

## Collecting Sensitive Human Rights Data in the Field: A Case Study from Amritsar, India

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### Abstract

Between 1984 and 1996, more than 10,000 individuals were allegedly killed or disappeared during counterinsurgency operations conducted by Indian security officials against suspected Sikh militants in Punjab, India. Ongoing official investigations are assessing “what happened” within limited parameters, while human rights groups are attempting to determine institutional responsibility. Such assessments have begun to draw on statistical evidence. This paper reviews a recent survey to clarify the magnitude and pattern of conflict-related deaths in Amritsar District and associated institutional responsibility. We present the systems used during our fieldwork, balancing the need for additional information with concerns for safety. These systems include an ethics review and advisory panel (ERAP) and a safety protocol for field staff. We note our lessons learned from the field as well as the usefulness of the ERAP review process. We particularly emphasize how we were guided by the Belmont principles and relevant ethical guidelines for statistical practice.

**Keywords:** Human Rights; Adaptive Sampling; Elusive Populations; Survey Methods; Informed Consent; Professional Ethics; Mortality

### 1. Introduction

Human rights field research and quantitative analyses of the consequences of armed conflict has the potential to produce substantial benefits to society. For example, [Ball \(2000a\)](#), [Ball et al. \(2003\)](#), and [Silva and Ball \(2006\)](#) used inferential statistical methods to clarify the magnitude and pattern of conflict-related mortality for official truth commissions in Guatemala, Perú and Timor-Leste, respectively. [Brunborg \(2001\)](#), [Tabeau et al. \(2002\)](#), and [Ball \(2000b\)](#), and [Ball et al. \(2002\)](#) contributed expert statistical evidence on killings and refugee flows in cases presented before the International Criminal Tribunal for the Former Yugoslavia. More recently, [Guzman \(2011\)](#), by drawing on statistical analysis of the police’s own administrative records, presented expert testimony in the trial of two former Guatemalan National Police agents accused of forcibly disappearing 26-year-old student and union leader Edgar Fernando Garcia. The Guatemalan court found the two former police officers guilty of forced disappearance and sentenced them each to 40 years in prison. This work also resulted in a court ruling that government prosecutors should begin investigating higher-ranking officers for their possible role in the disappearance.

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Yet, human rights field research often poses a number of difficult safety and ethical challenges when collecting, analyzing and disseminating sensitive data. Such challenges often stem from the contested claims concerning “what happened?,” attempts by alleged perpetrators to conceal their actions or sometimes intimidate and threaten those working to clarify the past. Such challenges can manifest themselves as threats to the safety of survey participants (enumerators, respondents, and neighbors) during the data collection, difficulties in ensuring appropriate informed consent procedures are followed, and heightened risks of compromises in the security and confidentiality of sensitive data. Further, additional ethical issues arise when weighing the risks associated with dissemination of research findings and publication of data to ensure scientific transparency and reproducibility.

These challenges are further heightened given the increasing pressure on social science researchers and statisticians. Such pressure partly emerges from increasing demands of a “right to truth” and demands for richer and more detailed empirical data on past human rights violations. For example, the Office of the High Commissioner for Human Rights recently concluded that the right to the truth about gross human rights violations and serious violations of human rights law is an inalienable and autonomous right, linked to the duty and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedy and reparations. [United Nations \(2006\)](#) has emphasized that this right to truth is “closely linked with other rights and has both an individual and a societal dimension and should be considered as a non-derogable right and not be subject to limitations.”

As a means to further our understanding of ethical challenges in human rights field research, in this paper we present some of the challenges we faced in collecting sensitive information about past human rights violations in Amritsar district, India. We note some of the key challenges that we faced as researchers in terms of safety, security and ethics, and present some of the practical solutions that we developed to try and address these challenges and mitigate associated risks. We present the challenges and our associated solutions within the framework of the Belmont Principles for the protection of human subjects, American Statistical Association’s (ASA) Ethical Guidelines for Statistical Practice, International Statistical Institute’s (ISI) Declaration on Professional Ethics, and the American Association for Public Opinion Research’s (AAPOR) Code of Professional Ethics and Practice ([National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research 1979](#); [Committee for Professional Ethics 1999](#); [International Statistical Institute 2008](#); [American Association for Public Opinion Research 2010](#)). However, as noted by [Wood \(2006\)](#) in relation to qualitative and ethnographic research, we conclude that whether or not quantitative research can be conducted in an ethical manner will largely be context specific. There will be some settings where responsible research may not be possible as it poses more risks to research participants than potential benefits. But in some settings, flexible procedures that are guided by the ethical principles of the ISI, the ASA, the AAPOR and those of the Belmont Report can result in practical ways of improving safety and ethical practices in the field.

## 2. Background

In this section, we introduce the historical and social background to counterinsurgency violence in Punjab between 1984 and 1996. We then note some of the current challenges in collecting sensitive data about past human rights violations in Amritsar district of Punjab.

Members of the Sikh community constitute 60% of the 24.4 million people in the Northern Indian state of Punjab. Since independence, Sikh community leaders have called for greater autonomy for Punjab, water rights, local control over agricultural production and prices, and official recognition of the Punjabi language, among other concerns. Tension between the Sikh community and the union government in Delhi came to a head in the early 1980s, when the Indian Army deployed approximately 100,000 troops throughout Punjab as part of its counterinsurgency operations, code-named *Operation Bluestar*. The government’s counterinsurgency operations were a response to the increasingly violent acts being carried out by Sikh militants fighting for an independent Sikh nation of Khalistan, including extortion, bombings, murder, and torture (Guha 1996, pp. 557–562).

Human rights groups and media reports have documented that, in the process of carrying out this counterinsurgency, security forces engaged in torture, extrajudicial executions, and enforced disappearances<sup>1</sup> (Kumar et al. 2003). Indian authorities have downplayed reports of abuses in Punjab as “aberrations” that have been addressed according to appropriate procedures.<sup>2</sup> The Government of India’s official response to the United Nations Working Group on Enforced and Involuntary Disappearances “denied the allegations that there may be several thousand cases of disappearances in Punjab,” and stated, “Scrupulous care had been taken to protect the rights of the individual under due process of law.” Furthermore, “wherever there was any suspicion of police excesses, action was taken.” (United Nations 1994)

K.P.S. Gill, the director general of police during counterinsurgency operations, described human rights violations as “random excesses” and wrote that “Wherever such excesses were detected, action was inevitably taken. The real question is whether a strategy of State Terrorism was adopted by the police; and the answer is unequivocally in the negative.” (Gill 1997) He specifically responded to allegations of enforced disappearances claiming: “Thousands of Sikh youth who had left for foreign countries under fake names and documents were claiming to be missing persons killed by security forces in encounters,” adding, “They are missing with the consent of their parents.” (Puri 2007).

Human rights groups have rebutted the Indian government’s characterizations of abuses as “random excesses” by offering widespread qualitative accounts of hu-

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<sup>1</sup>*Enforced disappearances* are defined as the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the whereabouts of the disappeared person, which place such a person outside the protection of the law (United Nations General Assembly 2006).

<sup>2</sup>At the 50th session of the UN Human Rights Commission in February 1994, Dr. Manmohan Singh, then India’s finance minister, downplayed widespread human rights abuses in India as “aberrations” that had occurred in confronting terrorism (Press Trust of India 1994).

man rights violations. These documentation efforts, however, have not conclusively clarified whether the government’s counterinsurgency efforts were, in fact, a model security operation or an example of the state suspending the rule of law and carrying out mass human rights violations against insurgents and suspected opponents.

The survey data collection work we discuss in this article was designed to inject new statistical evidence into this debate about past disappearances and extrajudicial executions in Punjab. This survey was designed to move beyond some of the limitations of existing data and help place this debate on stronger empirical and methodological footing. In particular, we sought to clarify whether the alleged enforced disappearances and extrajudicial executions committed by police and security authorities were “widespread” and/or “systematic.” Widespread in that such lethal violence was committed on a large-scale at the population-level, and systematic in the sense that the pattern of these events is consistent with the hypothesis that they are the result of a specific plan or set of official practices. This work is designed to build on the efforts of community-based projects, human rights initiatives, and government-sponsored registration processes (Silva et al. 2009). Our preliminary statistical findings, based on our 2009 survey data, about the magnitude and pattern of extrajudicial executions and enforced disappearances in Amritsar district during the counterinsurgency have been published in (Silva and Klingner 2010).

### 3. Project Objectives, Study Design & Institutional Actors

#### 3.1 Project Objectives & Study Design

This survey was conducted jointly by the Benetech Human Rights Data Analysis Group and Ensaaf. It was supported by grants from the Echoing Green Foundation, the Oak Foundation, the MacArthur Foundation, and the Sikh Spirit Foundation. The purpose of the survey was to

- assess the magnitude and pattern of lethal violence in rural Amritsar which was part of the State’s counterinsurgency in Punjab between 1984 and 1996,
- understand the context and modes of lethal violence used in rural Amritsar during this period, and
- understand the needs and support sought by the families of victims of lethal counterinsurgency violence in rural Amritsar.

The survey was conducted in July and August 2009. A structured questionnaire, specifically designed and pilot-tested for this study, was used to collect the data.<sup>3</sup> This questionnaire was written in Punjabi and all interviews were conducted in Punjabi. An English version of the survey questionnaire is available at [www.hrdag.org/about/india-punjab.shtml](http://www.hrdag.org/about/india-punjab.shtml). The Punjabi-language version of the

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<sup>3</sup>We conducted six rounds of pilot-testing to refine the questionnaire between August 2007 and May 2009. These rounds of pilot-testing were carried out in three regions of Punjab: Amritsar, Hoshiarpur and Sangrur.

survey is available from the authors, upon request. A field survey team of 12 individuals working in teams of two collected the data. Two field supervisors oversaw the survey data collection process.

We designed the survey to study the following reference population: victims of lethal counterinsurgency violence who were killed or disappeared any time between 1984 and 1996 and who were residents of rural Amritsar at the time of their death or disappearance. Given the effects of migration between 1996 and the time of the survey, this sampling plan is expected to result in a downward bias when estimating the magnitude of lethal counterinsurgency violence in rural Amritsar between 1984 and 1996.

We used a referral-based sampling plan. We first randomly selected 190 village clusters proportional to population size (see Section ?? for details of the sampling frame and sampling procedure). In each sampled village, we then interviewed at least two primary referral points which included local village officials or elders. Primary referral points included:

- Sarpanches: the elected chief administrator of the village
- Bazurgs: groups of village elders who are highly visible in the village
- Chowkidars: village-level government officials who record vital events within the village
- Other village members who are well-known and well-respected within the village. These included granthis (Sikh religious clerics), local shopkeepers, or local school principals.

These primary referral points were asked for referrals to families “who experienced an enforced disappearance and/or extrajudicial execution between 1984 and 1995, and were resident in the sampled village during that time.” The survey team then attempted to interview all such families still resident in the village. The survey field team then documented the details of any lethal violence incidents which this family experienced and also asked them for further referrals to other families resident in the sampled village who had experienced acts of lethal violence. All referrals from both primary referral points and families were followed exhaustively. The details of our sampling methodology and preliminary estimation results are presented in (Silva and Klingner 2010).

### 3.2 Collaborating Institutions

This survey was carried out jointly by Benetech’s Human Rights Data Analysis Group (HRDAG) and the Punjab-focused non governmental organization Ensaaf.

Ensaaf is a nonprofit organization working to end impunity and achieve justice for mass state crimes in India, with a focus on Punjab, by documenting abuses, bringing perpetrators to justice, and organizing survivors. Ensaaf, which means

justice in many South Asian languages, work in the following four program areas to advance justice and human rights in Punjab:

1. community organizing and education: by educating the general public and organizing survivors to advocate for their rights to truth, justice, and reparations.,
2. documentation: by recording abuses to counter official denials and build evidence for accountability and historical clarification processes,
3. legal advocacy: by engaging in strategic litigation to hold perpetrators accountable and set national precedents on human rights norms , and
4. advocacy through United Nations mechanisms: by providing supplementary information to UN human rights mechanisms about the situation of impunity for human rights violations in Punjab, as well as specific cases.

In 2007, Ensaaf contacted HRDAG for assistance in engaging key human rights policy questions about the magnitude and pattern of human rights violations in Punjab and associated levels of institutional responsibility by using quantitative data and statistical methods.

HRDAG provides statistical consulting services to engage policy-relevant questions about large-scale human rights violations with large amounts of statistical data and scientifically-defensible methods. Collectively, HRDAG team members have worked on human rights documentation and analysis projects in more than thirty countries on five continents over the past twenty years. HRDAG helps human rights advocates to articulate the history of violence in their communities, design information management systems and conduct quantitative analyses of human rights data, working with truth commissions, non-governmental organizations, tribunals and United Nations missions. HRDAG was incubated for more than a decade at the Science and Human Rights Program of the American Association for the Advancement of Science. Since 2003, the group has been based at Benetech, a nonprofit organization that creates innovative technological solutions to address unmet needs in education, human rights, the environment and disability access.

In this project, ultimately Ensaaf played the role of the substantive partner with deep local expertise whereas HRDAG’s role was focused on technical issues associated with data collection, data processing and statistical analysis.

## **4. Ethical Dilemmas & Safety Challenges**

### **4.1 Overview of Ethical Guidelines and Safety Practices Followed**

In our work, we were guided by the AAPOR Code of Professional Ethics and Practices, ASA’s Ethical Guidelines for Statistical Practice, and ISI Declaration on Professional Ethics ([Committee for Professional Ethics 1999](#); [International Statistical Institute 2008](#); [American Association for Public Opinion Research 2010](#)). These documents each codify standards and guidelines which cover

**Table 1:** Basic Principles for the Protection of Human Subjects outlined in the Belmont Report

<b>Principle</b>	<b>Application</b>
<b>Beneficence</b>	<b>Assessment of risks and benefits</b>
- Human subjects should not be harmed	- The nature and scope of risks and benefits must be assessed in a systematic manner
- Research should maximize possible benefits and minimize possible harms.	
<b>Respect for Persons</b>	<b>Informed Consent</b>
- Individuals should be treated as autonomous agents	- Subjects, to the degree that they are capable, must be given the opportunity to choose what shall or shall not happen to them
- Persons with diminished autonomy are entitled to protection	- The consent process must include three elements: + information + comprehension, and + voluntariness
<b>Justice</b>	<b>Selection of Subjects</b>
- The benefits and risks of research must be distributed fairly.	- There must be fair procedures and outcomes in the selection of research subjects

1. Principles of professional responsibility in dealings with respondents, potential respondents, clients, sponsors, and our profession,
2. Principles of professional practice in the conduct of our statistical fieldwork, and
3. standards for disclosure particularly in terms of the maintenance of confidentiality of records and the inhibiting of disclosure of the identity respondents and subjects.

We also were guided by the Belmont Report principles for the Protection of Human Subjects. This Report links the principles of beneficence, respect for persons and justice to field practices concerning the assessment of risk and benefits, informed consent procedures and the selection of subjects. These linkages are displayed in Table 1.

While each of the standards provides helpful general guidance on broad professional ethics issues, they do not provide detailed prescriptions on how to address these issues in different social, cultural and political settings. This paper describes some of the particular challenges we faced in Punjab, whilst collecting statistical data on forced disappearances and extrajudicial executions, and how we sought to customize field procedures that were consistent with the aforementioned beneficence, respect for persons, professional ethics principles and also calibrated to the human rights context of Punjab, India.

## 4.2 Maintenance of boundaries between research and practice

One of the first professional ethical challenges we faced concerned the distinction between research and practice. The Belmont Report, which admittedly is framed around clinical and biomedical research practices, defines “practice” as “interventions that are designed solely to enhance the well-being of an individual patient or client and that have a reasonable expectation of success.” Whereas, “research” is defined as activities “designed to test an hypothesis, permit conclusions to be drawn, and thereby to develop or contribute to generalizable knowledge” ([National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research 1979](#)).

Our challenge arose when Ensaaf wanted to expand the objectives of our statistical survey to also meet its needs for individual, case-level advocacy. Grassroots human rights NGOs have long collected individual case-level information about human rights violations and used these information as part of general advocacy campaigns and strategic human rights litigation work. Quite simply put, Ensaaf wanted to use the individual-level data that we would collect on conflict-related mortality to also further its general advocacy work by showcasing particularly compelling cases. This would have entailed collecting for the dual purpose of making a scientifically modest estimate of the mortality consequences of the counterinsurgency operations and pursuing advocacy and strategic litigation of individual cases.

There were three core concerns about the broadening of our research objectives to encompass advocacy and strategic litigation:

1. **Raising of Expectations for Individual Benefit from Participation:** HRDAG was concerned that this broadening might of scope mislead potential respondents by raising their expectations about the potential benefits from their participation. In particular, potential respondents may have thought that by participating in our survey that they might be able to obtain free legal representation from Ensaaf or other public interest lawyers or advance public advocacy for their rights for alleged human rights abuses.
2. **Potential Violation of Confidentiality of Individual Respondent and Victim Identities:** By expanding the scope of the survey to encompass both advocacy and research objectives, Ensaaf would have needed to be given discretion to choose specific survey responses to be used in public advocacy campaigns at a later date. This would have violated our need to follow standard statistical disclosure practices and ethical research practices of protecting the privacy and individual identifiability of respondents (and individual research subjects).
3. **Undermining of Validity and Reliability of Collected Data:** The broadening of the scope of data collection to be geared towards empirical social scientific research and human rights advocacy, we ran the risk doing two things badly (and in a way which is inconsistent with recognized research standards and ethical guidelines) instead of pursuing one narrow objective but doing it well and safely. In particular, given the contested and controversial nature of debates about magnitude and pattern of human rights violations in Punjab

and the associated responsibility for these acts, we worried that such a broader project scope would undermine the credibility of our work. As reviewers of work could potentially (and perhaps rightfully might) argue that by pursuing a dual research and advocacy objective, systematic (upward) bias was introduced into our mortality estimates. Such a bias might arise if there was a clear (individual-level) incentive for respondents to embellish their responses or respond in a different manner than how they would have if there was no individual-level advocacy objective of the project.

When HRDAG researchers expressed grave concern about pursuing dual objectives as part of our survey, Ensaaf proposed that perhaps our concerns could be addressed by amending the questionnaire and informed consent. In particular, Ensaaf suggested that questionnaire be changed so that a question asking permission of the families to use their information for advocacy purposes be put at the start of the questionnaire in the informed consent section. They felt that this question would ease administrative burden on respondents and not encumber the survey process too greatly.

After lengthy discussions, Ensaaf and HRDAG collaborators agreed on adopting a data collection effort that narrowly-focused on the scientific estimation of the mortality consequences of the counterinsurgency activities. We agreed that trying to integrate advocacy objectives into our research activities would introduce potential bias in our results, undermine the privacy and confidentiality of respondents and research subjects and violate the Belmont principles for the protection of human subjects.

### **4.3 Independent Guidance and Review of Field Safety & Security Procedures**

Neither HRDAG nor Ensaaf were dispassionate actors when considering the question of whether or not to advance the world's understanding of mortality consequences of Punjab's counterinsurgency between 1984 and 1996. Ensaaf has a strong need to better describe the impact of the counter-insurgency on civilians within a human rights framework given its core mission of promoting and protecting fundamental rights in Punjab. HRDAG, having analyzed the existing administrative and convenience-sample data on disappearances and extrajudicial executions in Punjab, had concluded that in order to reliably engage key questions about counterinsurgency violence additional data (preferably collected via random sampling methods) was needed. So both institutional interests were tilted towards the collection of additional data via survey-based methods. Thus both HRDAG and Ensaaf felt a strong push towards the collection of additional supplemental data to advance our ability to estimate the mortality impact of the counterinsurgency.

Yet, the risks associated with the collection of data about counterinsurgency-related mortality in Punjab is not without risk. In 1994-95, Jaswant Singh Khalra investigated alleged government-sponsored disappearances by collecting administrative records in the form of government crematoria records. These records detailed over 6,000 secret cremations by the police in just one of the 13 districts in Punjab.

Based on the information in these records, the non-governmental Committee for Information and Initiative on Punjab (CIIP) moved the Supreme Court in April 1995 to demand a comprehensive inquiry into extrajudicial executions ending in secret cremations. But the police, after repeatedly threatening Khalra, arbitrarily arrested, detained, tortured, and killed Jaswant Singh Khalra in October 1995. Khalra's murder, and the eventual conviction of his killers 10 years later, made the reality of the existence of thousands of "disappearances" and extrajudicial executions impossible to deny. But it also showed the risks involved in documentation of lethal violence associated with Punjab's counterinsurgency.

Given these potential risks and that neither organization were dispassionate actors, HRDAG and Ensaaf decided to set up an independent Ethics Review and Advisory Panel (ERAP). The purpose of the ERAP was to ensure, both in advance and by periodic review, that appropriate steps were taken to protect the rights and welfare of humans participating as subjects in our research study. To accomplish this purpose, we asked the ERAP to review research protocols and related materials (e.g., informed consent documents and investigator brochures) to ensure protection of the rights and welfare of human subjects of research.

The chief objectives of the protocol review was to assess the ethics of the research and its methods, to promote fully informed and voluntary participation by prospective subjects who are themselves capable of making such choices (or, if that is not possible, informed permission given by a suitable proxy) and to maximize the safety of study participants (including both potential respondents, survey field staff, and the general community). The design of the study and implementation of field procedures were guided by the ([Committee for Professional Ethics 1999](#); [International Statistical Institute 2008](#); [American Association for Public Opinion Research 2010](#)) The focus of the review procedures were on whether the field procedures to be followed exposed all concerned (respondents, their families, neighbors, survey field workers (mappers, house listers, drivers, supervisors, etc.) or anyone else associated with the survey, to harm or undue risk of harm. So, while these review procedures encompassed many of the issues that an institutional review board addresses, it's scope was broader and emphasis was more heavily geared towards safety and security of survey participants.

The members of the ERAP were independent from both HRDAG and Ensaaf and organizations funding the survey and analysis. They were chosen for their combined and complementary skills and expertise in empirical social science research, survey methods, human rights in Punjab and the politics of armed conflict in Punjab. The ERAP was chaired by senior demographer and survey methodologist Bill Seltzer. The two other members of the ERAP were Vrinda Grover (a human rights advocate at the Multiple Action Research Group based in Delhi, India) and Pritam Singh (an economics professor at Oxford Brookes University in the UK whose research and teaching is focused on the political economy of Punjab). As the field team were shuttling between the US and Northern India and the ERAP members were based in New York, Oxford and Delhi, engagement with the ERAP was via telephone conference calls and over email. None of the ERAP members have ever been staff of, board members of, or donors to HRDAG or Ensaaf. Each member of the ERAP generously contributed their time and expertise to this process in a pro-bono capacity. We specifically chose members of the ERAP based on their stature

and reputations in the fields of human rights, social science, academic statistics and demography. This was done so that we would benefit from guidance and counsel from leaders in these fields, but also to ensure that it would be costly for HRDAG and Ensaaf to disregard any principled objections or concerns from ERAP members, given their influential and respected positions in their respective fields.

The ERAP outlined four key strategies to improve protection measures for the survey field team and coping mechanisms in the event of security threats or action against the survey field team. These included (i) a practice of notifying the local authorities prior to commencement of field operations in the respective local area, (ii) the use of cell phones to increase the knowledge and responsiveness of survey field management staff about potential threats or adverse action against the survey field team, (iii) specific training related to safety issues, and (iv) preparation and set-up of legal team prior to commencement of survey field operations.

#### **4.4 Advance Notification of Authorities**

Security and safety threats to the survey team do not necessarily arise in an orderly or rational manner. In appreciation of this, the ERAP and field researchers considered the viability of notifying the local authorities prior to commencement of field operations in the respective local area. There were a number of arguments to consider in favor of and against implementing a practice of notifying police and local authorities about our work prior to survey field operations commencing in the local area. Below, we present the main arguments for and against such a practice and justify why we decided against a practice of advance notification of authorities.

In theory, notifying the authorities of our study might make the police feel less threatened by our presence and ensure the safety of our fieldworkers. This is particularly important as, by discussing our work with local police authorities before the launch of survey operations, we might be able to minimize unsubstantiated rumors or misunderstandings being the main influence or information source about our work for local authorities. Our ideal reaction from the authorities would be for them to consider our project a non-threatening historical clarification study conducted by an international research group. The likelihood of eliciting this reaction might greatly increase if we were able to have a trusted intermediary who is able to approach the police with us, and who has an established relationship with a senior-level officer at the local station.

One member of the ERAP noted that high-level advance notification work in tense border crossing situations between Israel and the Palestinian territories were successful in guarding against misinformation and further constructive dialogue with the police. But it was noted that to the extent more local official contacts can be notified, the better. Although, our Indian ERAP members expressed reservations about this approach noting that (i) senior officials within the Punjab police are implicated in past disappearances and (ii) we would be unlikely to find local-level intermediaries willing to positively engage our team prior to the survey in each sampled village. Without a trusted intermediary, we ran the risk of unnecessarily raising the police's suspicion, and them demanding more information about the study. The

police might record the names and addresses of the fieldworkers, increasing their risk of harassment once international collaborators left India. If the police objected to the study, then the field team would not be able to conduct the survey in the villages under the police station's jurisdiction. This could raise the non-response in the survey significantly and lead to reduced validity of the resulting analysis. Many Punjabi locals still fear the the police, and recruiting experienced fieldworkers with the expectation that they would have to contact the police may be difficult, resulting in a need for us to rely on a less experienced fieldwork staff. Furthermore, if the police were notified about our study, they might have approached the sarpanches and bazurgs officers and directed them not to respond to our study or not to disclose knowledge of state violence, compromising the reliability and validity of our study greatly. Or police might have decided to follow our survey field teams during interviews, and the police presence during the study could have led to self-censorship by respondents, who may have been intimidated to answer freely in the presence of police or with the knowledge that the survey is subject to police surveillance.

During our three previous pilot tests in Amritsar District, Hoshiarpur District and Sangrur District, where we worked without notifying the authorities, we did not experience police interference. In Amritsar district, the police have been involved in identifying families of those illegally cremated for compensation under orders from the National Human Rights Commission. Human rights groups have scoured the area with questionnaires eliciting information from families for submission to this NHRC case as well. We feared that bringing this research to their attention would get them to think that the study is more important and more worthy of monitoring than these other efforts. On the other hand, given police involvement in collection of evidence for the NHRC compensation process, the police may see our work as complimentary to the NHRC's own work. Police officials, who are respectful of the NHRC compensation process, are unlikely to feel threatened by our own study. Whereas, those who question or actively oppose scrutiny from the NHRC or non governmental organizations were likely to oppose our proposed study. Whether they would choose to actively or passively oppose our study was difficult to know prior to the commencement of survey fieldwork. It was possible that the sarpanch or ward officer would notify the police of our presence after our visit with him or her, depending on the informed consent process, personal relations between the sarpanch and village officials, political affiliation of the sarpanch/ward officer, and the threat perceived by the sarpanch/ward officer.

Our Indian-based ERAP member also expressed strong concerns that some senior police and security officials might try and manipulate any advance notification into a process of researchers needing to get prior authorization from the police to carry out human rights research. In certain specific circumstances, foreign fact-finding missions in conflict zones do give prior notice to the authorities, but this is done mainly to inform the responsible authorities that they are responsible for the security of the fact-finding team. In the context of Punjab, our Indian ERAP members were concerned that the Indian government would use this as an opportunity to jeopardize this work and swiftly erect bureaucratic hurdles to prevent this work. This would possibly have set a counterproductive precedent for human rights research in India.

Given these notable concerns about how advance notice may have been manip-

ulated by the authorities to either demand prior permission for the survey fieldwork or to undermine the implementation of the fieldwork itself, we decided not to give prior notification to the authorities of our work. However, based on advice from ERAP members, our research team made preparations for launching a broad-based information campaign about our survey research in the event that the police started to intimidate our carry out attacks against our field teams, survey respondents or their local communities. The logic behind this back-up plan of broad-based publicity was that with such a public information campaign, the cost of threats or physical intimidation by authorities entrusted with public safety would become very high and this would provide useful cover for individuals participating in our study. Further, both the ERAP and the our research team noted that it would be naive for us to think that we could carry out a district-wide survey over an 8-week period without police and associated authorities knowing about this project.

#### 4.5 Field Safety Training & Cell Phone Security Protocol System

Safety and Security Issues were addressed during Field Team Training. The safety and security of the survey field team and the respondents required careful preparation and skill development amongst all team members. During our formal training of the survey field team, the following areas were covered as part of our two week training program:

- relevant legal provisions under state and national laws,
- cell phone security protocol system,
- general security tips,
- data security methods for both paper documents and electronic files (using the Martus information management system),<sup>4</sup>
- privacy and confidentiality of data, and
- sharing of psychological services referral information.

These training modules involved both traditional classroom-based training and “hands-on” practical components in which survey field team members participated in simulated exercises.

With much guidance form the ERAP, we also developed a cell phone security protocol system to monitor the safety and security of our field staff during field operations. The goal of this system was to increase the knowledge and responsiveness of survey field management staff about potential threats or adverse action against the survey field team. Such increased and timely knowledge would be useful in responding to any potential threats or safety issues in the field in a timely manner, as well as addressing misunderstandings before they become problems.

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<sup>4</sup>Martus is a technology tool to assist the human rights and social justice sector in the collection, safeguarding, organization and dissemination of information about human rights violations.

We provided cell phones to our field teams so that each field team had 3 cell phones (one for each driver, and one for each survey fieldworker, with at least one of the phones running on a different cell phone network to the other two). The field teams were required to check in with their field supervisor twice per day over the phone, and were required to return to the field office no later than 6:30pm each day to drop off the laptops on which data was collected.

Cell phone coverage is widespread in Amritsar district, although there are some pockets of no coverage in certain villages. Prior to the survey launch, we investigated cell phone coverage maps from the two biggest providers, AirTel and Reliance, to anticipate no-coverage zones and schedule check-ins outside of these zones. Staff tested out cell phone coverage in these areas by walking around the ward or village and attempting to make phone calls from there. Areas of non-coverage or weak coverage, in relation to cell phone networks, which are part of the sampled villages/wards were noted by the survey operations managers, survey field supervisors and enumerators.

In areas where there was either no or low cell phone network coverage, we instituted an alternative check-in and safety monitoring procedure. For such sampled villages/wards, one of the two survey operations managers shadowed the team to the sampled village/ward and periodically check-in with the survey field team while they were in the sampled ward/village. They then traveled outside of the sampled village/ward at least twice that day to an area with reliable cell phone coverage and make scheduled phone check-ins with the other survey operations manager stationed at the central field office in Amritsar city.

The survey operations managers maintained a call logbook in which they logged check-in calls with each survey field team on a twice daily basis. If it is got late in the morning (or afternoon), and the required morning (or afternoon) check-in call had not been made by a survey field team to the survey operations manager, the survey operations manager will call the survey field team to check in and ensure that they were safe and their work is going according to plan. If the survey field operations managers could not get in touch with the survey field team, one of the survey operations manager would visit the sampled ward/village to verify the team's safety. In the event that a field team perceived they are being followed by the police, they were to immediately call their field supervisor, terminate fieldwork for the day and return to headquarters for debriefing and deliberation on how to address this situation with survey field operations management team.

To summarize, the following safety protocol was instituted to guide survey field operations:

- no travel in the dark: 6:30pm end time ensured that the workers were not in the field after dark,
- drivers were not permitted to make unscheduled stops to attend to personal business or errands for any members of the field team or themselves,
- the driver and both fieldworkers will have cell phones (3 per team)
- a system of twice-daily check-ins with survey operations by phone,

- drawing on personal contacts and relationships in the district ensured an extra degree of monitoring,
- customized protocol of check-ins in areas with no or low cell phone network coverage
- a protocol in the event that field teams perceived they were being followed. This consisted of an immediate termination of the field visit and a return to the survey field operations office until the survey operations team developed an appropriate, revised operational strategy for that geographic area.

#### 4.6 Professional Legal Support

Our local field partner Ensaaf, in order to improve our preparedness for any adverse reactions by police and security officials, retained a local lawyer in Amritsar who remained on-call throughout survey field operations to respond to police threats, harassment, and/or detention (of survey field team members) or any other legal issues which arise from the survey fieldwork process. This lawyer worked closely with Ensaaf's regular legal counsel. The Amritsar-based lawyer and Ensaaf's regular legal counsel researched the existence of legal provisions under Punjab state and Indian national laws with regard to protections of the survey field team and security/confidentiality of information acquired during interviews. These legal provisions included relevant articles of the Indian constitution and other laws that codify safeguards against the right to be free from arbitrary arrest and detention, regulations requiring the police to report all arrests without warrant to the district magistrate, and habeas corpus protections such as equality and the protection of life and liberty.<sup>5</sup>

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<sup>5</sup>Legal safeguards technically exist to protect detainees from illegal detention. Section 41(a) of the Code of Criminal Procedure, 1973, (CCrP) allows police to make an arrest without a warrant or a magistrate's authorization, if the arrest is based on reasonable suspicion, information, or complaint. Article 22 of the Constitution requires police officials to inform arrestees, except enemy aliens and those held under preventative detention laws, of the grounds for arrest, allow access to counsel, and produce the detainee before a magistrate within 24 hours. The Supreme Court has further interpreted this article to require that police inform a relative or friend about the arrest and record the arrest in police records. Section 57 of the CCrP also prohibits the police from detaining an individual without warrant for more than 24 hours, without producing the detainee before a magistrate and receiving authorization under section 167.

Section 58 of the CCrP reinforces these provisions and requires the police to report all arrests without warrant to the district magistrate. In *D. K. Basu v. State of West Bengal*, the Supreme Court issued mandatory directions for compliance by all law-enforcement officials during arrest or detention of any person to supplement these constitutional and statutory safeguards. These guidelines include the requirements of police to: wear identification badges during an arrest and make a detailed witnessed memo about the arrest.

The Supreme Court has interpreted Article 21 of the Indian Constitution, prohibiting the deprivation of life or liberty "except according to procedure established by law" to proscribe torture. Section 162 of the CCrP makes statements made by any person to a police officer in the course of an investigation inadmissible at any inquiry or trial, except during cross-examination to contradict the witness who made the statement. It further proscribes the police from procuring the signature of a detainee on any statement. Section 163 of the CCrP also prohibits police officers or other officials from inducing, threatening, or making promises to extract a confession.

When any sudden or unnatural deaths occur in the jurisdiction of the local police station, Section 25.31(1) requires the officer in charge to inform the nearest magistrate and conduct an investigation as prescribed by Section 174 of the CCrP. Section 174 obligates the officer to report on the apparent cause of death and any wounds, fractures, or marks of injury found on the body.

In addition, the Amritsar-based attorney participated in the survey team training and was on-hand to answer relevant legal questions from the field teams during their training. During survey field operations the co-Managers of the survey field operations, as part of their weekly security procedures, liaised with the Amritsar-based lawyer and updated him on how field teams had been operating in the field, their recent experience (if any) with police, and any new security issues which had arisen in the past week. We were fortunate not to have experienced any situations in the field where legal counsel was required to be called upon. However, at the conclusion of field operations our field teams and survey operations managers concluded that having professional legal support on-call during the entire field operations was assuring for the team.

#### 4.7 Security & Confidentiality of Sensitive Data

One notable challenge when collecting sensitive data on human rights violations in unsettled environments is the need to maintain the security and confidentiality of the collected data. These ethical principles and professional practices are clearly outlined in Articles 15 and 16 of ([International Statistical Institute 2008](#)) :

**15. Maintaining Confidentiality of Records:** The identities and records of all subjects or respondents, cooperating or not, should be kept confidential, whether or not confidentiality has been explicitly pledged.

**16. Inhibiting Disclosure of Identity:** Appropriate measures should be utilized to prevent data from being published or otherwise released in a form that would allow a subject or respondent’s identity to be disclosed or inferred.

Analytically, we sought to generate two independent sets of estimates to engage questions about the magnitude and pattern of lethal violence during Punjab’s counterinsurgency. In particular, we sought to develop two lower-bound estimates, the first by using a classical Horwitz-Thompson estimate from our quasi-adaptive survey sample and the second estimate by matching the survey data with existing administrative record lists (assembled from victim registration lists maintained by human rights NGOs, lists of compensation claim registrants assembled by the National Human Rights Commission, a database of death notices published in the local newspapers, and two databases of press reports of article on “fake encounters” and “disappearances” by the police).

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Articles 32 and 226 of the Indian Constitution allow the High Courts and Supreme Court to use the writ of habeas corpus to enforce the fundamental rights guaranteed in Part III of the Constitution, such as equality and the protection of life and liberty. The petitioner generally files a writ or sends a telegram to the Supreme Court or High Court. If the justice of the High Court feels that the petitioner has prima facie established a case of disappearance, he orders a district court magistrate, police official, or other person to conduct an inquiry into the facts.

The High Court cannot refuse to consider a habeas corpus petition because of disputed facts, inability and inconvenience, or inappropriate prayer for relief. The only requirement is that the petitioner establish a prima facie case of a disappearance. No concept of laches limits the writ of habeas corpus.

Given the hidden and elusive nature of the population we were studying, we needed to employ a referral-based sampling technique to efficiently locate and sample the population of interest. As a result, we had to rely on referrals from village elders and village headmen to families of the disappeared and on referrals between families. The referral-based nature of the sampling method meant that the existence of an approach to a potential respondent would rarely be able to kept completely private.

Both the need for us to accurately follow referral links during the sampling process and also to complement the survey-based estimate with an alternative multiple systems estimate meant that we had to collect detailed personal identifiers about potential respondents and victims of lethal violence. Such detailed information like full names, addresses, and demographic details were required to make record-level matching to other registers possible and reasonably reliable. Thus, the need for well-defined data security and confidentiality procedures and systems was clear.

During our background research phase, pilot-testing phase and early rounds of discussion with the ERAP, it became evident that families of the disappeared were a relatively visible population within their village. Village elders and village chiefs have often lived in the village for several years (if not their entire life). Given the nature of their positions within the village and the nature of rural village life in Punjab, they tend to know most families in their village and whether these families experienced lethal violence during the counterinsurgency period. Further, given that some families have mobilized amongst themselves and formed community associations for the families of the disappeared, these families tended to know of at least some other families within their local area that also experienced counterinsurgency-related lethal violence. As a result, our ERAP considered such a referral-based process could be carried out in a safe and ethical manner, so long as (i) appropriate systems to secure data during its collection and transfer from the field were put in place, (ii) potential respondents were guided through an appropriate informed consent process, (iii) that informed consent process was administered in a way that made it clear participation was purely on a voluntary basis, and (iv) that attempts at contacting families to participate in the survey was strictly limited to a maximum of three attempts.

In order to maintain the security of the collected data and protect the privacy of respondents and the reference population, we collected data electronically with netbook computers on customized software in which the storage and transfer of data is encrypted. We used the Martus software, developed by Benetech specifically for grassroots human rights groups to collect and manage sensitive data in the field, for the survey data collection.<sup>6</sup> The user interface is highly customizable in Martus, thus allowing structuring of the graphical user interface to streamline the transition through survey modules and appropriate administration of skip patterns. Equally importantly, any data entered into Martus is automatically encrypted on the hard-drive of the netbook. Further, anytime the netbook connects to the internet the data stored locally in Martus is securely backed up to a remote server either in Canada, Budapest or Bangkok. Backing up survey bulletins to a Martus server ensures that users can have access to their bulletins in case of computer loss or theft. So the combination of local encryption of data, encrypted transfer over the

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<sup>6</sup>See [www.martus.org](http://www.martus.org) for more details about the Martus information management system.

internet and encryption of data on a remote server was the main approach we used to protect unauthorized access to or loss of sensitive information during or after the survey fieldwork. At the end of each day of fieldwork, survey field teams would return to the survey field operations office where netbooks were backed up to remote servers in Canada before being picked up again the following morning prior to the next day's fieldwork.

## 5. Conclusions

In this paper, we have reviewed customized field procedures that we developed to facilitate the safe and ethical design and implementation of a survey on lethal human rights violations during the counterinsurgency against the Sikhs and their associates between 1984 and 1996. The systems and procedures described in this paper were designed and implemented specifically for this project. Their design and implementation were guided by well-developed professional and ethical guidelines, including the American Statistical Association's Ethical Guidelines for Statistical Practice, the International Statistical Institute's Declaration on Ethical Principles, the American Association for Public Opinion Research's Code for Professional Ethics and Practice, and the Belmont Report Principles for the Protection of Human Subjects. The motivation for this paper and the use of these professional standards was partly borne out of the need for additional safeguards and review to that which is normally part of a university-based institutional review board process. In particular, we sought additional external review on issues concerning safety of both respondents, affected communities and survey field staff and security and confidentiality of sensitive data on human rights violations. Further, our customized review process also was designed to address issues specific to the collection of sensitive human rights data.

We have described challenges in navigating the intersection of human rights research and human rights practice (in the form of advocacy and strategic litigation). In line with the Belmont principles, we sought to separate out the research process of establishing scientific estimates on the mortality impact of the conflict from the separate yet related (at least for Ensaaf and human rights advocates) process of advocacy and litigation on behalf of victims of human rights violations.

Our ethics and safety review process integrated substantial expertise and external review from experts in survey methods, human rights, Punjabi sociocultural issues and professional social science. Although the review panel was advisory in its nature, since it was comprised of senior experts in fields related to the work of Ensaaf and Benetech's HRDAG this ensured that requests for information and any concerns or recommendations were duly addressed by the research team. We detailed specific field safety and security issues and described customized procedures and protocols that were followed to mediate risks to our field teams, respondents and the local civilian community. In particular, we described how the use of cell phone technologies, netbook computers and open-source encryption tools were used to address field safety and security issues and data confidentiality and respondent (and reference population) confidentiality. We also noted the need for flexible and context-specific approaches to whether authorities should be notified in advance of such fieldwork and in the provision of legal support and counsel to the entire

survey research team, when the research focus is focused on alleged past abuses of authorities entrusted with public safety and law enforcement.

While this article has focused on a specific human rights research effort in Punjab, we suggest that such customized review systems and safety procedures provide a flexible, contextually-relevant and professional means for human rights statisticians to ensure that their work is consistent with the Belmont principles (of “do no harm,” “beneficence,” and “justice” as well as well-recognized survey research professional and ethical guidelines. Such efforts ultimately draw rely heavily on (i) pro-bono contributions from professional statisticians, demographers, human rights experts and area studies specialists (ii) effective partnerships between human rights statisticians and professional societies such as the American Statistical Association and (iii) collaborations with local human rights groups with well-developed local partnerships. Such initiatives need to carefully weigh the multiplicity of ethical, professional and safety issues and how they manifest themselves in a given research setting. As the demand grows for higher quality data and more defensible statistical analyses on the human rights consequences of armed conflict, both the statistical community and human rights practitioners will need to consider how to continue to address the associated safety and professional ethics issues involved with these types of statistical and social scientific initiatives. Professional ethics standards, such as the ASA’s Ethical Guidelines for Statistical Practice, certainly provide important general guidance. The small (in size) but dedicated members of professional committees such as the ASA’s Committee for Scientific Freedom & Human Rights have proven to be effective sounding boards and reviewers to applied statisticians and social scientists engaged in human rights field research. However, as the demands grow for this type of empirically-based and scientifically-grounded human rights research, challenging questions remain on how we can provide and scale-up constructive support, review and guidance to human rights statisticians and their local partners in the area of safety, security and professional ethics.

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