The Deep Roots of the India-Canada Diplomatic Rift

https://www.lawfaremedia.org/article/the-deep-roots-of-the-india-canada-diplomatic-rift

C. Christine Fair
Sunday, October 1, 2023, 9:00 AM

The murder of Hardeep Singh Nijjar is just the latest episode in a complicated relationship that has been marked by fundamental differences in the countries' values and priorities.

Canadian Prime Minister Justin Trudeau greets Indian Prime Minister Narendra Modi during the G20 summit in Rajghat, India, on September 10, 2023. Photo credit: G20 press photo.

C. Christine Fair

@CChristineFair

Meet The Authors
Published by **The Lawfare Institute**
in Cooperation With
BROOKINGS

Subscribe to Lawfare

Editor's Note: *The crisis between India and Canada over the killing of a Sikh opposition leader caught many Americans by surprise, emerging seemingly out of nowhere. My Georgetown colleague Christine Fair describes the long-standing tension between India and Canada that led to the killing and argues that many of India's complaints have at least some degree of merit.*

Daniel Byman

***

On Sept. 18, Canadian Prime Minister Justin Trudeau explained to the Canadian Parliament that "Canadian security agencies have been actively pursuing credible allegations of a potential link between agents of the government of India and the killing of a Canadian citizen, Hardeep Singh Nijjar." Canada came to this conclusion and opted to make a public accusation based on intelligence from intercepted electronic communications among Indian diplomats. On the same day, Canada ousted an Indian diplomat, whom Canadian Foreign Affairs Minister Mélanie Joly asserted was the Indian intelligence chief in the country. Within a few hours, India announced that it had expelled an unnamed "senior Canadian diplomat" in response.

On Sept. 24, the U.S. ambassador to Canada, David Cohen, confirmed that "there was shared intelligence among Five Eyes partners that helped lead Canada to making the statements that the prime minister made," putting a damp blanket on Indian efforts to undermine the quality of the intelligence. Two days later, the public learned that U.S. intelligence was also given to Ottawa and was helpful in making the case against India.

While much ink has been spilled and will continue to be spilled on the minutiae of the allegations and their wider diplomatic ramifications, this imbroglio was long in the making and it derives from fundamental differences in Canada and India's priorities, values, and history. Reckoning with these divisions will be profoundly difficult and is unlikely with the countries' current leaders. It will require greater recognition by Indian officials about the protection of free speech in Western countries and greater acknowledgment of the seriousness of Indian concerns about the threat of terrorism from Sikh extremists. Reaching this understanding is in both countries' interests.

What Is Khalistan, and Why Is India So Worried?

In India's Punjab, Sikh militants have long demanded a separate Sikh state, Khalistan ("Land of the Pure"). While the demand for independence took on violent dimensions between the late 1970s and mid-1990s, the idea of a separate Sikh state (Sikhistan) arose formally in 1944 amid ongoing negotiations about the future of India. As independence from the British neared and partition into India and Pakistan appeared increasingly likely, Sikhs questioned how their interests would be protected in an overwhelmingly Hindu, albeit democratic, state. Some Sikhs were worried by this decision because they believed they deserved their own separate state to be carved from the detritus of the Raj in large measure due to their extensive military service during World Wars I and II.

Sikh separatism did not become a serious concern to the Indian state until the late 1970s, when elements of the Sikh nationalist struggle began to militarize. Sant Jarnail Singh Bhindranwale emerged as the spiritual and military leader of the Sikh militancy in the early 1980s when he and his militant cadres appropriated the Golden Temple, Sikh's holiest shrine, to avoid being arrested. (Despite his significance in the nationalist movement, it is worth noting that Bhindranwale never called for an independent Sikh state—his interests were more parochial and sectarian, and focused on attaining greater autonomy for Sikhs.) He turned the shrine into a highly militarized complex, desecrating several structures in the process. Ironically, he rose

to prominence with the assistance of Prime Minister Indira Gandhi, who sought to patronize him as a means of splitting the votes for the Shiromani Akali Dal, the most prominent Sikh political party in Punjab and a formidable rival to her Congress Party. This would prove to be a deadly miscalculation. Bhindranwale gained popularity within specific segments of the Sikh population, such as the traditional agricultural caste, the Jats. Amid ongoing violence in Punjab, on June 1, 1984, Gandhi ordered the army into the temple complex to wrest it from the militants. Operation Bluestar, which lasted 10 days, was a fiasco, as I have written about previously. Because the operation was conducted when many Sikhs were observing the martyrdom day of Sikhism's fifth guru, Guru Arjan Dev, thousands of worshipers were inside the temple complex when the operation began. While the final casualty count is debatable, nongovernment estimates put the military losses at 700 and civilians between 5,000 and 7,000. Other estimates are even higher. According to official accounts, the Indian army lost 83 personnel and 492 civilians died.

Bhindranwale was killed in the operation, but the attack on the Golden Temple and deaths of Sikh pilgrims galvanized wider Sikh militancy. In October 1984, Gandhi's Sikh bodyguards assassinated her in revenge. Congress Party operatives then organized a massive anti-Sikh pogrom in Delhi, in which countless thousands of Sikhs were murdered. Operation Bluestar and the ensuing massacres of Sikhs legitimized Sikh separatists' claims that India could not and would not protect Sikh interests. Khalistani outfits proliferated through the 1980s and 1990.

From the late 1970s through the mid-1990s, Sikh militants engaged in serious human rights abuses. Human Rights Watch (HRW) noted the "massacre of civilians, attacks upon Hindu minorities in the state, indiscriminate bomb attacks in crowded places, and the assassination of a number of political leaders," as well as the effects of the violence, which "paralyzed the economy and led to widespread extortion and land grabs." At the same time, between 1984 and 1995, the Indian government prosecuted counterinsurgency operations that "led to the arbitrary detention, torture, extrajudicial execution, and enforced disappearance of thousands of Sikhs." According to HRW, "Police abducted young Sikh men on suspicion that they were involved in the militancy, often in the presence of witnesses, yet later denied having them in custody. Most of the victims of such enforced disappearances are believed to have been killed."

Many Sikhs chose to flee Punjab to destinations with thriving Sikh communities, including the United States, Canada, and the United Kingdom. However, these Sikhs were not an economic diaspora; rather, they formed a conflict diaspora that lionized Bhandranwale and castigated India's armed forces more than the militants. While Khalistan holds no interest among Sikhs in today's Punjab, it remains a project among some Sikh diasporan populations. The speech protections afforded by the Western democracies where they settled expanded their opportunities for Khalistan activism.

Not only was this diaspora a source of diplomatic and financial support, but it also helped enable Pakistan's involvement in fueling Sikh separatist efforts. Sikhs in Canada, the United Kingdom, and the United States played important roles in arranging for cadres to travel to Pakistan, where they received financial and military assistance. Some diasporan Sikhs, like Jagjit Singh Chauhan and Surjan Singh, declared themselves to be the heads of the Khalistan government exile, even issuing passports and currency.

For many young Sikhs in India and abroad, Bhindranwale has assumed a Che Guevara-like status. And even in India, his image has been revived as a fighter for Sikh interests and appears on car stickers, posters, framed photos, and T-shirts. Like people who wear Che T-shirts, many people lionizing Bhindranwale today consider him an icon of resistance rather than the cold-blooded murderer he was. Perhaps more worrisome, as I wrote in Foreign Policy, the "socioeconomic conditions in contemporary Punjab are fundamentally similar to the conditions that spawned the Sikh militancy, with one exception: today's Punjab is roiled in pervasive opioid addiction." India, unsurprisingly, blames the drug crisis on Pakistan, accusing it of using drug addiction to destabilize the state and funding terrorist attacks with the proceeds. So while it may be extremely unlikely that Punjab will return to the carnage of the 1980s, the possibility of low-level violence remains. This is why the activism of persons like Nijjar poses serious concerns for India.

Who Was Hardeep Singh Nijjar, and Why Does It Matter?

The international press typically describes Hardeep Singh Nijjar as a young man who came to Canada in 1997, where he married, had two sons, and worked as a plumber. From his established home in British Columbia, he became a vocal advocate for the creation of an independent Sikh state to be carved out of Punjab. In 2018, despite the allegations of terrorism against him, Nijjar took over the Guru Nanak Sikh Gurdwara, a Sikh place of worship in the town of Surrey, which made him the president of a federally registered charity.

His supporters describe him as a "peaceful advocate for Sikh independence," but for India he was not a peaceful advocate; rather, he was the chief of the Khalistan Tiger Force (KTF), which India designated as a terrorist organization in February 2023. India's Ministry for Home Affairs described the KTF as "a militant outfit" that "aims to revive terrorism in Punjab and challenges the territorial integrity, unity, national security, and sovereignty of India and promotes various acts of terrorism, including

targeted killings in Punjab." India's National Investigation Agency (NIA, akin to the FBI in the United States) designated him as a Khalistani terrorist wanted in India for links to various terrorist incidents. In 2020, India claimed that in his capacity as the head of the KTF, "Nijjar was actively involved in the operationalization and networking of the organization, and the training and financing of its members." India also accused him of training Khalistan supporters in terrorist camps in British Columbia to prepare them to carry out attacks in India. In July 2022, India's NIA announced a $1.2 million reward for any information about Nijjar.

When India raised its concerns with Canada, Canadian police said in 2016 that they were aware of the allegations against Nijjar but noted that he had not been charged in Canada. Nijjar wrote a letter about the allegations that year to Prime Minister Trudeau, in which he introduced himself as a "Sikh nationalist who believes in and supports Sikhs' right to self-determination and independence of Indian occupied Punjab through a future referendum" and declared that he had never been involved in any violent activity. India also claims to have worked through Interpol, which allegedly issued its first Red Corner Notice for him on Nov. 14, 2014. To India's dismay, even after India shared information on over a dozen criminal cases of murder and other terrorist activities and despite the Interpol notice, Canada's response was simply to place him on a no-fly list.

Free Speech Versus Incitement

The entire affair is a case study of the fundamental differences between India on the one hand and Canada on the other, and perhaps Western democracies more generally. The Indian government and public find it difficult to understand how Khalistani activists in Western democracies like Canada, the United States, and the United Kingdom are legally allowed to mobilize for Khalistan. Part of the problem is that India does not provide full speech freedoms by U.S. standards. (Neither do some other Western democracies.) India has chosen to retain a number of colonial-era laws that restrict speech. As Akhilesh Pillalamarri explains, most of these restrictions are found in the Indian Penal Code of 1860. Notably, Section 124A proscribes sedition; Section 153A criminalizes promoting enmity between different groups on grounds of religion, race, place of birth, or residence; and Section 295A criminalizes group defamation or hate speech.

Unfortunately, these laws are applied per political preferences. These laws are, in HRW's assessment, a "a powerful tool used by the authorities to criminalise dissent and arrest peaceful critics of the government." India's government, led by Prime Minister Narendra Modi and his Hindu chauvinist political party, the Bharatiya Janata Party, stands accused of "carrying out an escalating crackdown on civil society, targeting

activists, journalists, students, academics, members of religious minorities, and peaceful protesters using sedition and other draconian laws." According to the 2023 World Press Freedom Index, India has slipped again—this time to 161 out of the 180 countries ranked. India has also fallen in Freedom House's rating, which now lists India as "partly free" with a total score of 66 out of 100. India scored 33 out of 40 for protections of "political rights" in Freedom House's most recent assessment, and merely 33 out of 60 for "civil liberties." Given the speech restrictions in India, many Indians struggle to understand how the activities of Khalistani activists can be legal.

Many Indians have pointed out that Canada has an uneven history in permitting speech. In the context of the recent impasse, many Indians have drawn attention to Trudeau's handling of the 2022 truckers' protest. On Feb. 15, 2022, Trudeau declared a national public order emergency in an effort to end the protests, which paralyzed the capital for two weeks. The move paved the way for the government to freeze the bank accounts of the protesters and clear the blockade of some 400 trucks in Ottawa and smaller protests in Alberta and Manitoba. For many Indians, this episode demonstrates the limits of free speech that Canada will tolerate when it is in its interests. Indians find it difficult to understand why Canada doesn't take threats to Indian security seriously. The episode was even more contradictory because, just a year before, Trudeau had lectured India on the right to civil disobedience. In December 2020, during India's farmers' protest, Trudeau took the opportunity of a Gurpurab (a celebration of a Sikh guru's death anniversary) to tell his Canadian-Punjabi constituents, "I would be remiss if I didn't start by recognising the news coming from India about the protest by farmers. The situation is concerning. We are all very worried about family and friends. We know that's a reality for many of you. Let me remind you, Canada will always be there to defend the rights of peaceful protesters." For many Indians, Trudeau's positions on the two movements "reeks of rank hypocrisy."

Even ardent free speech proponents may find it difficult to understand how some of the Khalistani speech is protected instead of viewed as incitement. Notably, for years now, Khalistani activists have erected billboards calling for the assassination of Indian diplomats or calls to attack Indian consulates and embassies that do not seem to fall within the parameters of freedom of speech. Given the recent events, Canada has forced some of these billboards to come down. However, these posters also circulate through various social media, where they reach a global audience.

Many Indians express similar concerns about the various Khalistani songs and videos that are widely available on platforms such as YouTube, Spotify, iTunes, SoundCloud, and other regional platforms. These music videos glorify Sikh militancy, including specific terrorists, and celebrate their violence and the assassination of Prime Minister Gandhi. Music franchises like the "Straight Outta Khalistan" series of playlists not only celebrate past violence but also encourage future violence. These Khalistani productions are mostly made in Canada, the United Kingdom, and the United States.

Reciprocity in Priorities and Security Concerns

From India's point of view, this episode with Nijjar exposes a neocolonial faultline. India is expected to take Western intelligence at face value and Western security concerns seriously; however, Western countries do not seem to reciprocate. Many people in India find it insulting that Indian intelligence and security concerns are not taken seriously or are dismissed altogether, and think these actions reek of racism and double standards. However, there are reasons Indian allegations are not always treated as seriously as they may deserve to be.

First, India has a record of claims that don't hold up to scrutiny. India's exaggerated claims about its retaliatory bombing of a Jaish-e-Mohammad (JeM) camp in February 2019 is a case in point. India claimed to have destroyed the "the biggest Jaish-e-Mohammad camp in Balakot" in Pakistan's Khyber Pakhtunkhwa province. Various Indian sources claimed that the air strike killed "several terrorists, trainers and Jaish commanders planning more terror strikes in India." Various sources further claimed that the attack killed 300 terrorists, including JeM chief Masood Azhar's brother-in-law. However, numerous independent studies relying on satellite images could not confirm any of these claims. Jeffrey Lewis, director of the East Asia Nonproliferation Project at the Middlebury Institute of International Studies, argued that "high-resolution images don't show any evidence of bomb damage." ASPI analysts Marcus Hellyer, Nathan Ruser, and Aakriti Bachhawat suspect that missed strikes "were caused by a systematic targeting error." India's robust and overwhelming pro-government media refuted the claims but offered dubious criticisms of the reports.

Pakistan then conducted six airstrikes in Indian-administered Jammu and Kashmir in retaliation for the Indian attack on Balakot. India scrambled fighter jets and a dogfight ensued in which Pakistan downed a MiG-21 Bison and recovered its pilot, Wing Commander Abhinandan Varthaman, who was returned to India unharmed. Once again, India seems to have inflated its claims. After the incident, India claimed that Varthaman locked onto and shot down a Pakistani F-16 before crashing and claimed to have "irrefutable evidence" to back up its version of events, in the form of still images purportedly from AWACS radar. Unfortunately, it was far from "irrefutable" because still images cannot prove what happened to the alleged F-16. Despite the lack of credible evidence to support its claims, India has stuck to its story and it has become a celebrated fact in India's media.

Second, the state of India's criminal justice system casts further doubt on India's claims. This is particularly important because India wants international actors to believe the

outcomes of its investigations. Unfortunately, India's police force is overworked, understaffed, and underpaid. Corruption is built into the system. So is extrajudicial violence. Human Rights Watch describes India's police forces, which are the most visible arm of the Indian state, as being "widely regarded within India as lawless, abusive and ineffective" and concludes that they "have largely failed to evolve from the ruler-supportive, repressive forces they were designed to be under Britain's colonial rule." With limited and overstretched forensics facilities, many police face suspension if they do not yield to political pressure from their superiors to solve cases in time frames that do not permit them to wait for the results of forensics analysis. Under these circumstances, it is common practice to beat suspects to elicit confessions.

When questions are raised about the quality of Indian claims, Indians rightfully note the seemingly endless accounts of police brutality and impunity in the United States that disproportionately impact Black Americans. Indians are also quick to point out the famous justification for the Iraq war: that Saddam Hussain had nuclear weapons when he did not.

Third, many Indians still harbor significant resentment about Canada's handling of the in-flight bombing of Air India Flight 182 on June 23, 1985. The aircraft disintegrated in midair on its way from Canada to India, and all 329 persons on board died. The bombing was carried out by Khalistani terrorists at the height of the Khalistan movement. Prior to 9/11, it was the deadliest act of aviation terrorism in history and still remains one of the single most deadly terrorist attacks. At about the same time that Air India 182 blew up, another bomb detonated prematurely in Japan, killing two baggage handlers. Both bombs were linked to Canada-based Sikhs who sought retaliation for India's 1984 assault on the Golden Temple. India's Intelligence Bureau had received information about a possible air attack by Sikh extremists prior to the bombing, and on June 1, 1985, Indian officials asked Canadian authorities to take significant security measures to foil the plot. It turns out that days before the bombing, Canadian intelligence personnel who were tracking Talwinder Singh Parmar, founder and leader of the terrorist group Babbar Khalsa International, heard what turned out to be an explosives test he conducted in a forest—but they ignored the blast, mistaking it for a gunshot.

The tragedy could have been prevented had Prime Minister Pierre Elliot Trudeau honored Prime Minister Indira Gandhi's request to extradite Parmar, who had escaped to Canada after killing two policemen. Trudeau turned down the request, stating that "India was insufficiently deferential to the Queen." For many Indians, there is a historical echo between Pierre Trudeau's handling of the Khalistanis and that of his son. Indians also note with disdain that progress in the case was delayed, and many feel the penalties were inadequate given the crimes committed. Canada didn't charge Ripudaman Singh Malik and Ajaib Singh Bagri for the bombing until 2005, and after a two-year trial both were acquitted due to lack of evidence. A third Sikh, Inderjit Singh Reyat, was jailed in the United Kingdom for 10 years, starting in 1991, for his involvement in the Japan bombing.

Later, in 2003, he pleaded guilty to manslaughter in a Canadian court for his involvement in the Air India bombing and was sentenced to another five years in prison.

What Happens Next?

The issues in the India-Canada relationship, rooted in differences in rights and values between the two countries and distrust stemming from the history of Canada's Sikh diaspora community, are difficult to resolve and complicated by Trudeau, whom India deeply distrusts due to his political affinity with pro-Khalistani forces in his country. He famously appears at Sikh religious functions and social events, and he has appointed several Sikhs to his cabinet. And he regularly criticizes India on issues that involve Sikhs—largely to meet the expectations of his constituents. This antagonizes India profoundly. More generally, many Indians are puzzled as to how the Canadian Sikh community, representing a meager 2.1 percent of the population, can have so much political clout.

Arguably, the political influence of Canadian Sikhs has less to do with Trudeau's political calculations than it does with history. Sikhs have been in Canada since the late 19th century and have become an integral part of Canadian society. They serve in the police and the armed forces, hold prominent professional positions, and are politically active at all levels of government. While Indians would prefer to attribute the prominence of Sikhs in Canadian politics to the vicissitudes of Trudeau, this is a mistake. Canada remains the preferred destination for Indian Punjabis seeking a better future, many of whom are Sikhs. India will have to come to terms with the fact that Canada is home to the second largest population of Sikhs outside of India and that the Canadian Sikh population continues to grow.

Given the deep distaste in Delhi for Trudeau, there is little hope that India will pursue a rapprochement as long as he remains in office. As Modi continues his march toward what Christophe Jaffrelot has called a Hindu majoritarian "ethno-state," in which non-Hindus are second-class citizens, future Canadian leaders may find working with Modi on some issues to be challenging as well.

Looking past the personalities in both capitals, though, there needs to be a reckoning on fundamental values. While India will have to learn that some speech that it detests is protected, those in Western democracies need to pay attention to speech that is not. Moreover, just because some groups' speech is peaceful does not mean that their intentions are. Western democracies like Canada, the United States, and the United Kingdom cannot continue to ignore Indian concerns about speech that constitutes

incitement. Equally important, Western leaders need to acquaint themselves with important aspects of Indian history—such as the Khalistan militancy—that contextualize their concerns, just as the West expects India to do with regard to its history and the security threats that have followed from it.

Both sides need to recognize the extent to which there is a credibility deficit that has undermined trust at all levels of intelligence and law enforcement. While India needs to understand how its shambolic justice system at home influences the way its claims about terrorists abroad are assessed, Western agencies need to evaluate these intelligence packages using their own resources. They cannot simply be dismissed because they emerge from processes that are distasteful.

These issues have no easy solution. India is a rising power of considerable consequence that is integral to managing, *inter alia*, the Indo-Pacific, climate change, and global economics, as well as managing and securing the global commons. The West needs India as much as India needs the West. If the West wants India to be a partner in managing its security concerns, it needs to reciprocate by being a partner in managing India's security concerns.