Judicial Commission has no Jurisdiction to deal with a case where an employee of a Gurdwara is transferred to a Gurdwara at another place and the employee alleged the abuse of power by the secretary. Therefore, Section 142 does not cover cases of Personal grievances. It covers the grievances which have some relation to publis interest or welfare of the institution.

Further, the provisions of Section 142 do not cover the claims for damages the office holders of the Gurdwaras for their acts of
19
tort. The claims for recovery of debt against the Gurdwara also
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fall outside the scope of section 142 of the Act.

Besides the Board, other persons against whom an application may be made before the Judicial Commission are the Executive Committee of the Board, the Committees of Management, past and present members of the Board or its Executive Committee or of the Committees, past and present office holders of the Gurdwara and past and present employees of the Board of the Gurdwara. In
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harnam Singh V. Surjit Singh it has been held that section 142 includes malfeasance etc. of a member of a committee not merely in his capacity as President and Vice President of the Committee if he has been elected as such. Therfore, it cannot be said that when a member of the Committee in his capacity as a member is elected as President or Vice-President and he abuses his position as such, it would not amount to an abuse of position as a member
22
of the Committee.

The penalities, besides awarding damages of costs, provided by section 142 include directing any specific act to be done or

forborne, removal of any office holder or member of the Board, Executive Committee or Committee of Management and disqualifying the member thus removed for a period not exceeding five years. The applications under Section 142 are to be entertained by the Commission only if made within six years of the date of act or omission and in case of an application against a member of the Board, of the Executive Committee within six years of act or omission or within six years of the date of his ceasing to be a member, whichever is later.

Appeals

Section 76 (3) says "Save as otherwise provided by this Act, all orders of the Commission shall be final". So the general rule is that no appeal lies from the orders of the Judicial Commission. But specific provision for appeal to the High Court from the orders of the Commission is made in sections (105(5), 135(3) and 142 (3). These constitute exceptions to the rule. But there is no such provision for appeal from the orders of the Commission under Sections 52(2), 84,95(2) and 130(2) and (4). The orders of the commission in cases falling under the latter category of sections are final.

SIKH GURDWARAS COMMITTEE : THE BOARD (S.G.P.C.)

The Board is a focal point of the whole Gurdwara administration. It is known by the name of Shiromani Gurdwara Parbandhak Committee (SGPC).

A. Brief Restorspect

A general assembly of the Sikhs met at Akal Takht, Amritsar on November 15-16-1920. It selected a committee of 175 members and named it S.G.P.C, the first session of the SGPC was held on December 12, 1920. At a meeting held on March 20,1921, the SGPC had demanded the passage of suitable legislation to secure the redemption of all gurdwaras. The committee got itself registered on April 30,1921 under the Societies Registration Act, 1860 and fresh elections were held in July 1921 under the new Constitution prepared and approved by the earlier committee.[24]

By an order, dated October 12,1923 issued by Home Department of the Government of the Punjab, The SGPC was declared as unlawful association.[25] In the next two days, first batch of 60 members of the Committee were arrested under sections 120, 121,

121A and 124 of the Indian Penal Code. After their arrest, vacancies were filled to complete the strength of the SGPC and a meeting was convened at Akal Takhat on January 7, 1924 which was attended by 62 members. They were also arrested and tried for various charges. After that, a third Committee took over which also held a meeting to defy the orders. Its members were also arrested but they were not tried. They were released on the plea

that they were not prominent leaders. After having failed to suppress, the authorities were compelled to open a fresh dialogue with the SGPC for a legitimate solution of the problem. While the Sikh leadership insisted that there must be a central body under the proposed Act and that should be named as S.G.P.C. The Government was very much hesitant to constitute a central body and to name it as much. It is quite apparent from a note of Governor Hailey;

I and many others would have been glad if we could have avoided the institution of a Central body, and could have placed the shrines entirely in the management of local committe....(we) dislike the idea of instituting a central Sikh body which is always liable to misuse for political purposes the position derived from religious causes. Nevertheless, those who know the

position best assure that.... the Sikhs will not agree to legislation which does not recognise a central body of some kind..... (thus) I am afraid that our attempts must be limited to giving local committees as strong a position as possible and minimizing the share of activity of a central body.[27]

The Government, due to is declaration that SGPC is an unlawful association, was not willing to accept this name. The impasse was resolved by putting section 42 in the Act which left the question regarding the name to be decided by the 3/5 majority in the general meeting of the First Board constituted under the provisions of the Act. The Board constituted under the Act, at its very first meeting in Town Hall, Amritsar on October 7, 1926., unanimously decided to name itself as Shiromani Gurdwara Parbandak Committee.[28] By a notification dated January 17, 1927 the Punjab Government recognised the newly the newly constituted SGPC.[29] Thus the Board came to be known as SGPC in compliance with section 42(1) of the Act. the old SGPC, an unlawful organistaion, which had all along been managing the Golden Temple and some other Gurdwaras and spearheading the agitation for Gurdwara reform completely handed over the charge to be new statutory SGPC by December 8, 1926 and merged itself into it.[30]

Composition of the SGPC

The Board that is SGPC, constituted under section 43A of the
[31]
Sikh Gurdwaras Act is to be composed at 160 members. OF these 140 are elected members, who are to be elected by the Sikh voters. Five members are designated as ex-officio. They include the Head Minister (Granthi) of Darbar Sahib (Golden Temple) and Jathedars
[32]
of four Takhats namely Shri Akal Takhat, Amritsar, Sri Takhat Keshgarh, Anandpur; Takhat Patna Sahib, Patna and Takhat Hazur Sahib, Nander. The remaining fifteen members are to be co-opted by the elected and ex-officio members. It is prescribed that not more than five of the co-opted members should be the residents of Punjab.

[33]
Twenty out of 140 seats of election category are reserved for scheduled caste Sikhs. The Constitution (scheduled castes) Order, 1950 recognised certain castes of the Hindus only as the schedule castes. Though sikhism believes in complete equality of all human beings and denounces casteism, the Sikhs agitated to get their backward and weaker classes included in the schedule castes to get various concessions reserved for these castes. The order was accordingly amended and some castes of the Sikhs have

also been listed as scheduled castes by legal fiction. This provision was added in the Act keeping in view the practical considerations. The weaker and economically backward sections of the community could not aspire for SGPC mambership otherwise keeping in view the enormous expenses of the elections in the absence of such a provision.

It is submitted that to make the S.G.P.C. more efficiently workable, the composition of160 members must be reduced to 60 members, as the past and the current experience showa that there is much politics among the members and to depolitise it the considerable representation should be given from the following special categories. 1. Universities and Colleges 2. Administrative Officers(I.A.S. and P.C.S. Retd.) 3. Retired Judges and advocates(10 year standing) 4. Foreign Representatives 5. Doctors, Engineers, Scientists etc. 6. Qualified Granthis and preachers . on the line suggested as below :-

Total Members	60
General Category	20
SC/ST	05
Ex-Officio	05
Special Categories	30

Elections

The Government in consultation with the Election Commission has divided the entire area under the Act into 175 constituencies. Though the constituencies are not necessarily coterminous with boundaries of State territories, there are 119 constituencies in Punjab, seventeen in Haryana and one in the Union Territory of Chandigarh. Out of these 120 constituencies, twenty four are reserved on double member constituencies. The rest are single member constituencies each entitled to one seat in the Legislative Assembly. There are one hundred single member constituencies and two double member constituencies. In the former, voters are entitled to cast one vote while in the latter they are entitled to cast two votes, one each for the Scheduled and non-Scheduled Caste candidate (s50). The Central Government is to conduct the elections at its own expense on a date fixed by it and in accordance with the rules framed for the purpose under section 14 of the Act. Prior to 1966, the Punjab Government was responsible to conduct the election. Since then the central government has conducted the election only [illegible] in 1970.

It is suggested that creation of double member
constituencies is not a good method of giving representation to
the Scheduled Castes Sikhs. It is because the groups with vested
interests are likely to get the contribution of their
dominance and influence selected as double member constituencies
and get their candidates elected facilitating collaboration of
power in fewer hands. Secondly, none of the voters should have
undue advantage of electing two members. It is therefore
suggested that the area covered by the Act should be divided
into 140 single member constituencies. Out of these twenty
constituencies should be selected as reserved for the Scheduled
Castes candidates by rotation in such a manner that each
be allotted to one vote each. The single member constituencies
shall avoid at least to some extent the evils of caste,

It is felt in certain quarters that elections have polluted
the management and administration of [illegible]
pointed out that election system as such is not to blame
with the heads of Sikhism which is followed by the people
worshiping and humble people. The Gurdwara elections are
not contained by factionalism and communalism like any other

election. There are also lapses and Government and Gurdwara mana-

gers machinery is used therein. This has made the elections

more reprehensible. But in the present setup, no other

alternative method seems to be feasible and workable.

Therefore, we shall have to adhere to the election system as

prescribed in the Constitution of Anglistan, 1950.

Looking into the above-cited issues further, I would

suggest that the electoral rolls of the Constituencies in

Anglistan of members of the Constituent Assembly of S.G.P.C. Therefore the

Constituencies should be created on the basis of the number of members

the following lines may be adopted.

1. Group of Constituencies 50

2. SC/ST 25

3. General Constituencies 75

Voters

Sikhs who are more than 21 years of age and their names

registered as voters on the electoral roll of a constituency in

which they are resident. A person shall be deemed to file for

registration as a voter if he makes the following declaration in

a document prescribed for

I solemnly affirm that I am Sikh. that I believe in the Guru
Granth Sahib, that I believe in no other Guru, and that I have no
other religion. [s2(c)].

Obviously, this is not a liberal definition of a Sikh designed
to make such a declaration and become a voter for Gurdwara
elections. No other check is there in the Act to control the
misuse of this provision. The Gursikh Sikhs who have faith in
Sikhism but do not profess the outward symbols, are also not
included in the definition of 'Sikh'. It may be mentioned that
even the Sikh Gurdwara (Jammu & Kashmir) Act 1978 was passed before
the Punjab Legislative Council in which Muslims and Hindus
outnumbered Sikhs as well as without the Granth Sahib. The
inclusion of the last line of the declaration that one believes in
other than no other religion. Thus a Gursikh like the Nirankaris is
recognised as a separate religion. They wanted to control even
Jammu and also to participate in the management of Gurdwaras.

Undoubtedly, the Namdharis, Radhaswamis and Nirankaris who
believe in living Gurus do not come within the purview of the
definition of "Sikh" as given in the Act. However, it should be
explained. There is no check on [illegible]

s voters in the Gurdwara elections. It was reported in the press that some politicians got thousands of Nirankaris and dharmanis registered as voters for the sole purpose of vote. It suggested that a severe punishment should be prescribed for case who make a false declaration.

Provision in Section 49 lays down that a person who ...ayes his ballot or has voted in contravention of rules or takes ballot paper out of the polling station himself registering as voter. ... to be found ... that majority of the voters in Gurdwara elections do not fulfil these qualifications. Drinking has become a menace in Sikhs have become notorious for how much drinking. It is used specially on the eve of days of ... when they ... not. They do not take alcohol. Though the person who smokes is statutorily prohibited from being registered as a voter, but it

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is known ... that in the Gurdwara elections ... many ... who ... ender ... ghadhwi ... ballot ... this is ... thereby ...

by some other but powerful political party who offered to buy your votes.

Looking into the latest amendment to the Representation Act, the age from 21 has been reduced to the age to get registered as a voter. Therefore, the definition of a fit voter is subject to the voter having a figure of 18 years and will be. Consequently the word Sabalbhari should be omitted from the definition of a fit to qualify as a voter.

Qualification for Mambers

Section 40 and 41 prescribe the qualifications and disqualifications of such office with regard to the former also requires candidate to be registered on the electoral roll of any constituency. In respect of the latter, members i.e. High schools qualifications is specifically prescribed. It is suggested that the same should also be applied and plus personalities must be qualified to be members in every way.

The common qualifications for the elected and co-opted members of the Board a person shall not be eligible for election or co-option, as the case may be, if such a person (a) is not a Sikh (b) is less than twenty five years of age (c) is an undischarged insolvent (d) is a convict [illegible] of a notified Sikh Gurdwara other than the Board, shall be a member of any political party or any organization other than executive committee of the Board (f) is not a confirmed Sikh (when challenged) (g) is not baptised a Sikh is not a confirmed Sikh (when challenged) (h) is not baptised a Sikh (i) is not a blind person (j) unable to recite Shri Japji Sahib, Shri Jaap Sahib, Shri Gurumukhi and to fill in nomination papers for election to the Board or Gurmukhi or in communicable Gurmukhi (k) convicted to become a member in Gurmukhi. Though illiterate are not barred from the membership of the SGPC but the field investigations have revealed that a few members of the SGPC are totally illiterate or semi-literate and their educational skill is limited only to writing their signatures in Gurmukhi. These members are thus unqualified to be elected to the educational qualifications of the members in early days.

It may be added that Sikh illiterate were debarred from

contesting or being considered as members of the [illegible] factual position in that area of [illegible] has also become a member of this body.

It is submitted that disqualifications mentioned in (f) and (g) above are not in tune with the modern thought of civilized jurisdictions in the matter of qualifications for membership.

It is further submitted that the Council have unfettered power under special qualifications for the persons who can be co-opted by the [illegible]. Only persons who have made outstanding contributions in literature, science, social service should be considered. It is also to be noted that the Council prescribed that only well acclaimed Sikh Gurmukh [illegible] scholars of Sikhism or Religion should be co-opted or nominated under section 10 of the Sikh Gurdwaras Act, 1925. The investigation revealed that [illegible] only one intellectual or scholar is present as a member of the [illegible]. The choice has always been limited to those who [illegible]

necessary for the betterment of [illegible] participation of intellectuals dedicated to the cause of [illegible] should be ensured.

The survey investigators reported with regret that the valuable views of some prominent educationists in this institution by virtue of their majority in Gilgit population.

In view of suggested qualifications in the preceding chapters. The qualifications of the members would be according to the categories from which the members are elected. However, for the General Category the minimum qualification would be [illegible].

Tenure

The tenure of the Board of Trustees is fixed at [illegible] from the date of its constitution or until [illegible] whichever is later. Thus the minimum tenure for [illegible] section 21 of [illegible] for dissolution of the Board before that time. The [illegible]

continue till a new one is constituted to replace it. In this way the Government which is responsible for election and assembly of the first, may prolong the life of a house but cannot initiate a new one. The last election was held in 1979 and the next is due in 1984 which is one month overdue. To avoid this there is the same mandatory provision in the Act requiring the President to conduct the elections and constitute the first sitting of the house at intervals. It is submitted that provisions of this kind are the principle of democracy. It helps in peacefully changing the power of the people who had been exercised by the previous government and thereby affected the working of the state and is responsible for corruption and abuse of power in the state as was exposed after elections must be constitutionally conducted after the expiry of the statutory term.

If a member of the house ceases to hold office by reason of option or the case may be because of his disabilities mentioned in section 71 or 72 or any other provision shall cease to be a member [section 73] a member may also be declared of the vacant seat of the house if he absents himself from three consecutive general meetings of the house [section 74].

submitted that they should cease to be member of the SGPC on becoming the member of any legislative body.

The members are also allowed to resign from the membership of the Board by giving a notice to the President. Such resignation will be effective from the date on which it is accepted by the President (sec7).

The one of the root cause of failure of S.G.P.C. is because of its tenure of working as S.G.P.C. member for unlimited period by manupulating and satisfying the provision of the act. Therefore it is necessary to make a specific amendment in the act to make the election mandatory before the expiry the tenure of S.G.P.C.

Meetings

The power to summon the elected and ex-officios members of the SGPC to meet for the first time after election is vested in the Government. Fifteen members are co-opted to the SGPC in this meeting and the fact that the SGPC is duly constituted is to be notified by the Central Government. Within one month of the notification the Government shall convene the first general

meeting of the SGPC in which the office bearers and members of the executive committee are elected. Section 55 of the Act makes it obligatory for the SGPC to meet in an annual general meeting; Thus it must meet at least once in a year.This provision is based on company jurisprudence and common law concepts imported from Britain. In Sikh history there used to be two yearly meetings of Khalsa Panth coinciding with the Birth of Khalsa, i.e., Basakhi and the homecoming of Guru Hargobind from Gwalior Jail, i.e., Diwali. So SGPC should hold two meetings coinciding with these festivals. In practice, the SGPC meets twice in a year. The meeting place at present is the Teja Singh Samundri Hall within the Golden Temple Complex at Amritsar. Earlier it had been meeting in Town hall, Amritsar and at Akal Takht also. A few meetings of the SGPC are held at Takht Keshgarh, Anandpur also.

Twenty days notice in writing to every member is required to call subsequent meetings of the Board. But this provision in Section 56 is held to be directory and not imperative. If all the members had sufficient reasonable notice of the meeting even if not in writing, it will be sufficient compliance with the provision of Section 56. In view of Section 149 of the Act, not much attention is to be paid to the formalities.

The members of the SGPC are also empowered to call a meeting of the Board. Any ten or more of them may apply in writing to the President to call for a general meeting within 15 days of the receipt of the application. In case he fails, the applicants can themseleves call a meeting by serving a 10 days notice on all the members.

The quorum of the Board has been fixed at 31 members, a little less than 20% of the total membership.

In view of the suggested changes in the precedings pages about the composition, election, tenure, the change in the quorm of the meeting etc. may be made.

Executive Committee

The executive committee of the Board shall consist of a President, a Senior Vice President, a Junior Vice President, a General Secretary, [41] and Executive Member numbering between five and eleven. [42] By convention the office of the Junior Vice President is offered to a member belonging to Scheduled Csates. All these

office bearers and executive members are to be elected every year by the Board itself in its first general meeting and subsequent annual general meetings[s(62,63)]. The ex-official members of the SGPC are not entitled to vote in the election of the Executive Committee.[43]

Though the Executive Committee had one year's term but the Board can remove it earlier also be passing a no-confidence motion against it. However, such a motion can be passed only after the expiry of period of 3 months from the date of its constitution (s63). A member of a committee of management is not eligible to become a member of the Executive Committee. In case a member of the Executive Committee becomes a member of the committee of the Management, he will immediately cease to be a member of the executive Committee (s66). It is indeed unfortunate that one can simultaneously hold the membership of SGPC and the committee of the Management. It is revealed in the survey investigations that the committee of the Management are virtually controlled by such SGPC members who capture the membership of these committees as well. It generally leads to misuse of power and use of Gurdwaras and their funds to achieve personal

political ambitions. Section 68 of the Sikh Gurdwara Act allows the office bearers and other members of the Executive Committee to receive salaries and remunerations out of the SGPC funds at the rates fixed by the SGPC in its general meeting. Powers of the Executive Committee are co-extensive with that of the Board. It exercises, on behalf of the Board, all its powers except which are expressly reserved to be exercised by the Board in general meeting (s64). The executive Committee is also competent to make appointments of personal for the office work and other duties. The determination of number, designation, grades and scales of salary or other remuneration of such employees is also within the competence of the Executive Committee of the Board. The Committee is further empowered to fine, reduce, suspend or remove any servant (s69). The Committee can also delegate any of its powers to a sub-committee one or more of members by a majority of 3/4 of its members present in the meeting (s64). It is submitted that such board delegations should not be allowed for its dilute responsibility.

The functioning of the Executive Committee is described as follows :

The routine functions of administrative nature are performed by the President through the presidential orders. All important issues including financial matters are decided by the Executive Committee. More vital issue particularly tha Annual Budget and strategic resolution of political nature or referred to the general body to decision or ratification [44].

The necessary amendments may be made in view of the suggestion forwarded in the preceding pages for change in the provision of election, terms, voters, composition etc. of the Act.

Powers and Duties of the Board

The powers and duties of the Board, i.e. SGPC, can be enumerated as follows;

(1) It acts as the Committee of Management in respect of some principal Gurdwaras. In the beginning, the Act put the Management of only two Takht, namely Akal Takht and Takht shri Kesh Garh Sahib, under the direct management of the Board. Later it was Punjab Act XI of 1944 which substituted Section 85 and put certain important Gurdwaras under the

direct management and control of SGPC, thereafter, the (Amending) Act of 1959 added some more Gurdwaras to the list. Now the scheduled and notified Sikh Gurdwaras within the Muncipal limits of Amritsar, Tarn taran, Anandpur Sahib and Mukatsar and some important Gurdwaras at patiala, Fatehgarh sahib, Sultan pur Lodhi, Jind, Talwandi Sabo, Snagrur, Narnaul and Mahendragarh as mentioned in Section 85(1) and 86(2) are to be directly managed by the SGPC. The SGPC is to exercise all the powers and perform all the duties of a Committee of Management.

2. The SGPC, being the supreme Governing body, is to control, direct and superintend over all committees of management. It is duty bound to ensure that every Committee deals with the property and income of the Gurdwara(s) managed by it in accordance with the provisions of the Act (s125).

3. The Board exercises control over its executive committees the office bearers and the members of its executive committee are elected by it. It can also remove them by passing no confidence motion against them. The members of the executive will receive the remuneration as fixed by

the Board. The Board can also exercise the control over the executive committee by calling upon it in the general meeting to report upon any matter within the jurisdiction of the Board. It can also require the executive committee to take any such action which is within its powers under the provisions of the Act (s128).

4. The SGPC is mainly a deliberately a body and it is empowered to discuss and consider any matter with in its jurisdiction. Besides, section 129 of the Act authorises it to discuss any matter directly connected with Sikh religion. It was argued before the Supreme Court[45] that Section 129 deals with matter of religion and is thus violative of Article [s26(b)] of the Constitution. The State argued, that section 129 is to be read subject to section 125. And if it is so read "then the powers and duties of the Board, in substance and effect, relate to administartion of Gurdwara properties and matters ancillary thereto. They have hardly any reference to matters of religion." The Supreme Court, however, refrained to express any opinion. It is surprising that the Supreme Court did not apply its mind elucidating the role which the Gurdwara

management could play for the welfare of the community.

It may be relevant to mention here that the SGPC is acknowledged as the highest authority in religious matters by all the Sikh all over the globe. It takes decisions religious matters and those are considered to be final by all the sikhs. Ithas prescribed a code of conduct (Reht Maryada) for all the Sikhs. Even the Government of India regards it as the religious representative of the Sikhs. Even the courts make reference to it on religious matters.[46] The foreign Governments recognise it as a custodian of Sikh interest. The SGPC and its office-bearers are viewed with great esteem by the Pakistani authorities. They are kept informed and are sometimes consulted also in matters concerning the management of Gurdwaras in Pakistan. At the national level also, it is given representation by the laws of various states in the management of Gurdwaras in those states. Thus it a acting as a defacto all-India body.

5. As regards the financial matters, the Board is competent to hold ard administer a number of funds for the purposes laid down in the Act. It is obligatory for the Board to pass its

own budget and the budgets of the Gurdwaras directly governed by it for the following year at its general meeting. It is also to approve the budgets of the Committees of management of other Gurdwaras. The SGPC is to fix the proposition of the annual income of a Gurdwara, which can not exceed ten percent, which the Gurdwara is to contribute to the General Board Fund which is meant to meet the lawful expenses of the Board. It is also to select any particular religious, charitable or other purpose on which the surplus of General Board is to be spent. The SGPC is to appoint seven persons from amongst its members,other than the office bearers and members of its Exeutive Committee; who along with the President of the SGPC, shall administer the Religious Fund. This fund is created for the purposes of propagating Sikhism and matters connected therewith. All the notified Sikh Gurdwaras make contributions, ranging between five to fifteen percent of its gross annual income, to this fund. This Board is also to establish and operate Research Fund for the purpose of carrying out research in Sikh History and publication of Books and Journals in connection therewith. A paltry amount of twenty thousand rupees is

allotted to it. It is submitted that this is too small an amount for a purpose of great significance. Therefore, a proportion of annual income of the SGPC should be fixed for this fund so that it is not effected by inflation. A general Trust Fund is also maintained by SGPC. Further, the Board is the sole authority to collect dues payable to the notified Sikh Gurdwaras left in Pakistan (s127-A)

6. The Board is authorised to recommend by a resolution passed by not less than 3/5 majority of the total membership to denotify or exempt any non-historical Gurdwara from the operation of all or any provisions of the Act(s144-A). Upti1 now the Board has got eight Gurdwaras denotified in the exercise of its power under this Section.

7. The Board also authorised to make a finding that any of its members or of a Committee of Management has become subject to a disqualification as mentioned in section 45 or 46 and section 90 or 91. The member concerned shall cease to be a member of the Board/ Committee on such a finding [s52(1),95(ii)].

8. The Board is empowered to make by-laws for the regulation of its procedure (s,132).

9. The Board is authorised to recommend to the Government that there should be one Committee of Management for two or more Gurdwaras.

10. The Board prepares a list of names out of which two memebrs of the Judicial Commission are to be appointed. It is also consulted by the Government in the demarcation of constituencies for Gurdwaras elections.

11. The Board is also empowered to nominate the members of the Committees of Management of the Gurdwaras under section 87(1) of the Act.

The S.G.P.C. has been utterly failure in observing its duties, in exercising its power in the last decade in particular. The Government has also exploited the situation and did not cooperate with the S.G.P.C. and the Blue Star operation made the S.G.P.C. collapsed fully. The Golden Temple and the fund collected by the S.G.P.C. had been misutilised. However if the suggestion forwarded in the preceding chapter are incorporated in the Act, the S.G.P.C. may become a functional body independent from corruption and other demerits.

COMMITTEES OF MANAGEMENT

While some principle Sikh Gurdwaras are to be administered directly by the Board, the rest of the notified Sikh Gurdwaras are to be managed by the committees of Management (local Committees) constituted for the purpose, One Committee is to be constituted for one Gurdwara but the Government can direct that there shall be one committee for any two or more Gurdwaras. Every committee is to consist of five members of which at least one should belong to Scheduled Caste. All the members should be resident of the District in which Gurdwaras is situated. If the gross annual income of the Gurdwaras does not exceed three thousand rupees, all the five members shall be nominated by the Board. The other alternative for the Board is to manage such Gurdwaras itself. As regards the Gurdwaras, whose annual income exceeds three thousands rupees, only one members shall be nominated by the board while the remaining Four members are to be elected. These members are to be elected by the voters in a constituency formed by the Board in the General Meeting with the approval of the Government (Sec 89). If the Board fails to nominate, the manager or granthis are to perform the duties of

the Committee along with other members, till the Board nominates the required number of members of the Committee. It will be relevant to mention here that there are one hundred and sixty Gurdwaras whose annual income exceeds rupees three thousand and the total number of Gurdwaras under section 87 are 886.

The Board's power of nomination has created the vested intersests and provided the scope or nepotism and corruption. The nominations are a ban of Gurdwara management. Because of vested interests, the Board usually contests the claim of the local Sikhs that annual income of the particular Gurdwara has crossed the statutory limit of rupees three thousand and it should have an elected committee instead of nominated one.

The qualifications and disabilities for elections and members of the Committee are the same as in the case of the Board. A subsequent dissability and absence form three consecutive meetings also deprives a member from membership of the Committee.

The normal tenure of a Committee is five years. However, it shall continue to act as such till a new committee is

constituted. The present Committees of management were elected in 1965 and subsequently no election is held. Thus the same committees are working for the last 25 years. During this period, most of the members of these committees have expired. Hardly, there is any Committee whose all original five members are surviving. Thus most of the Committees have become defunct.

The Committee shall elect one of its members as President and another as Vice President who shall hold office during the continuance of the tenure of the Committee unlike the office bearers of the Board who hold office for one year. If no meeting is held for a period of 4 months any two members can requisition a meeting of the Committee. The meetings are to be called by the president by seven day's notice in writing as provided in Section 99 of the Act.. But section 99 is held to be directly and not imperative, its purpose being to ensure that all the members of the committee had the notice of the meeting.[47] If all the members are present, the irregularity that notice was for a lesser period than seven days or was not in writing is automatically condoned. The quorum of Committee is three members. All the questions before the Committee are decided by a majority

vote of the members present. In the event of a tie, the chairman has the second of casting vote.

A Recent Development

With some ulterior political motive, the Punjab Government promulgated and ordinance to amend the Sikh Gurdwaras Act, 1925 on November 26, 1986, just four days before the hotly contested election of the S.G.P.C. executive. Entitled as the Sikh Gurdwara (amendment) Ordinance, 1986, it provided for scrapping of local committees of all the notified Gurdwaras in the state of Punjab, which have annual income of more than Rs. 25000/- per year. It meant that notified Gurdwaras with annual income in between three thousand & twenty five thousand rupees were to be left under the management of (partially) elected local Committees. As per the amendment, the S.G.P.C. was to take the direct control of Gurdwaras with annual income of more than Rs. 25000/- from the date of enforcement of the amendment that was 1-1-1987. There were 186 Gurdwaras whose income exceeded the prescribed limit on the particular date but the SGPC could take over the control of only 147 Gurdwaras by March, 1987 while 26 Gurdwaras were under the management and control of the local

committees and 13 of such Gurdwaras were with the Nihangs who [48] defied the S.G.P.C.

The faction in power in the State Government lost the election to the SGPC Executive, So it was least interested in strengthening the SGPC power and prestige. Therefore ordinance was allowed to lapse as it was not presented before the State Legislative Assemly within the prescribed period. [49] A writ petition filed in the Punjab and Haryana High Court questioning the validity of the amendment was dismissed by a Division Bench of the High Court as infructuous because the Ordinance had already lapsed to be operative.

Inspite of the lapse of the Ordinance, the SGPC continues to manage the Gurdwaras taken over by it under the amendment perhaps under the plea that the Local Committes are superannuated bodies, while the SGPC is also similarly situated. Some writ petitions by the different local committees against the SGPC were pending in the Punjab and Haryana High Court in July 1987 claiming restoration of the possession of Gurdwaras to them. Thus the move for over-centralisation of the management of the Sikh Gurdwaras, which have become legally imperative, is likely to continue for

sometime. It has almost changed the federal system of management of Sikh Gurdwaras into a unitary one.

POWERS AND FUNCTIONS OF THE COMMITTEES

Section 94-A declares that the committees shall be of legal persons. The power and duties of the Committees are prescribed in chapter XI of the Act. The Committee is to have full powers of controlover the office-holders and over the properties and incomes of the Gurdwara under its management. The Committee is also to enforce the proper observance of all ceremonies and religious observances in connection with such Gurdwaras. The Committee is also duty bound to ensure the proper management of the Gurdwara and the efficient administration of the property, income and endowements thereof (s133).

Section 134 empowers the Committee to suspend or dismiss any office holder. But such actions can be taken against the hereditary office holders and ministers only if it is found that such a person is guilty of any of the faults mentioned in section 134. The Act has also provided a procedure which is to be followed by the Committee for the dismissal of a hereditary

office holder or a minister. If any vacancy occurs in an office, the Committee is entitled to appoint servants for the due performance of its duties and the number, designations, grades, scales of salaries and other remuneration of such servants is also to be fixed by the Committee. Further the powers to fine, reduce in rank, suspend and remove such servants are also with the Committee.

For a valid exchange, sale, mortgage or other alienation of immovable property belonging to a Gurudwara, sanction of the Committee of the Gurudwara along with that of the Board is necessary. The Committee are also empowered to make regulations to regulate its own procedure. But in respect of certain matters such as the form of keeping accounts, the regulations can be made only with the previous sanction of the Board.

To make the sub-committee more active and functional the necessary amendments should be made in view of suggestion advanced in this chapter. Their constitution and composition should be revised along with the powers and duties of their sub-committees.

NOTES AND REFERENCES

1. Section 12(2) of the Act, The Sikh Gurdwara (supplementary) Act 1925(XXIV of 1925) provided that the president shall be appointed by notification by the Governor - General in council "; But this provision was ommitted by the Government of India (Adaptation of India Laws) order 1937. Thereafter, the punjab Government has been making the appointments. But after the reorgnasation of the state of punjab in 1966, this powers has again been vested in the Union Government.

2. A.I.R 1970 P.& H.40.

3. Masjid Shahid Ganj V.Shiormani Gurdwara parbandhak committee, A.I.R 1938. Lahore 369.

4. Kesar Singh V.Balwant Singh A.I.R 1967 S.C 477 at 491.92.

5. Ishar Das V.Mohan Singh A.I.R 1939,Lahore 239.

6. Supra 3 at 390.

7. Section 70 as ammended by notification dated 19th Oct.1978,

Ministry of Home Affairs, Government of India.

8. SGPC committee V.Lachman singh Gill AIR 1970 P&H 494.

9. Clause IV of the section 79 has chequred history. It existed in the Act originally with power to the state Govt. to remove a member of judicial commission after three years . This was deleted by section 18 of the Sikh Gurdwaras (amendment) Act ,1944. It was reenacted by the Sikh Gurdwara (Amendment) Act,1954 but is declared ultra wires of the constitution by the punjab and Haryana High court in ibid.

10. Supra references.

11. The Tribune, March 23,1983.

12. See the Punjab Government Gazettee dated 3rd Nov. 1978.

13. Supra references.

14. Balbir singh V.Sikh Gurdwaras judical commission,AIR 1967 P&H 272.

15. Judgement delivered by the Punjab and Haryana High Court on Feb. 8, 1983.

16. See section 52 (2) and 95(2) of the Act.

17. Jaimal Singh V. Shiromani Gurdwara prabandhak committee AIR 1980 P&H 299 at 300.

18. Harnam Singh V. Swaran Singh,1962 P.L.R 446.

19. Obiter dicta in Ibid.

20. Ibid.

21. 1960 P.L.R.906

22. Ibid,at 911.

23. Provison to sub section (1) of section 142

24. The new consitution had guaranteed voting rights to all the sikhs above 21 years of age who observed elementary rules of sikhs conducted i.e rising early in the morning, rading sikh secptures giving 1/10 of the scriptures income in charity and keeping baptismlal vow of five K's. It

as unlawful association by a notification dated September 13, 1926.

30. Supra refrence 24 p. 233.

31. Section 43-A was inserted into Sikh Gurudwara Act by Punjab Act No.1 of 1959. Originally section 43 of the Act provided for 4 categories of members of S G P C. These were 84 elected members, 5 ex-officio or designated members as at present u/s 43 A.Twelve members were to be nominated by the Darbars of Patiala(4), Nabha,Kapurthala, Faridkot (2 each), Jind and Kalsia (one each); The elected, ex-officio and nominated members were to co-opt 17 members who should be residents of India but not more than 4 should be residents of Punjab. Adaptation of Laws Order, 1950 provided that nomination of 12 members were to be made by the Raj Pramukh of Pepsu. The Act of 1953 amended section 43 of the Sikh Gurudwaras Act increasing the number of elected members from 84 to 132 and of co-opted members from 12 to 25 and abolishing the category of nominated members. The insertion of Section 43 A by the Act of 1959 has rendered Section 43 as nugatory not cutting the dead word.

32. The S G P C has asked the Government to amend the Act to include the Jathedar of (fifth) Takht Damdama Sahib, Talwandi Sabo also as ex-officio member of the S.G.P.C.

33. Section 44 (2) Of the Act. These reservations were made by the Punjab Act 44 of 1953.

34. Section 44 (2) of the Act as amended by the notification dated Feb.3,1978, Ministry of Home Affairs, Government of India.

35. Section 47 as amended by notification dated Fed. 3, 1978.

36. Sahajdhari Sikh, as defined in section 2 (10-A) of the Act, is a person who performs ceremonies according to Sikh rites, does not use tobacco or kutha (halal meat) in any form and can, recite Mul Manter.

37. The Tibune dated 6th,9th, 12th & 27th May 1925, Raja Narendra Nath and Dr. Gokal Chand Narang appended their dissent to the report of the select committee on this very issue (Sikh Gurudwaras & Shrines Bill, 1925 Select Committee Report, Punjab Gazette, June-26, 1925).

38. Dr. Trilochan Singh, Akali Dal Crossroads', Punjab Affairs, Toronto (Canada), August, 1979,p.8.

39. Originally the tenure of the Board was three years, it was increased to five years by Punjab Act XI of 1944.

40. See Gurdit singh V. Gurudwara Managing Committee AIR 1940 Lahore 277 and Waryam Singh V. Intazmia Committee AIR 1937 Lahore 116 where section 99 containing similar provision for convening the meeting of Local Managing Committee has been so interpreted.

41. These four shall also be known as office-bearers of the Board.

42. The number within these limits is to be fixed by the Board itself.

43. Proviso to section 61.

44. Gobinder singh, Religion Politics in the Punjab. Deep and Deep Delhi,1986;pp.81-82.

45. Sarup singh V. State of Punjab AIR 1959 S.C. 860 at 365.

46. The President of SGPC was consulted by a court at Chandigarh on the matter of wearing the helmet by Sikh women.

47. Gurdit Singh V. Gurudwara Managing Committee AIR 1940 Lahore 266 and Waryam Singh V. Intzamia Committee AIR 1937 Lahore 116.

48. The Proceedings of the general body meeting of the SGPC date march 24, 1987 id Gurudwara Gejette April,1987 p.20 and the Tribune, Chandigarh, March 25,1987.

49. The Local Gurudwara Committee Santpuri, Gandiwind V. State of Punjab & SGPC, Civil writ petition No.383 of 1987.

CHAPTER 4

AKAL TAKHAT AS A JUDICIAL SEAT

AKAL TAKHAT AS A JUDICIAL SEAT

Sri Akal Takhat is one of the most sacred institutions of Sikhism. It has played historic role in the socio-political transformation of the Sikh community. That it is co-related to but significantly distinct from Sri Harimandir Sahib, it is indicative of the unique way in which spiritual sovereignty and temporal authority are conceived in Sikh doctrine and institutionalized in Sikh history.

Notwithstanding its sacred character and high status, the nature of the authority of Sri Akal Takhat is not religious in the theo-spiritual sense of the term. Its authority is homologous to the temporal power of State, rather than to the religious authority of the Roman Catholic Church. History reveals that the Akal Takhat had been the symbol of political activity of the Sikhs, and had been dispensing justice. Thus the nature of the authority of Akal Takhat as envisaged in Sikh doctrine and as wielded by it in Sikh history can be best comprehended in the context of the basic postulated of Sikhism : Like Christianity and Islam, Sikhism attributes to Godhead both spiritual and temporal sovereigty : God is deemed as Saccha Padshah in the world here and the hereafter. For the first time in the history of religious thought, Sikh philosophy brings forth the concept of

God-in-History. God's descent into time, that is, History is through the vehicle of the Guru who as such partakes of the temporal as well as the spiritual sovereignty and authority. Symbolizing these two sovereignties Guru Har Gobind the builder of Akal Takhat, put on the two swords of miri (temporal Sovereignty) and piri (spiritual sovereignty). These two attributes remained the perrogative of the Guru person till Guru Gobind Singh who conferred the spiritual sovereignty on the Adi Granth(the Holy Word)and the temporal authority on the Panth. The Adi Granth became Guru Granth, while the Sikh Panth was raised to the status of Guru Panth or Khalsa Panth. The spiritual sovereignty of God having become embodied in the Word, Harimandir, with Guru Granth installed therein, as such comes to be deemed the highest seat of religious authority and spiritual guidance, while Akal Takhat is envisaged as the symbolic seat of temporal, secular authority vested in the Sikh people. That the two sovereignties are positined separately and are not seen as unified in a single person or a single institution reveals the great role played by Sikhism in the process of secularization of temporal power and institution. It is pertinent to note here that in Sikhism in theory as well as in practice, there is no subordination of State (temporal authority) to Church (spiritual

authority) or vice versa. Further, there is no consensus of the two authorities as in the islamic caliphate. In other words Sikhism conceives of the relationship between the two authorities as of the nature of co-relation. This is the essence of what is called the unity of Politics and religion in Sikhism. It is unity in the sense of co-relation and not consensus or subordination of the one to the other. This doctrinal point is essential in understanding the nature of Akal Takhat and its role in the life of a Sikh.

As Sikhism does not envision God in any Corporeal form, no Deity or Vice-Deity is supposed to be presiding over Akal Takhat (the Eternal Throne) in the phenomenal sense. Unlike the Pope who at one time wore two swords representing other-wordly and this-wordly authority (both religious and temporal) the jathedar of Akal Takhat, like any other Singh, can wear only one sword partaking of the Miri-aspect and not the second sword symbolic of the Piri-aspect. In this way the position of the Jathedar is dissimilar to that of Christian Pope and Islamic Caliph claiming regency of God on earth and wielding as such both religious and secular authority.

The Akal Takhat priest has no inherent claim or right to dogmatize or pontificate on any fundamental issue of theological

nature. In fact there is no priestly class in Sikhism entrusted with such exegetical functions or ritualistic duties.[1]

The sanction behind the Akal Takhat Hukamnamas and Gurmatas does not reside in any claim of the Takhat to inherent transcendental religious authority (in the theo-spiritual sense) but is rooted in the democratically expressed Collective will of Sarbat Khalsa who in the holy communion partakes of the Spirit self-determinating itself in time as historical consciousness. This being the nature of sanction underlying the Hukamnamas and Gurmatas issuing forth from this temporal authority, the Akal Takhat can neither invoke nor administer divine displeasure, or spiritual censure against any person defying its edicts, injunctions and appeals. This, of course, does not mean that its verdicts have no binding force. The point is that the obligatory observance of the Akal Takhat commandments is not because of any deterrent invocation of divine displeasure or spritual censure but is due to the sanction of the democratically expressed collective will of the community as referred to above. Sri Akal Takhat has never administered any punishment in terms of condemnation to hell or to the birth-and-death cycle, or to any other form which may expressive of divine displeasure and

spiritual censure. The punishment from the pulpit of this temporal seat of authority have always been of temporal nature. For instance, Maharaja Ranjit Singh was ordered by Akali Phula Singh, Jathedar of Akal Takhat, to be given punishment of twenty-one flogs. The truth is that Sikhism doctrinally does not admit of the allied concepts of divine displeasure, spiritual censure or God's wrath confronting man either as punishment for his sin or as a deterrent to keep him away from sinful path. In Islam, there is the concept of God's wrath as an operative factor in the nexus between one's disobedient act and its recompense Says the Holi Quran : "And on whom-so-ever My Wrath comes down, he is lost indeed" But the position in Sikhism is different. There is on the other hand, in Sikh religion the concept of causation where by the positive or the negative reward, that is the recompense is the effect, the cause of which is ones own action. There is no room for the mediation of divine pleasure or displeasure in this casuality except when God grants redemption to man as a token of His Grace (Nadar)[2]. Sikh religion envisions God as benevolent and not malevolent.

Before his death the fifth Nanak, Guru Arjan Dev, having seen the state of religio-political affairs in the hands of the Muslim government, advised his son, the sixth Nanak, Guru

Hargobind (1606-1645) to sit fully armed on his throne and asked Bhai Budha to make a soldier saint out of him. The last message that Guru Arjan Dev sent to his son was-'Let him sit fully on his throne and maintain an army to the best of his ability.[5]

When Guru Hargobind , was installed the Guru, Baba Budha presented him the traditional seli (rosary), topi (cap) and manji (cot). Guru Hargobind told him, "My seli shall be a sword-belt and I shall wear my turban with a royal aigette." He wore two swords as emblemsof spiritual and temporal authority-Piri and Miri-the combination of Bhakti and Shakti of Deg and Tegh, the kettle to feed the needy and hungry, and the sword to protect the weak and helpless malcolmmisinterprets the wearing of the sword by saying that he wore the two swords, "One to revenge my father, the other to destroy the miracles of Mohammed." But this version is refuted by the Guru's contemporary Muhsan Fani. Fani asserts that Guru Hargobind did never use his sword in anger.

By the time Guru Arjan Dev was installed as Guru in full regalia of power and authority and in impressive pomp and splendour, he was declared and accepted by the Sikh community as Sacha Padshah, that is, as their true or real emperor, spiritual

and temporal, evidently in contradiction to the falsa Padshah (emperor) who was sitting on the throne at Delhi and Agra. Even before Guru Arjan Dev, the Sikh Gurus were called 'Sacha Padshah'.

Now, Guru Hargobind decided to give the Sikhs their throne also. Having made a counsel with Baba Budha and Bhai Gurdas, he decided to construct the Akal Takhat (the throne of the Immortal)[4].

The Akal Takhat construction began in 1606 and was completed in three years i.e. in 1609. The foundation of the throne was laid by Guru hargobind himself and the rest was completed by Bhai Gurdas and Baba Budha and no mason was appointed for the construction of the Akal Takhat. Here one can understand the difference between both the situations i.e. the religious centre, the Hari Mandir's foundation was laid by the famous Muslim (Sufi) Mian Mir, but the Guru had for bidden others from participating in the construction of the political centre i.e. the Akal Takhat.

The building of the Akal Takhat opposite to the Hari Mandir has great significance. The Hari Mandir stands the spiritual guidance and the Takhat for dispensing justice and temporal activity.

In fact this was a step towards sovereignity-"He constructed the Akal Takhat, a raised platform about 12 feet high, which was intended to resemble the raised platform on which the Emperors sat while giving audience. He introduced the custom of beating the drum which in the Mughal Army was "an attribute of sovereignty". Khushwant Singh also seconds this version, "the Guru's abode did infact become like that of the Emperor. He sat on a throne and held court. He went out with a royal umbrella over his head and was always accompained by armed retainers." Here "instead of chanting hymns of peace, the congregation heard ballads extolling feats of heroism, and, instead of listening to religious discourses, discussed plans of military conquests". He was called miri piri da malik" ("the lord of the spiritual and secular domains)."According to Kapoor Singh this step was the starting point of double sovereignty. Here "the peculiar Sikh doctrine of Double of double sovereignty. Here the peculiar Sikh doctrine of Double Sovereignty took birth, the essence of which is that a man of religion must never submit to the exclusive claim of the secular state to govern bodies and minds of men." Commenting upon this situation Bhagat Singh says, "there is no doubt that the Gurus had no political objectives to achieve and

militant character or trend given to the Sikh movement was purely a measure of self-defence against the religious bigotry of the ruling class but some of the historians have failed to understand the mission and motives of the Gurus and have innocently attached political motives to the measures adopted by him. Almost all the historians believe that the step of constructing the Akal Takhat near the Hari Mandir was due to the Guru's idea of keeping temporal and spiritual centres near each other, so that both should influence each other and one should also orientate the activities of the other." Here he received disciples, visitors, seekers of truth and the fighters for righteousness. It was here that the Guru used to discuss with the Sikhs the important matters relating to the welfareof the community. With the construction of the Akal Takhat, now, the Sikhs were a complete "Nation". This nation had a Sacha Padshah (the true emperor), the Akal Takhat (the throne of the Immortal), a cultral, religious and political centre-cum-territory (Amritsar). Now, what his nation needed was an army to protect all this and also to further preach and develop its idealogy. The birth of the Akal Takhat was also the declaration of the peculiar Sikh doctrine of Double Sovereignty. Kapoor Singh rightly

comments, 'the essence of which is that a man of religion must always owe his primary allegiance to truth and morality, and he must never submit to the exclusive claim of secular state to govern the bodies and minds of men." The Akal Takhat, which had gained the honour of being the political seat of the panth, was neglected by Maharaja Ranjit Singh after 1805, and since then the Maharaja shifted the policies from Sikh way to the ways of an ordinary king. Though we find two instances exhibiting superiority of the Akal Takhat (Akali Phula Singh's punishment to Ranjit Singh), yet the over-all status of the Takhat was unlike that of Misls' perid.[5]

After the annexation of the Punjab by the British the position further deteriorated. The Akal Takhat was turned into an ordinary historical Sikh shrine. Gradually it came under the undeclared but direct control of the British government and the government used the puppet-sarbrah(manager) of the Akal Takhat for ulterior motives which the then Sikh leaders could little understand.

The Akal Takhat's Hukamnamas[6] against the Sikh reformer Prof. Gurmukh Singh was a part of the planning. The height was in that Hukamnama which declared that the Sikh who had fought with the British police at Baj Boj Ghat (Calcutta) were not the Sikhs. The climax of the stupidity of the government's captive sarbrah was the honour given to the killer of the hundreds of the Sikhs and the other Punjabis. This was the mistake of the British to use the theo-political status of the Akal Takhat for approval and justification of the actions of General Dyer.

This shook the Sikh Panth and with this the Sikhs rose as a body against this un-Sikh-like subversion of the true status of the Takhat. As a result the British, not only lost the control of the Akal Takhat but also of all the others Gurdwaras.

With the passage of the Gurdwara Act in 1925 the Sikhs got the control over their shrines. The Akal Takhat's true status was received by the neo-Akalis. Since then almost all the Sikh movements have been launched after having obtained the blessings from the Akal Takhat. The major among these are : Jatha to free the gurdwara at Tarn Taran from the control of Mahants(1921), Keys' Affair (1922), Guru ka Bagh (1922), Jaito Morcha (1923-25),

Master Tara Singh <u>Jatha</u> for Peshawar (1930), Shahid Ganj and <u>Kirpan</u> (sword) agitation (1935-36), Master Tara Singh's Jatha to protest against discrimination with the Sikh scheduled castes (1953), Punjabi Sabha Jindabad movement (1960), five fasts by Master Tara Singh (1961), Sant Fateh Singh (1960,1965,1966,1970), Darshan Singh Pheruman's martyrdom (1969), Karnal agitation for civil liberties (1974), agitation against imposition of internal emergency (1975-77), Dharam Yudh Morcha (1980-84).

It is strange to note that the Akal Takhat did not, in any way, react to the Sikh situation in the year 1947 at the time of partition of Indian sub-continent into two countries. The partition was expected to have a vast impact on the situation of the Sikhs in the undivided Punjab. The Akal Takhat could not (or did not) call the Sarbat Khalsa, nor could it(or did) issue any Hukamnama to the Sikhs as to how they should take up the question of the Sikh state. It was unpleasantly strange behaviour of the Akal Takhat that it could (or did) give no direction at such a crucial movement, which every Sikh feels, has proved that the Sikhs were, then living in a fool's paradise. Even more the Akal Takhat does not seems to be in a mood to direct the Sikhs as to what was their goal and how to come out of their present plight.

Thus, the Akal Takhat has been performing the role of the hub of the Sikh politics, though it also remained a puppet-shrine for a short interval (partly under Maharaja Ranjit Singh and later under the British rule till 1920). During this period, the Akal Takhat has passed through two peculiar and complex situations. Ranjit Singh, who stopped political interference by the Sarbat Khalsa's gurmata even at the Akal Takhat harmed the status of the Takhat. Secondly, the British government misused (to the extent of foolishness) the Takhat to justify its misdeeds during the years 1914 and 1919. This led to sacrilege of the Takhat and it ushered in the way for its misuse by every party ruling it. Its climax was witnessed, in the year 1979-80, when the managers of the Takhat made misuse of the Takhat which led to lowering of the stature of the Throne of the Almighty. I put the blame for all this on Ranjit Singh who was the first to degrade the Takhat by declaring that it won't affect the political policies of his kingdom (i.e. Khalsa Raj ?)

Though the Akal Takhat is not fully free as the Throne of the Almighty should be, yet the Panth is determined to accept the Hukamnamas of the Takhat in toto. The orders during the Nirankaris affair (1978) and the decision about Akalis' dispute

(1979-80) were accepted by the Panth fully. Some utterances and some statements made by some stupid sikhs aiming at lowering the status of the Akal Takhat had been issued and in reaction to such statements, Sikhs have also condemned such endowments. It does not vouchsafe the yesterday's activities at the Takhat. It is an eye-opener for the managing body of the gurdwaras and a warning to them to be very careful while making the appointment of the Jathedar of the Akal Takhat.

The Akal Takhat is "a preaching centre and also the seat of political and religious conferences.....In fact the Akal Takhat is the symbol of political activity of the Sikhs. All great Sikh movements have been led from the seat of the Sikhs, whenever the Sikh nation has come across a danger it has rallied round this Takhat to get inspiration and leadership." (Lochin)

Finally, I would like to refer to the use of the word "Takhat" (throne). With the use of the word Takhat the declaration of political sovereignty is crystal clear. Thus, the Takhat is a symbol of freedom, which the Sikhs, at present do not have. The Akal Takhat can be secondary to none. But, in the modern democratic set up the Akal Takhat is either secondary or it is in the chains and the latter is true. It is for the Panth

to get it freed. Only **Waheguru** (the Almighty) knows who shall win such an honour for the Sikh Panth.

In view of the functioning of the Akal Takhat and the status of this religious seat which has high esteem in the mind and heart of Sikhs has played a leading role in the life of Sikh people. Although there may be a number of instances of criticism regarding the directions given by the Akal Takhat to the Sikh masses, but it can not be denied that those decisions/directions taken by Akal Takhat in view of the situation of these time would be justified in the opinion of then officers of the Akal Takhat except in stray cases where the decision of Akal Takhat was taken due to some influence from outside.

No doubt the majority of Sikh masses still have a deep faith in the Akal Takhat because it has unbroken and sentimentaly attached relation of religious nature with the Sikh masses. Historically this seat was created to raise the voice against tyranny and injustice, therefore it has been doing its duty utmost near to the sentiments of the Sikh people.

in fact, it was the role played by the Central Government which has caused and instigated the division of the Akali Dal. So responsibility to lowered own the image of the Akal Takhat lies on the Central Government, as to meet its own selfish end the Central Government had been following the policy of divide and rule. Therefore I respectfully submit that the Government should leave the socio-religious affairs to be shorted out by sikh masses himself instead of interfearing in their affairs, If there are any political assurances given at the time of independence or at the later period, the Government should meet them out in the larger interest of the country.

It is significant to note that the A.I.S.S.F. has put forth a noval idea to craete a separate Judicial syatem of Panchyat making the Akal Takhat highest judicial seat. In fact the idea mooted by the A.I.S.S.F. is worth for consideration except there views of making it a parallel independent body with the Government Judicial System. However if we look in to the reasons

given by A.I.S.S.F., for making this system, this seems to be justified to some extent. As the Government has failed to give Justice to the Sikh youth against police tourcher, false encounters etc. it is respectfully submitted that the Government must give immediate attention towards reasons of such an idea and must recognise and give the power to the Panchayat to look into such incidence and decide accordingly. As far the status of Akal Takhat as a highest judicial seat mooted out by A.I.S.S.F. is concerned it should be in my view, worth acceptable in the cases of family disputes(marriage, divorce, land disputes, social evils, religious matters). The Akal Takht may be accepted legally, constitutionaly highest body in the specified cases which can be determined after indepth study. The provision of appeal may be kept. The suggested system of panchyat with the highest judicial system of Akal Takhat will infact help the already existing judicial system, which is at verge of collaps because of overburden of work. In my view the Government should encourage such system in which the people himself resolve their problems with co-operating each others.

NOTES AND REFERENCES

1. Jasbir Singh Ahuliwalia, Journal of Sikh Studies, G.N.D. University P. 79-80, March 87.

2. Ibid P. 81.

3. Khushwant Singh, A History of the Sikhs, Vol I, P. 27-28, Delhi 1963.

4. Harjinder Singh Dilgeer, The Akal Takhat, P.18-19, Jalandhar 1980.

5. As quoted in the Ibid p. 21-23.

6. Hukamnama is a word used for the Royal letters issued by the Mughal Emperors, but it was a wider meaning for the Sikhs. Where as the Mughal orders were carried out under compulsion, the Sikh Hukamnama was acted upon as a matter of pride. Not only the performance of the Guru's order but even the darshan(a look at) of the Guru's Hukamnama was considered as an honour.

Thus the subject matter of the Hukamnama has varied from time to time. From demand notice to verdict on religious and political issues is the subject matter of the Hukamnamas.

The Hukamnama is such a powerful mandate that none can dare deby it. It is binding on each and every Sikh and Non-acceptance or defiance may lead even to the expulsion from the Sikh faith.

/. Supra 4, p. 95-97/.

CHAPTER 5

IMPACT OF SIKH GURDWARAS ACT AND ITS ROLE IN THE WORKING OF ADMINISTRATION OF GURDWARAS

The characteristics and socio-economic status of the persons engaged in the decision making process of a particular organisation determines the overall performance, character and goals of that organisation. This is more so in case of a religious institution which has emerged in a given legal framework. To understand the functioning of the Sikh Gurdwara laws, it became imperative to grasp the pattern of peculiar characteristic of the members of the managing committee constituted under the law. It was also considered necessary to appreciate the magnitude of corruption and mismanagement. The total membership of SGPC is 160 consisting of 140 elected 5 ex-officio[1] and 15 co-opted members. In the total membership of 160, there are only two women members[2] in the present S.G.P.C.

Thus, inspite of the loud claims of Sikhism regarding equality of sexes and the pride taken by the Sikhs in winning the franchise for their women folk, the main decision making body managing the Sikh Shrines continues to be male dominated.

The general feminine apathy towards active partcipation in public life and the feudal character of the rural Sikh community are considered as the important reasons for the abstinence of Sikh women from active participation in the Gurdwara administration.[3]

It is significant to note that majority of the SGPC members are around sixty years of age. There is hardly any member who is below 35 years of age and very small number of them are in their forties. The effect of old age is such that as many as twenty of the members have died. Quite a few of them are infirm and have to be brought to the house by virtually carrying them.

The educational level of the SGPC members shows that majority of the members are an uneducated lot without any formal education. Some are completely illiterate. They know nothing beyond making their signatures in Gurmukhi Script. Another few members have received the formal academic education upto matric.The number of members with Graduate or Post Graduate degree is infact just two dozens only. Corelating the age composition and education of the members a definite relationship is found. The low literacy level is directly related to the age

composition. Only those who are in the younger age group are having some kind of formal education. Younger the member higher the education. All the graduates and post graduates were found in their thirties and forties. Conversely higher the age lesser the education.[4]

The proceedings of the general body meeting of SGPC in November, 1986 presented a good illustration of the illiteracy of the members. Election of the Executive Committee was on the agenda. There was a great gathering of the people out side the Samundri Hall, the official meeting place of the SGPC to hear the proceedings on the public address system. The members were being briefed on how to cast the vote for the office of the president for which S. Gurcharan Singh Tohra and S. Kabul Singh were candidates. They were instructed to write the name of the candidate in Gurumukhi in whose favour they wanted to cast their vote. In case it was difficult for any of them to write the fullname, they were at liberty to write the first letter of the name of the candidate in Gurumukhi alphabet. And if that was also not possible, they could seek the help of any other member to write the name of the candidate for whom they were to vote.

It is indeed unfortunate that this august body involved in decision making process, having a bearing on the fate of the entire Sikh community consists of illiterate people.

It is irony that the investigation suggests that people who managed to get into Gurdwara management once did not leave it. They managed to go higher in the hierarchy of the Gurdwara management. Even ordinary sewadars at the lowest rung of the ladder could reach the high positions in the management. The mateoric rise of so many persons in the Gurdwara management and even in the Government is an interesting story in itself; Thus it is found that quite a number of members have been coming from the same families or same villages confirming the hypothesis that the Act provided a wide scope of generation of vested interests and startification of power structure of the Gurdwara management. They abuse their powers to strengthen the base and influence over the electorate so much that any catchy slogan or Morcha launched could tilt the scale of power in their favour in any election. Even the nominated members enjoy a long span of association with the management.

Inspite of being old and lowly educated they manipulate to

enhance their influence to achieve their political ambition. They associate almost with each and every political and social activity in their constituency. They aspire to be the members of one or other socio-political or administrative body of their area.

A great number of the SGPC members are members of local Gurdwara committee also. Many of them are either sarpanches or panches of the village panchayts. They are also associated with the management bodies of the schools, colleges situated in their constituencies. Some of them are members of block samities, local cooperative societies or banks. Ever-since Mahilla Mandals have come up,they have encouraged their own women folk-wives, mothers, daughters or daughters-in-law to take active part in these bodies. It is found that all of them except two are members of one or the other political party. A great majority belongs to the Akali Dal with allegiance to one or the other faction.

The SGPC members are economically rich people. Majority comes from landed aristocracy from the villages in proportion to the Sikh population residing in villages. About 60% of the members are rich farmers doing capital mode of farming with

latest agricultural machinery. A dozen of them are transporters, running goods and passenger transport, a similar number is of rice sheller owners. Cinema owners or partners, hoteliers of different standards, contractors, businessmen for traders and industrialists are also found among them.

These members also have more than one kind of productive property in their possession. The rich farmers were having their interests in transport, shellers, where housing cold storage and infew cases in cinemas and hotels. But the urban members have interests in trade and commerce, industry hotel, cinema and contracting firms. It shows that usually the rich people are elected/nominated as SGPC members. Persons who had modest beginning have become rich and are forming part of the narrow urban and rural elite by virtue of their long association with the Gurdwara Management.

The huge Gurdwara property and funds are utilised by these custodians of Gurdwaras to make a base for political power for themselves. For example the agricultural land belonging to Gurdwara enables them to fetch scores of loyal workers and thousands of voters to whom these lands are leased at nominal

rents. These voters can easily tilt the scale of political power in their favour. Besides, this source also provide them with enough muscle power for physical confrontation with the opponent if and when the occasion arises. Thus they wield great influence in the political circle. Politics has become their hobby. They can manage to win an election for themselves or help any of their associates or proteges to win it.

In view of the congenial enviornment and opportunities offered by the Gurdwara Management and the Act, a large number of these members have been able to maintain their enduring association with Gurdwara management at all possible levels. It is no wonder that the SGPC has served as a spring board for political carrer for majority of the members. A close examination of the past SGPC membership reveals that as many as five Chief Ministers were associated with S.G.P.C., as many as 40 members managed to secure the position of a minister in the state cabinet. Over 200 of them could become MLA's. As many as 14 could become members of Parliament and quite a few got ministership in the Central Government. It is indeed difficult to differentiate between the role of the SGPC members as representative for the

management of Gurdwaras and as members of a political party. Akali Dal and SGPC are so intertwined that one is obliged to acknowledge them as one and the same. So it is true that in Sikh Politics, the way to power lies through Gurdwaras and especially the corridors of Golden Temple Complex, the head quarters of the SGPC.

Keeping in view the life style and other habits of the SGPC members and other ministerial staff in the administrative hierarchy of Gurdwara management, it will not be any exaggeration if they are termed as modern masands. The hypocracy and corruption among the members of the Gurdwara managements have reached the low level of the hypocrite pandits and Mullahs of Kabir's and Guru Nanak's times which made them to condemn their double standards in strong terms. The description of the pandit and mullah given by them now fits well with the conduct of these Sikh religious men both of management and clergy; only attire and appearance needs different description.This type of deterioration amongst the managers of Gurdwaras was detected by tenth master and the evil was eradicated by physical liquidation of all the corrupt Masands identified by him. It was only after removing the corrupt from the scene that he established the order of Khalsa

and prescribed a strict code of conduct for a true sikh.

Over passage of time Sikh shrines had gone into the hands of mahants. They went so corrupt that it became difficult to visit a Sikh gurdwara by a Sikh without experiencing harrasement and humiliation. A mass movement arose rather spontaneously when corruption had crossed all limits; The enactment of 1925 was considered a panacea of all the ills of the Gurdwara management. But a close examination of the statute reveals that it could not shut all the doors to various abuses that took roots very soon and have now assumed alarming proportions. The Sikhs are not only quarrelling, as prophesies by Mr. Hailey, but are actually fighting to protect their factional interests totally oblivious of the welfare of the community. They have not given sufficient attention to the plight of the Sikh victims of the riots at Delhi and other places. Instead they were awfully busy in buying the SGPC members in the election of the office bearers.

The annual general meeting of the SGPC was held at Anandpur Sahib 1988-89 which was preceded by scuffle and violence. The two factions of the Akali Dal elected their separate sets of office bearers and the executive members. Such

an action by the members of this august body at such a critical juncture has brought much infamy and disgrace to the community which is represented by it.

The situation warrants immediate attention to streamline the administration and channelise the resources in a manner that it may help the Sikhs to play greater role in the welfare of the community and the nation building activities. This can be done by debarring all the modern masands from entering the management and substituting them with dedicated and sincere persons by providing conducive condition for proper management.

A close study of the Gurdwara management gives the impression that the Gurdwaras are run as a business proposition where corruption itself is a business in which the managerial staff and SGPC members are partners. In view of startification of power structure the share of profits or gains of a particular corrupt practice is being considered a matter of right. The members and management have formed cliques under different names and styles. All these cliques are so well-knit that an ordinary outsider cannot understand their clandestine working. Each group operates in a manner that definite portions of ill-gotten wealth

and other benefits are shared with their factional leaders in power hierarchy. The dimensions of corruption in the Gurdwara management can be illustrated as discussed below :

In the matter of recruitment and nominations to Gurdwaras governed under section 87 of the Act. The SGPC members of the constituency concerned enjoy wide powers. He uses these powers to employ his near and dear ones. The nominee of the SGPC in each Gurdwara under indirect control of the S.G.P.C. is either member himself or his close relative who in due course of time, is trained to take the place of the member in the main body. The result is that the SGPC consists of memebrs who have around 30 years association with the management. This process of recruitment nomination has helped each member to develop a very strong base at grass root level in the villages. He dominates every institution from panchayats to co-operative societies. The investigation revealed that nepotism found is not only in local gurdwaras where the individual member conducts the Gurdwara management as a subsidiary of a big corporation but is common in the SGPC office as well. Some of the top functionaries in the management are found to be close relatives.

Even the Gurdwara Judicial commission, a judicial body constituted under the Act has not lagged behind in the matter of practising nepotism and favouritism. It has started a new practice of appointing receivers by superseding the Gurdwara Committee who got Rs. 1000/- as honorarium. Out of 17 receivers appointed by it, three are the persons who had been juniors of the Commission members. They showed extra favour to a person in their office, to act as administrator of two Gurdwaras. Besides, some lawyer friends are also accommodated by the Commission by deputing them for cash counting on a particular holiday for which they get Rs. 700/- or so.

The latest information reveals that it has stopped this practice or appointing administrators and has also handed back the control of various Gurdwaras to the Committee by removing the administrators.

In the absence of regular Gurdwaras service selection commission, no agency of the SGPC whether conducting administraion of Gurdwara or supervising any trust or running some educational institution or carrying on Dharam parchar (Propagation of Religion), is free from the evil of nepotism and

favouritism. The schools and colleges are the worst victims of this phenomenon. The SGPC resolution of March 7,1960 illustrates corruption and nepotism viz. the recruitment of unqualified persons by creating additional posts award of scholarship to patit students, dissolving local Gurdwara Committees etc.

The cash offerings of the devotees visiting important Gurdwaras are daily put in a box known as a Guru Kee Golak. It is locked. Its one key remains with the local manager and the other with SGPC office. The cash is taken out at regular intervals. The SGPC inspector is entrusted with the keys and accompanied by one or two attendants. He visits the Gurdwara assigned to open the box and count the cash. The local manager also brings his keys and the Golak is opened on the appointed day. The cash is entered in the books. All the prescribed rules are compiled but in fact the story is different.

It is observed that Gurdwara Inspectors Owith each other for being assigned a particular Gurdwara of their choice for cash counting. Deeper probe revealed that close knit groups have come into existence. Particular set of people go to particular

Gurdwaras and the gang keeps some money apart as their share. It was surmised that out of this unaccounted cash kept apart a definite share goes to the patrons in the power hierarchy. Since the recruitment of the employees in the local Gurdwara, as also of the SGPC is done purely on the recommendation of SGPC members the loyality of these employees after getting employment goes on increasing over the years in the process of sharing the exploits of the offices occupied by them. In the event of being caught which is a rare phenomenon, the management including the top men succeed in hushing up the matter. The main plea given is that it would bring disgrace to the Panth. In one case, about five years back, one of the entourage assigned for counting cash offerings (Golak) who went down into underground big cash box constructed in front of Guru Granth, managed to put some hundred rupees notes, and few fifty rupees notes in his pyjama. He was caught and the amount recovered was 28 hundred rupees notes and 7 fifty rupee notes, total amount was Rs. 3150/-. The cash was taken out from the Golak at a time when too many people were around and someof them happened not only to notice but succeeded in insisting on the pyjama to be taken off and the cash stolen counted. The local press correspondent also made it an issue to

put the incident as a new story. The manner in which the top management came to the rescue of this swindler engaged in cash counting amply illustrates that these cash counting personnel conduct their whole assignmnet as confidents of the top management.[5]

In another case where two inspectors were sent for cash counting to a Gurdwara fell out. The aggrieved inspector who was given only Rs. 400/- whereas the Manager and usual Inspector got much more as their share, reported the matter to the SGPC office. The authorities took a serious view and suspended the man who had reported and also implicated him for disciplinary action. No action was taken against the other two, i.e.,the manager and the other inspector. Obviously they had passed on the reserve share to the persons in their hierarchy. In due course of time the delinquent inspector was also reinstated on the recommendation of someone. It is not only at the time of counting that the cash bungling occurs. Some times it takes place even before that the misappropriation of the daily cash offerings seems to have become a common practice. It is evident from the specially designed Golak boxex which endure the offering to slide into the Golak direct. Every Golak now carries a notice reading "Please put the

offerings direct into the Golak".

The devotees blinded by their faith in the honesty and piety of the religious functionaries often forget to put the cash into the Golak direct. They allow it to fall outside hence leaving enough scope for the temptation of the greedy attendants to pocket those offerings. Some of these attendants due to their long association with the Gurdwara have neither the fear of God nor of their own conscience which goes dead over passage of time.

The cases of corruption is not confined only to cash management, employemnet of the staff and unwarranted advantages and facilities abused by the individual SGPC members and ministerial staff of the management of the Gurdwaras, it extends to so many other areas falling under the purview of Gurdwara management. Most of the Gurdwaras have estates in the form of agricultural land besides the residential and commercial accomodation. It is observed that the cases of corruption and abuse are indulged by the management in this field also.

The gurdwaras are possessing huge movable and immovable property. According to an official estimate the value of the properties belonging to Gurdwaras under the management of the

SGPC in Amritsar district (excluding the Gurdwaras in the city of Amritsar) is rupees sixteen crores which includes 2577 acres of land. There are 7 acres of land belonging to various Gurdwaras in every district of Punjab. The land is leased out at about half a rate than the prevailing market rates. It is estimated that the total loss to Gurdwara exchequer all over the Punjab runs into crores of rupees every year. The members of Gurdwara Committees at central and local level, and the top bureaucrats manage to get the lease bid closed according to their wishes to favour themselevs or their near and dear ones. The corruption and abuse is not restricted to Gurdwara estates situated in the rural areas alone. The estate of the Gurdwaras in urban centres is also exploited by the vested interests to their individual advantages at a considerable loss to the Gurdwara revenues. There are numerous cases of bungling in letting out the accomodation some of which are described as in the following discussion.

The property generated by green revolution in mid sixties resulted in construction of huge Gurdwara buildings. As we know there has been a practice of for using the agricultural surplus generated by the green revolution for industrial development and

improving the quality of life and educating the Sikh masses to practise the ideals of Sikhism. Some new schools and even colleges have come up but the much needed commitment to scholarship is missing. The enormous funds are spent on building magnificent Gurdwaras. This has provided unique opportunity to the corrupt Gurdwara management to indulge in just enrichment.

Corruption pattern corresponds exactly to that of the public works department of the Government. The commission is availed for alloting the contract to the particular contractor. The shares as prevailing in the construction field are also distributed

It is however, noticed that quality of the construction is quite inferior. The construction done under the supervision of saints is comparatively of higher quality. For instance Guru Ram Dass Hospital construction is much inferior to the construction of Guru Ramdas Langer constructed under the supervision of Sant Baba Khark Singh. In view of the closed clique functioning, the exploiters always remain away from the public eye.

The collection of election fund smacks of all round corruption. It is observed that the amount needed was raised from

one flower contractor who supplied flowers for offering in Gurdwaras. To make up the deficiency the shopkeepers normally supplying materials to the SGPC management were also approached. Each one was promised patronage in exhange of a specified amount. This unwarranted understanding has strengthened commercial relationship of these businessmen and the Gurdwara management. Gurdwara funds and machinery have continuously been used for the election purpose. Recently, an influential leader withdrew an amount from a Gurdwara fund for the election of his brother to the Legislative Assembly. This is not a new phenomenon. The Sardar Bahadur Party which was in power on the eve of first SGPC election had withdrawn an amount exceeding fifty thousand rupees from the fixed deposit of the SGPC.[8] Thus, the exploitation and corruption has assumed new dimensions and proportions in the Gurdwara management.

For the purchase of various items, purchase committees are constituted consisting of persons having allegiance to power hierarchy.It is found that on most of the items purchased for the Gurdwaras, memebrs of the purchase committees earn a commission who in turn share it with their bosses. It was reported that even

the salt purchased for Guru Ka Langar is not spared as an item of earning commission. Bungling by way of commission in other items of purchase such as furniture, fixtures, carpets etc. assume scandalous proportions. In the course of investigations it was revealed that for the wheat grinding double the amount was being charged than the actual payment. The finding is literally corroborated by a letter to the editor of magazine.[9] This leads to the only conclusion that no area is spared and the Gurdwaras have been reduced from places of service to commercial centres for profit.

Printing of Guru Granth Sahib

The much needed dedication for conveying the message of the Guru to the people is missing. It was reported that even the paper for printing Guru Granth Sahib was not spared. The person concerned tried to pass on C class paper as A class to be used for the purpose. The amount involved ran into thousands. When asked to explain the persons involved managed to procure a letter from the firm supplying the paper that the inferior paper was supplied by them through oversight and they own the responsibility for the lapse. The under hand dealing in the matter is obvious.

On important festivals and gurupurabs, besides the routine Amavas and Sangrad every month, special arrangements are made for sanitation and disinfecting the towns and areas where large crowds are to assemble. The sanitary staff of the Government specially deputed and the Gurdwara employees share the amount saved by showing false vouchers duly authenticated by both the partners.

The SGPC resolution of march 7,1960 corroborates the various findings regarding irregularties and illegalities committed by the gurdwara management. it mentions about the recruitment and promotion of incompetent and unqualified persons for the various posts unnecessarily created in the Gurdwara management,gross misuse of Gurdwara funds and irreparable damage caused to the Gurdwara property.

Corruption is not a phenomenon limited to the Gurdwaras of Punjab alone, the disease has spread else where also. The modus operandi of corruption of other places is not different. S. Tara Singh Komal has described the various techniques of corruption which are in vogue in Delhi Gurdwaras. He has very well illustrated the rampant corruption in Guru Ka Langar and

especially in supply of desi ghee or Krah Parsad, misappropriation of cash and coin offerings, bungling in construction and misuse of Gurdwara buildings and other property and funds of Delhi Gurdwaras. Thus it is concluded that there is much scope for corruption and mismanagement under the various Gurdwara enactments. The weak moral character and dead conscience of most of the individuals connected with Gurdwara management and indifferent attitude of the general Sikh public to contribute to the sad state of affairs prevailing in the Gurdwara management. But some of the maladies are existing due to the lacuna in the statute. The statutory provisions largely responsible for the malpractices are those providing for election, nomination and co-option. Besides, the various omissions in the Act, such as absence of any ban on re-election of members or office bearers, absence of any religious or academic qualifiaction for members and other staff etc. are equally important. If such snags are removed from the existing law there is a possibility of some improvement in the Gurdwara management.

POSITIVE ASPECTS OF SIKH GURDWARA ACT , 1925

Inspite of all these defects in Sikh Gurdwaras Act 1925, there are many positive aspects and some major achievements to

its credit. Its achievements and importance can be realised only if we visualise the situation which might prevail in the management of the Gurdwaras in the absence of the SGPC. The corruption in Gurdwaras administration and misappropration and abuse of Gurdwaras property and funds at present is only a fraction of these evils as compared with their prevalence before the SGPC came into existence. These evils could not be completely eradicated by the SGPC due to the deterioration of moral standards in all spheres of public life.

The SGPC has come up as a supreme body of the Sikhs not only to manage their religious Shrines but also to give them a lead in religious, political, cultural, and social spheres. Because of this it is termed as 'Parliament of the Sikhs'. It has been a strong force in Punjab politics since its inception in the beginning of the twenties of this century. It was with the active support of the SGPC and from the premises of the holy shrines under its control that the Shiromani Akali Dal launched various agitations against the Government namely, protest against discrimination of the sikh Scheduled castes in 1953. Punjabi Suba Morcha in 1960, agitation against imposition of the emergency in 1975 and the Dharam yudh Morcha in 1982.

Psychologically Sikhs feel their religious places safe and secure in the hands of the SGPC. They do not accept any outside intrusion or interference into it.

The SGPC rightly considers itself as the sole and exclusive spokesman of the entire Sikh community. whenever there is any excess committed against the Sikhs or their institutions anywhere in the world, the SGPC deems its moral responsibility to raise a voice against it an build the public opinion against the same. Whether it is a question of wearing Turban while on official duty or wearing kirpan while on duty or on air travel or the sacrilege of any religious shrine, it is the SGPC which is in the forefront. Though it has achieved success in many cases but it has not been effective to awaken the conscience of the Government and the public to take any action against the culprits of the Sikh carnage of 1984 in Delhi and at other places.

The SGPC is the custodian of Sikh interests. It articulates and puts forth the demands of the community and safeguards its minority status.

The government and all the political parties are concsious that whatsoever controls the SGPC also controls the Sikh

politics. But their various attempts to control it have more or less failed. Thus it is rightly said that it is a barometer of Sikh political thinking though this may not be very true in the present situation.

The SGPC has certainly made progress in achieving its major objectives such as proper management of Gurdwara property and funds, propagation of Sikh religion, administration of educational and other institutions under its management and control and organising various welfare programmes for the community. But the community had pinned very high hopes over this institution. It was envisaged that proper utilisation of Gurdwara fund will totally transform the lot of Sikh community as a whole. Since this objective has not been seen fulfilled there is scathing criticism of the SGPC.

Besides the management, supervision and control of Sikh shrines the SGPC enjoys a vast authority over the minds and action of the Sikhs. Its vast powers in the Gurdwara management, besides power of patronage, sponsoring of pilgrims to the historical Gurudwaras in Pakistan, power of nomination to the managing bodies of Gurdwara in othe states add to the powers and prestige of the SGPC.

To put the achievement of the SGPC in concrete terms, it has been instrumental in bringing the historic Sikh shrines under the management of the community and control of the community and consolidating their properties and funds. In fact it was the sole purpose for the accomplishment of which the SGPC had come into existence, so it is its major achievement.

The SGPC has also been instrumental in spreading the education amongst the masses. various eduactional institutions are run by it which include the prestigious Guru Nanak Khalsa College,Bombay and Guru Nanak Engineering College, Ludhiana. Degree colleges under its aegis are functioning at Fatehgarh Sahib, Anandpur Sahib, Garhshanker and Moga. Three Higher Secondary Schools, one High School and three Public Schools are running under the Supervision and control of the SGPC. In the field of religious education, Sikh Missionary College is functioning at Amritsar and Budha Johar (Ganganagar) and Sangeet Vidyala (Music School) at Badian (Faridkot). Again the performance of the SGPC in the field of religions and temporal education is not upto the expected levels.

Being the supreme religious body of the Sikhs, the SGPC acts for the promotion of Sikhism. Dharam Parchar Committee of the SGPC is the incharge of the propagation of religion. Sikh missionary College trains preachers and granthis for the purpose. The preachers are sent to various places to preach Sikhism and to exhort the Sikhs to get themselves baptised. Besides Punjab, the U.P. Sikh Mission, the Haryana and Delhi Sikh Mission,. The M.P. and Rajasthan Sikh Missions and the Bengal Sikh Mission, are also preaching Sikhism amongs the Sikhs and non-Sikhs. These Missions get liberal help and guidance from the SGPC. Shri Guru Granth Sahib Mission, Ambala Cantonment is printing and supplying the correct version of Shri Guru Granth Sahib.

Sikh literature is printed and published at its two printing presses for free distribution and sale at concessional rates. Calendars, pictures and diaries are also printed with the same object in view. Two monthly journals, Gurdwara Gazette and Gurmat Parkash are regularly published by the SGPC which include articles on Sikh History, Sikh philosophy and Sikh principles besides discussing various problems being faced by the community and reporting the proceedings of the SGPC. Still the contribution

and performance of the SGPC in this field connot be rated as highly satisfactory.The SGPC leaders have been giving a slogan of Baptissing all the Sikh by the end of this Century. But on the eve of last SGPC election in 1979, an Akali leader admitted that all their candidates were not Amridharis. In the field of health, SGPC has only singular achievement to its credit, i.e setting up of Guru Ramdas Hospital, Amritsar. But it is not doing anything to promote health activities like organising eye camps and other health camps on the pattern of camps organised by the Radhasoamis. The SGPC should also conduct tournaments and other sports competitions.

The SGPC has been instrumental in constructing the majestic buildings of various Gurdwaras and renovating those of others.

Though the SGPC has contributed its might in the various fields but the community is not fully satisfied with its performance as it had very high expectations from it. It was expected that proper use of Gurdwara property and income by their representative body will uplift the lot of the community as a whole. Thus the balance sheet of its performance during the past sixty years does not weigh in favour of the SGPC.

The work study reflects the merits & demerits based on the imperial study of the functioning of S.G.P.C. and factors affecting its functioning under Sikh Gurdwara Act, 1925. Nevertheless the body in itself is very much required to administer the Gurdwaras, but there is need to reconstitute restructure and define its jurisdiction. On the lines suggested in the last chapter to make it fair, active and pious body.

According to the Act of 1925, S.G.P.C. Is a semi-judicial body and from decision/judgement of S.G.P.C. the appeal lies before the Sikh Gurdwaras judicial Commission. It is submitted that the status of S.G.P.C. to discharage Judicial functions should be withdrawn and it should be kept only as an administrative body. In view of the suggestion given in the last chapter to reorganise and restructure it, if implemented, the S.G.P.C. may prove to be an excellent machinery under Gurdwaras legislation.

NOTES AND REFERENCES

1. Twenty of them have expired by now.

Kashmir Singh:- Law of Religious Institutions - Sikh Gurdwaras, G.N.D. University, Amritsar 1989 P 248.

2. Ibid P. 249.

Both of them are there, perhaps, due to the influence wielded by their mala relatives in the Sikh politics. A scrutiny of the SGPC records show that it is for the first time in the sixty year history of the SGPC that any woman has got representation in this prestigious body of the Sikhs. It may also be noted that this much representation in the present body is due to the presure built by Istri Akali Dal on the Shiromani Akali Dal at the time of SGPC elections.

Besides, there is hardly any female employee int he whole of the Gurdwara management excepting a few class four employees who look after the ladies both in the holy thanks of the Gurdwaras.

3. Gobinder Singh, Religion politics in the Punjab (Deep, New Delhi 1986) P 131.

4. Supra 1 .P

5. Ibid

6. Ibid

7. Data obtained from Deputy Commissioner office through the good officer of S. Ramesh Inder Singh, I.A.S Deputy Commissioner, Amritsar.

8. Supra 3 p. 112.

9. Illustrated Quami Ekta, June 1986.

10. Gurdwara Corruption. Illustrated Quami Ekta, June, 1986.

CHAPTER 6

OBSERVATIONS & CONCLUSIONS

OBSERVATIONS AND CONCLUSIONS

In this nuclear age the Western world has touched the space, while we are lagging far behind because of our out moded conveyances. The significant of them is judicial bullock cart which we have not thought out reorientization even after 43 years of our independence. It is significant to note that we are the society of optimistic fatalist, and have the blind faith in God and are orthodox to our customery laws. So much so that the religion has ironiycally been diagnosed as an indurate cancer in the lives of nations, an acrimenous and heard hitting hammer for the citadals of living sentimentalities and a poignant spark to fuel the fire of heat and passion of the religious dogmatics. It is alleged to be the greatest separatist force, a terrible satan in the decandent status and to religion live in is labelled as nonsense. The character of religion (as experienced reflects) require no convincing contention, that religion is the root of all persecution, hatred, intolerance and prejudice animosity that stir up biblic begotry. However the religion in our life is inseparable. In fact the religion should be a necessity to enrich and enable our life free from dogmas and rituals which are

employed to mince meat of homogenised humanism and to preach out throat politics, and it should be characterised the higher value of life and for the realization of the goal of brotherhood.

The Indian constitution gurantees the religious freedom as fundamental right. In view of the Constitutional provisions, every religious denomination or any section thereof has the right (subject to certain restrictions) to establish purposes and to manage its own affairs in matter of religion, to own and acquire movable and immovable property and to administer such property in accordance with law. Never-the-less the Sikh society has been able to snatch this previous right from the British Government long back in 1925 by getting passed the Sikh Gurdwaras Act, 1925 after much struggle and sacrifice. It was something unique that the possession, control and management of hundreds of Gurdwaras and their properties were transferred and put into the hands of Sikh community by a stroke of legislation. The Sikh got their claim accepted from the Government that the Gurdwaras are the heritage of the Sikh Panth and no outside authority should intrude in their internal affairs of management. The Act incorporates one of the inherent principles of Sikhism, i.e., equality of all the human beings by granting the equal participation to all the Sikhs including the

women in the management of Gurdwaras. The provision in the Act to detemine the various controversies in expeditious manner and at low expenditure through the agencies of a Judicial Commission and the Tribunal was a plus point of the Act. God is said to be the supreme law maker and sole representative on this universe is man, in the guise of king, religious minority or parliament or the body formed under customery law or enactment through which the society is being governed for its different spheres of life touching religion, family, property, morality etc. However in the modern times, judiciary has regained a formost position in law for giving new dimensions to the social concepts. As we are concerned herewith the Sikh Gurdwaras Judicial system, we will concentrate upon it along with studying administration of Sikh Gurdwaras in length. The study of administration of Sikh Gurdwaras begins with the foundation of a Sikh Panth by the first Guru of the Sikh "Guru Nanak". In the begining he set up Sangats (Local associations of Sikhs) and Guru Gaddi(pontification); and he created a new Church. These Sangats formed the units of spiritual empire of the Sikhs.

Earlier, the places of worship including those of the Sikhs were known by the name of "Dharamsalas" which literally meant a

religious place or a religious rest house. But it generally denoted building used for devotional singing and prayers. So to begin with the place where sangat congregated was known as Dharamsala and later on when Guru Granth Sahib was proclaimed as the Guru by the tenth Master and it was installed in the Dharamsala, it came to be called as Gurudwara. Thus Gurdwara virtually means such a public place of worship where Shri Guru Granth Sahib is installed. It is not the building which is so important, it is the gathering together of the Sikhs in the prescence of Guru Granth Sahib which gives the Gurudwara a special place in the Sikh life.

1

The study reveals that there were basically, traditionally two systems of administration of Sikh Gurdwaras. They were Manji System and Masand System. These system although worked well in its initial stage and little longer after its inception, but were soon fell under great criticism due to their indiscriminatory operation and misuse of power. So much so that at one time, the Masand had been foremost among the Guru (Guru Gobind Singh) auxiliaries, became the greatest counter poise of his authorities in the course of time. Not only this they became corrupt and

oppressive. They were acted as tyrants in extracting the money from the people for their personal pleasure in the name of religion. Therefore in the course of time the Sikh Society voiced against the system and uprooted the traditional management and control of Masands and passed over the administration of Gurdwaras to the Sangats, which was to operate through the agency of Punj Piaras and thus organised priesthood Masand system was abolished among the sikhs for ever. However the Sikhs being warrior passing most of the time for the battle, they could not go indepth to find out a better system to manage the Gurdwaras. Therefore, the beginning of eighteenth century saw an upward and downward trend in the management of Gurdwaras. While the Gurdwaras were in the hands of Udhasis and Nirmalas, but later, in the mid eighteenth century the dministration of Gurdwaras again went towards deterioration. In the end of eighteenth century once again the administration of Gurdwaras was toned up by establishing the Misils system. In fact, during this period the Gurdwaras obtained political power. Although during the period of Maharaja Ranjit Singh all went well but later on the system of administration was abused by corrupt practices. With the passage of time much awakening was experienced by the society

and this resulted in number of movements leadings to the passing of Sikh Gurdwaras Act, 1925.

The foremost question arises whether this act has been successful in removing the draw-backs of the earlier traditional system. If yes, how-far it has been successful?, if no what were the reasons of failure for this management of Gurdwaras and its judicial system? What measures can be adopted to improve the administration of Gurdwaras and its judicial system.This has been the field of my study under research. The provisions of the Sikh Gurdwaras Act,1925 is examined in the preceding pages and observed that a lot is required to be done in the present legislation and there is a need of educating te Sikh masses for taking their helping hand and co-operation in the smooth management of Gurdwaras and its judicial system. It is significant to note that the S.G.P.C. is the main body which manages and administers the Gurdwaras. A lot of hue and cry has been raised in the recent past in favour of passing of an All India Gurdwaras Act by the virtue of which the S.G.P.C. will get tremendous powers in the field of territorial Jurisdiction as well as administration. There is a need to look into the functioning of S.G.P.C. and other ancilliary bodies of the Gurdwaras Act, 1925, by which the

Gurdwaras are administered. It is to be seen whether all is well behind the veil. It will be significant to take into account the socio-political factors which are prevalent and suggest whether the same system may be continued or there is a need to bring a change in the management and judicial system of Gurdwaras.

It is an irony that there is no system in the world which can manage the religious bodies without any criticiam as it is bound to be there with the changing degree of faith and education and economic aspect of the religious society. However christianity and Islam have been among the group of religious whose administration has been succesfully done by such bodies which have hardly fallen to criticism. Why the Sikh Gurdwaras administration is lacking the grip as,now-a-days, Sikh Gurdwaras are being misused.

The prese t r whether the present

under different acts of different religions. Whether there is such possibility which can keep a guard eye to the affairs of different religions and keep a harmonious relation with each other. It is beyond doubt that the Sikh Gurdwaras Act, 1925 has utterly failed to administer the Sikh Gurdwaras in efficient manner and a lot of mal-practices have been errupted in the managing of judicial bodies constitutedunder the act to administer the Gurdwaras. It is not a hidden fact that the Government has not been able to implement the statuary provisions of the Act. Although the managing bodies are to be constituted or democratic election system, but the Government has utterly failed to implement the statutory provisions to hold the election of their bodies. I have tried to examine and analyse the factors and reasons responsible for not implementing the statutory clauses under the present research.

It is a question of million dollars that the reforms (enactment of Sikh Gurdwara Act, 1925) which were achieved after the much sacrifice, have been vanished. What are the reasons of such a deteriorating position of administration of Sikh Gurdwaras ? What are the factors responsible for the decline of the administration of Sikh Gurdwaras ? To find out the answer let us peep into the past and analyse one after another, whether the reasons herein after recorded are having the impact on the administration.

After Independence, the Sikh masses sacrificed a lot under on slought of partition. There was no other community which has experienced miserable life in those days. However the brave Sikhs soon came out from the dilemma and worst phase by their own hard work and brought a green revolution. In this phase the Government although has extended some help, but most of their job was up to the point of lip service. The beginning of the second phase gave a jolt to the sikh masses. With the China attack and in this series the wars of 1965 and 1971 have taken the life of maximum number of Sikh soldiers. The sacrifices in the war has brought the direct effect on the Sikh society leaving behind thousands of

widows. Again the Government remained a silent spectator. Nevrtheless after 1971, the Sikhs were becoming financially well of therefore the social evil got a way to enter and prevail in the houses os Sikhs. The liquor became the fashion. In the same phase there was a tremendous migration of Sikh masses to abroad and foreign currency sent back by the migrant to their families created a separate class among the Sikh masses. Although these factors seem to be merely social but there impact was bound to happen in the life a Sikh, ultimately effecting the administration of Gurdwaras, since Gurdwaras keeps a direct and foremost place in the life of a Sikh, Beside other factors the unemployement among the youth, decreasing the quota for the selection of Sikh personnels in the armed forces,non attention of the Government during the phase of industrial revolution towards the community had been the other cause effecting the administration of Sikh Gurdwaras implicitly.The situation now,has become very much complicated because of political ignorance of the Govt. for the reasons and the factors mentioned above. Although number of solution were forwarded by the political groups to improve the situation but nothing has been done by the Government. Instead, the Government has been sprinkling fuel to

the fire and played mercilessly with the sikh masses by rejecting the genuine demands of the Sikhs. If the administration of Gurdwaras and judicial system is to be improved one has to keep the above factors in mind and considering these factors the solution is to be brought about. The Government should immediately take a step by accepting the justified demands and provide constitutional protection and machinery for the good governn ient of Sikh Gurdwaras.

The Gurdwaras being the centre place for a Sikh, it plays a role for the settlement of disputes among the Sikhs, there is hardly any cause to get worried, rather Government should

encourage this system since the current trend of Lok-Adalat system and recognition of public interest litigation and the Govt.'s commitment to the present system falls in the line of promoting a machinery parallal to the system given by sikh leaders. If Gurdwaras are to play a judicial role the administration of Gurdwaras must be in the hands of honest and literate persons while the situation now a days is reverse. The Gurdwaras are being run by greedy and dishonest Granthis or Priests and this is the root cause of the whole affair of mismanagement and inflighting among the Sikhs. Therefore a democratic system must be evolved.

I would like to suggest that the granthis or priests, by what so ever name, may be called having with judicial power should be elected through secret ballot. They should be highly qualified and should be well versed with religious knowledge and to equip the priests with the task they must be trained in the training centre particularly established for this purpose. And to make this system success, it would be imperative to keep the establishment of the Gurdwaras in limit. The priest would be well paid public servant. A system may be evolved for his suspension and removal. However, initially, his tenure must be for the life.

The sikh children and society must be tought compulsorily the teachings of the Gurus and highsteem should be created in the minds of the society about the Gurdwaras and this is only possible if the Gurdwarasare seen honestly and play a positive & constructive role in the social life of the people. And there will be no harm, if the Government consttutionally recognise, Golden Temple and Akal Takhat as a highest seat of the Sikhs on the line of vetican city which keeps the high place among Christians and Macca among Muslims respectively. Since it would require an indepth study to draw the structure of this kind of the system. I leave it to the future researcher to work on it.

2

It is really astonishing to find that the events of 1921 seems to be repeating even today because of the prevailing circumstances. In April 1921, the standing committee of twelve sikhs for a Gurdwara Legislation adopted a resolution and sought from the Government the innocent sikhs should be released and satisfactory legislation of the Gurdwara be passed upto April, 1921, otherwise the Sikhs would consider it an interference with their religious rights and will be compelled to resort to all necessary means of reforming the Gurdwaras themselves.

It is an irony that in the present circumstances, even after 70 years, the sikh problems stands unresolved and the demands of the Sikh leaders are almost similar, that is to release the Sikh detainees from the prison and begin the trial against the culprits of 1984 riots and so on. Infact, the Government(British) in the past had used the Sikh shrines a powerful channel for an indirect control of Sikhs. The divide and rule policy of the British had been vigorously practised by the Congress Government. The Government endeavours to sabotage the administration of Gurdwaras and its judicial system, just to facilitate to keep themself in power. It is significant to note that Sikhs are virtually not allowed to carry and wear the Kirpan, which is one of the fundamental religious requirement of a Sikh, as were done by the British.

In this regard, I respectfully submit that a Kirpan by a Sikh is not only a religious essentially but it is also his fundamental right. The size of Kirpan is immaterial. Therefore restraining the elected Sikh M.P.'s is to enter in to the parliament house is a sheer violation of fundamental right. The community which has done maximum sacrifice for the nation is being dubbed unpatriotic and that too by the Govt. The study of

above matter reveals that the Government is tracking on the $ame root in dealing with Sikhs as the British Government had adopted the policy against Sikhs. The Government's continuance interference with the religious matters of Sikhs is a matter of great worry for instead of extending co-operation to sikh leaders to solve the problem, the Sikhs are being harrased at the behest of the Government.

Inspite of the highly sounding democratic value of Sikh Gurdwara Act, 1925, the real picture is very disappointing. The machinery created under the Act for the administration of Gurdwaras has totally failed for want of proper attention of Government by not implementing the provisions of the Act at one hand and on the other hand multi groups claiming to the authority to administer the Gurdwaras. In view of existing situation the Sikh Gurdwara Act, 1925 becomes redundant and should be scrapped out from the statute book and I respectfully submit in the forth coming pages to adopt the New Gurdwara Act.

The Sikh Gurdwara Act, 1925 is an enactment of a special nature and is governed by its own procedure. It creates a machinery to settle the disputes and provide the Justice through the following Judicial set up :-

1. Sikh Gurdwara Tribunal
2. Sikh Gurdwara Judicial Commission
3. Shromani Gurdwara Parbandhak Committee.

The purpose for which Sikh Gurdwara Tribunal[3] was established under the Act, is now hardly there because at the time of establishment there were a large number of Gurdwaras and their character as Sikh institution or otherwise was not settled and conflicting claims were being raised in regard to the property of the schedule and other Gurdwaras. Therefore for the determination of these and some other issues a authority named the Tribunal was established under the Act, the purpose of establishing the Tribunal fulfilled long back and there is hardly any case pending with the Tribunal. Therefore, the present researcher submit to review the jurisdiction of the Tribunal. At the first instance, one can suggest to abolish it, but instead, I would like to suggest to revise its Jurisdiction and give more powers to make it functional. The significant provision u/s37 is, its presiding officer of the Tribunal is considered public servant u/s21 of I.P.C. and are the paid officer of the Govt. In view of this provision the power of the Tribunal and jurisdiction must be broaden to make it active and functional and a regular operative

body under Gurdwara Act. The another significant feature of the present Tribunal is that it is a judicial body presided over by either sitting or a retired Judge of the High Court. While the judicial commission is not a court neither the expenses of officer of the commission are fully borne by the Government. Therefore, I hereby submit that the judicial commission should be made judicial body and the Tribunal should be made the appellate body. Thus the appeal from the judicial commission will lie in the Tribunal and thereafter to the High Court.

To make this judicial body more active, regular and functional, I suggest that the officer of this Judicial commission must be appointed by the Government and paid by the Government and should be amongst the judicial officers of the state with primary qualification given under the Act. If such members are not available within the existing judicial officers, the Government must go for recruitment of such officers. Therefore this body has to play a significant primary role. And to make it a impartial and independent Judicial body, the officer of the commission must exclusively be paid by the Government and there tenure should be for three years and after the completion of three years term shall go back to his original posting and the commission should be a regular

and primary court for the disputes regarding Administration of Sikh Gurdwaras and appeal shall be in the Tribunal.

Since the judicial commission would be a regular judicial court as suggested the power to execute its decree should be vested with the instant court rather than vested with the district court. Further submitted that the S.G.P.C. should be disassociated from the work of Judicial nature and judicial commission should be considered a primary court. The appeal from judicial commission should lie in the Tribunal.

It is submitted that to make the S.G.P.C.[5] more efficiently workable, the composition of 160 members must be reduced to 60 members, as the past and the current experience shows that there is much politics among the members and to depolitiuse it the considerable representation should be given from the following special categories. 1. Universities and Colleges 2. Administrative Officers (I.A.S. and P.C.S. Retd.) 3. Retired Judges and advocates(of 10 year standing) 4. Foreign Representatives 5. Doctors, Engineers, Scientists etc. 6. Qualified Granthis and preachers on the line suggested as below :-

Total Members	60
General Category	20
SC/ST	05
Ex-Officio	05
Special Categories	30

I would further like to suggest that the election[6] of the S.G.P.C. should be held in view of the reduced number of members in the composition of the S.G.P.C. Therefore the constituencies should be created accordingly. However to suggest the following lines may be adopted.

1.	General Constituencies	20
2.	SC/ST	05
3.	Special Constituencies	30

In view of the latest amendment in the peoples Representation Act, the age from 21 has been reduced to the 18 years[7] to get registered as a voter. To clarify the confusion of the defination of a Sikh voter, I submit that the voter must be having a figure of a Sikh. He will be a Gursikh with uncut hairs and the word Sahajdhari should be omitted from the defination of a 'Sikh' to qualify as a voter.

In view of suggested composition of S.G.P.C. the qualifications of the members would be according to the categories from which the member is going to be elected. However for the general categories and SC/ST category the minimum qualification must be matriculation. [8]

The one of the root cause of failure of S.G.P.C. is because of its tenure of working as S.G.P.C. member for unlimited period by manipulating and satisfying the provision of the Act.Therefore it is necessary to make a specific amendment in the act to make the election mandatory before the expiry the tenure of S.G.P.C.

Looking into the changes in the composition, election, tenure, the change in the quorum of the meeting etc. may be made. [9]

The necessary amendments may be made in view of the suggestion forwarded in the preceding pages for change in the provision of election, terms, voters, composition etc. of the Act.

The S.G.P.C. has been utterly not observing its duties, in exercising its power in the last decade in particular. The government has also exploited the situation and did not

cooperate with the S.G.P.C. and the Blue Star Operation made the S.G.P.C. collapsed fully. The Golden Temple and the fund collected by the S.G.P.C. had been misutilised. However if the suggestion given as above are incorporated in the act, the S.G.P.C. may become a functional body, independent from corruption and other demerits.

10 To make the sub-committee more active and functional the necessary amendments should be made and their constitution and composition should be revised along with the powers and duties of their sub-committees.

11 Looking into the merits & demerits based on the imparcial study of the functioning of S.G.P.C. and factors affecting its functioning under Sikh Gurdwara Act, 1925. there is need to reconstitute restructure and redefine its jurisdiction, On the lines suggested in the last chapter to make it fair, active and pious body.

According to the Act of 1925, S.G.P.C. Is a semi-judicial body and from decision/judgement of S.G.P.C. the appeal lies before the Sikh Gurdwaras judicial Commission. It is submitted that the status of S.G.P.C. to discharage Judicial functions should be withdrawn and it should be kept only as an administrative body. In view of the suggestion given to

reorganise and restructure it, if implemented, the S.G.P.C. may prove to be an excellent machinery under Gurdwaras legislation.

In view of the functioning of the Akal Takhat and the status of this religious seat which has high esteem in the mind and heart of Sikhs has played a leading role in the life of Sikh people. Although there may be a number of instances of criticism regarding the directions given by the Akal Takhat to the Sikh masses, but it can not be denied that those decisions/directions taken by Akal Takhat in view of the situation of those times would be justified in the opinion of then officers of the Akal Takhat except in stray cases where the decision of Akal Takhat was taken due to some influence from outside.

No doubt the majority of Sikh masses still have a deep faith in the Akal Takhat because it has unbroken and sentimentaly attached relation of religious nature with the Sikh masses. Historically this seat was created to raise the voice against tyranny and injustice, therefore it has been doing its duty utmost near to the sentiments of the Sikh people.

In fact, it was the role played by the Central Government which has caused and instigated the division of the Akali Dal. So responsibility to lower down the image of the Akal Takhat lies on the Central Government, as to meet its own selfish end the Central Government had been following the policy of divide and rule. Therefore I respectfully submit that the Government should leave the socio-religious affairs to be sorted out by sikh masses themselves instead of interfearing with their affairs, If there are any political assurances given at the time of independence or at the later period, the Government should meet them out in the larger interest of the country.

It is significant to note that the A.I.S.S.F. has put forth a noval idea to craete a separate Judicial syatem of Panchyat making the Akal Takhat highest judicial seat. In fact the idea mooted by the A.I.S.S.F. is worth for consideration except there views of making it a parallel independent body with the Government Judicial System. However if we look in to the reasons given by A.I.S.S.F., for making this system, this seems to be justified to some extent. As the Government has failed to give

Justice to the Sikh youth against police tourcher, false encounters etc. It is respectfully submitted that the Government must give immediate attention towards reasons of such an idea and must recognise and give the power to the Panchayat to look into such incidence and decide accordingly. As far the status of Akal Takhat as a highest judicial seat mooted out by A.I.S.S.F. is concerned it should be in my view, worth acceptable in the cases of family disputes(marriage, divorce, land disputes, social evils, religious matters). The Akal Tkaht may be accepted legally, constitutionaly highest body in the specified cases which can be determined after indepth study. The provision of appeal may be kept. The suggested system of panchyat with the highest judicial system of Akal Takhat will infact help the already existing judicial system, which is at verge of collaps because of overburden of work. In my view the Government should encourage such system in which the people himself resolve their problems with co-operating each others.

NOTES AND REFERENCES

1. See Supra P.30.

2. See Supra P.118.

3. For detailed study of Tribunal (Constitution, structure, procedure) please see supre P. 184.

4. For detailed study of Judicial Commission (Constitution, structure, procedure) please see supra P. 192.

5. For detailed study of S.G.P.C. (Constitution, structure, procedure) please see supra P. 208.

6. For detailed study regarding the election of S.G.P.C. please see supra P. 213.

7. For detailed study regarding the voter of S.G.P.C. please see supra P. 215.

8. For detailed study regarding the qualification of the member see supra P.218.

9. For detailed study regarding the meeting of S.G.P.C. of its quorum please see supra P. 223.

10. For detailed study regarding the sub-committee of S.G.P.C. please see supra P. 235.

11. For detailed study regarding the imperical study of functioning of S.G.P.C. please see Supra P. 269.

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