

CIVIL WAR AND UNCIVIL GOVERNMENT

Human Rights violations in Kashmir under the National Conference Government

A report to the people of India

November, 1997



Surveillance and Sorrow : the continuing saga

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*Report on Human Rights violations in Kashmir
under the National Conference Government*

A report by a fact finding team consisting of
Andhra Pradesh Civil Liberties Committee, Hyderabad;
Committee for Protection of Democratic Rights, Mumbai and
People's Union for Democratic Rights, Delhi

November, 1997

This report is dedicated to the memory of Kartik Panalal

Kartik (29) an activist of CPDR, Mumbai, was one of the members of the team. On our return from Kashmir, he met with a tragic and fatal accident in Delhi on the night of 4-5 June, 1997.

Kartik was not just a democratic rights activist. He had an analytical intellect, a warm heart and a very friendly disposition. During his first visit to Kashmir as part of a fact finding team in 1995, he was deeply moved by the predicament of the Kashmiris. He not only dedicated himself to the campaign against human rights violations in the valley, but also took up the modern history of Kashmir as his Ph.D. topic. He was to return later this year to the valley to gather material for his research.

In his very premature death his family, his friends and the democratic rights cause have lost a dear and valuable person.

Price : Rs. 15

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Mumbai - 400 039

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Shamnath Marg
New Delhi - 110 054

*Published by APCLC, 304, Kiran
Apartments, Red Hills, Hyderabad.
Printed at Navya Printers, Rajbhavan
Road, Hyderabad. Typesetting by
Srisail Reddy, Hyderabad.*

Central rule in Jammu and Kashmir lasted more than six and a half years, from January 1990 to October 1996. The State Assembly was dissolved by the then Governor Jagmohan in 1990 and it stayed dissolved until elections were again held in four phases in September 1996 to the State Assembly.

The intervening period witnessed an armed movement aimed at what the proponents of the movement understood as self-determination but the Government of India has preferred to see as Pakistan-inspired attempt at secession. As the civilian government was found inadequate for the task of handling the insurgency, the Army was sent to the State to maintain order. The Army soon substituted civilian authority to such an extent that Central rule came to mean Army rule. (See Annexure for details).

The movement has put forward arguments in its favour based upon certain facts. Jammu and Kashmir became part of the Indian Union on 26 Oct 1947, when the Princely State's Maharaja acceded to it to save the State from the raiders who invaded it from the Pakistan side of the State's border. The accession was formalised through an instrument of accession, which laid down that the State would be an autonomous part of India. In other words, autonomy was a pre-condition for the accession of the State to India. Article 370 of the Indian Constitution, which was adopted in 1950, incorporated the autonomy condition in the Constitution. While accepting the accession, the Government of India promised that once the Pakistani raiders were sent out and law order was restored, the consent of the people of the State, over whose head the Maharaja had acceded to India, would be obtained for the accession. This promise was given concrete form by the Government of India in its complaint to the U.N about Pakistani aggression on Jammu and Kashmir (J&K). In that complaint, dated 31 Dec 1947, India promised that as soon as the Pakistani raiders were driven out, the consent of the people of J&K would be obtained by the 'universally accepted democratic means of a free and fair plebiscite'. The subsequent history of the State's

I.

PROLOGUE

relation with India turns around a gradual erosion of the autonomy provisions of Article 370 by questionable means, and consistent refusal on the part of the Government of India to hold a plebiscite in J&K to obtain popular ratification of accession.

The Government of India, of course, has its arguments in defence of its deeds. We need not here go into the rights and wrongs of those arguments. What is relevant is that the arguments offered by the Kashmiri separatists in defence of their goal are substantial ones. But the Government of India has preferred to look only at the guns held by the militants and not the arguments behind the guns, which are declared to have been settled long ago, or rather, rendered irrelevant by history. The Government of India has elected to meet the challenge of separatist militancy in Kashmir exclusively with the strength of its armed forces. But when political militancy is viewed and dealt with exclusively in terms of weapons, the inevitable consequence is the heavy and arbitrary use of force against the militants and the people who support or sympathise with them. Militancy implies the presence of weapons, which the State must necessarily take cognizance of and deal with. But militancy also entails a certain politics. When that politics is not recognised, the people who support the politics are seen, not as the bearers of a hope, aspiration or grievance, but as collaborators in crime - harbourers of offenders and abettors of violence. This is the language that the armed forces and the administration in general use to describe the Kashmiri people, which makes any rational discussion of the 'Kashmir problem' difficult.

Thus, for the last seven years, we have heard of extensive and brutal violation of human rights in the Kashmir Valley in the course of the Army's

battle against militancy. These violations are documented in many reports published by human rights organisations in the last seven years. They are summarised in the publication 'Blood in the valley', brought out by eight civil liberties and democratic rights organisations that toured the Valley for a week in 1995.

Contrary to the opinion purveyed in the Indian Press that the Kashmiri insurgents wish to achieve their goal of secession by the force of weapons, all sections of Kashmiri separatists have consistently expressed the view that what they seek is a political solution. Notwithstanding their claim to the right of self-determination by means of a fair plebiscite, they have declared preparedness for negotiations, with the proviso that they should be unconditional and tripartite, involving India, Pakistan and Jammu and Kashmir. The Government of India has not found this demand for tripartite negotiations acceptable. Indeed, it does not believe that the status of J&K as an integral part of India is at all negotiable. Yet it cannot be denied that this offer of tripartite negotiations is a proposal for a political resolution of the issue.

The Government of India, on the other hand, has repeatedly declared its intention of restoring peace and normalcy in Kashmir. This is not the same thing as working out a political solution. A democratic political solution would of course restore peace and normalcy. But there are other and less honourable ways of achieving that end.

For the Government, a decisive test of restoration of normalcy has been the ability to hold elections in the Valley in the teeth of the opposition from the militants. Hence, all efforts were geared to holding, first, Parliament polls, and then Assembly polls. Polls to Parliament were held in May-June 1996 and polls to the Assembly in September that year.

The holding of the elections was preceded by the setting in motion of a 'game plan' thought up by Gen. (retd) K.V. Krishna Rao, the Governor of J&K. This plan

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was to encourage - as part of counter-insurgency operations - private armed gangs of former militants to live under the protection of the armed forces and commit crimes of violence at their direction. Gen. Krishna Rao has himself publicly and proudly taken credit for it. In an interview given to the *Indian Express* (3 Oct 1996) he said that there were different opinions as to how the counter-insurgent groups of pro-government militants were to be used, and it was he who insisted on keeping the most prominent of them, Kuka Parrey's Ikhwan-ul-Muslimoon, under the control of the army. He succeeded, he says, in the teeth of interference by unnamed busybodies.

A number of such counter-insurgent or 'Sarkari militant' groups came up in Kashmir in 1995-96, each of them patronised by one wing of the armed forces : the Army, the Border Security Force (BSF), the Central Reserve Police Force (CRPF), the Indo Tibet Border Police (ITBP), etc. The groups are collectively referred to as 'renegades' in Kashmir. Under the protective umbrella of the forces, the Sarkari militants created such terror in Kashmir that the government's effort at holding elections and initiating the process of 'normalising' the situation in the Valley could succeed. The 'role' played by the pro-India militants and their protected violence in 'normalising' things in Kashmir is officially and openly acknowledged in the State.

The terror created by these 'Sarkari militants', and the way this terror and the armed might of the Forces were put to use to get through successfully with the Parliament elections was observed by a four-member team from three human rights organisations that toured the Valley during the first phase of Parliament polls in May 1996. The team observed how the armed forces threatened the villagers that in places where polling was low, there would be crackdowns, arrests and 'encounter' killings. On the day of the polling, the team observed the forces and the Sarkari militants herding people at gun point to line up at the village polling booth, whether they liked to or not. The report of the team was published under the title 'Voting at the point of a

gun: counter-insurgency and the farce of elections in Kashmir'.

At the end of the Parliament polls, the Government of India declared that in view of the 'success' in getting votes polled for Parliament, it would soon conduct Assembly elections, too, and install a popular government in J&K. It was widely feared in Kashmir that the same tactics of terror would be used to force people, whether they liked to or not, to vote for the Assembly too. As it happened, elections to the Assembly were soon held, in September 1996. The militant organisations as in the past gave a call for boycott of the elections, and indulged in a lot of violence to obstruct the process. The armed forces and their proteges, the Sarkari militants, used the same threats and force as in the past to force people to vote. But it is conceded by all observers that there was relatively more of voluntary voting this time than in the past.

The National Conference, which had boycotted the elections to the Parliament took part in the Assembly polls. It won with an unprecedented majority, securing 57 of the 87 seats. It formed the government on 9 October 1996.

There were two important promises made by the National Conference during the election campaign. One was that an end would be put to the 'Sarkari militants' phenomenon by disarming them; the other was that the new government would work for restoration of the pre-1953 position in the matter of J&K's relation with the Indian Union. This meant undoing all the statutory changes introduced since the Constitution (Application to J&K) Order, 1954, that had effectively diluted the autonomy of the State. Thereby, both the terms of the instrument of accession and the Delhi agreement of 1952 would be fully brought back into effect.

Apart from these explicit promises, there was the implicit promise or understanding that once in power, the National Conference would strive to provide some degree of protection to the people from the high-handedness of the armed forces. These promises and hopes no doubt played a

major part in motivating the voters to prefer the National Conference to the other parties in the fray.

But hardly six months later, voices were heard from Kashmir complaining of persistent human rights violations by the armed forces and continued terrorisation of the people by the pro-government militants. The All Party Hurriyat Conference (APHC), a conglomerate of 33 political organisations fighting for the separation of J&K from India, took up a campaign against human rights violations that

attracted attention even outside Kashmir. Yasin Malik, leader of the Jammu Kashmir Liberation Front (JKLF), a constituent of the Hurriyat Conference, sat on a hunger strike in New Delhi from 12 to 15 May 1997. He could be persuaded to give up his protest only after the Union Home Minister gave an assurance that the government would not tolerate human rights abuses. It may be said - and indeed it is commonly said - that the Hurriyat Conference has a vested interest in making such complaints and taking up such campaigns. But they

are not alone in complaining. Mehbooba Mufti, Cong (I) MLA from Bijbehara in Anantnag district, has frequently complained of human rights violations by the army and the Sarkari militants. Her constituency, like much of South Kashmir, is a hotbed of Sarkari militants' violence. And there have been frequent - and heated - exchanges in the newly constituted Assembly and Council, composed overwhelmingly of National Conference legislators, about human rights abuses. None of these legislators can be accused of harbouring malafide motives in discrediting the process of 'normalisation' in the Valley, even assuming that the allegation of malafides laid at the doors of the Hurriyat Conference is fair and

deserving, as is unreflectingly assumed, for no reason other than that the conglomerate is a vocal proponent of secession from India.

It was news of this situation that prompted three civil rights organisations to send a fact finding committee to J&K to study the human rights situation there. The organisations are: A.P. Civil Liberties Committee (APCLC), Andhra Pradesh; Committee for Protection of Democratic Rights (CPDR), Mumbai; and Peoples Union for Democratic Rights (PUDR), New Delhi. The first two of these organisations were part of the two earlier fact finding teams that we have referred to earlier. In that sense, this effort is a continuation of the process begun in 1995.

The team consisting of six persons spent a week in Jammu and Kashmir, from 26 May to 2 June 1997, talking to a cross-section of people: victims and eye-witnesses to the violation of people's rights by the armed forces and the Sarkari militants; journalists, lawyers, academicians, etc; and representatives of the army and the civilian government.

The following pages constitute the report of the team. A preliminary report was released to the Press at Srinagar on 31 May, and a more detailed report at a Press conference held at New Delhi on 4 June. As has been our experience in the past vis-a-vis human rights violations in Kashmir, the Press (excepting the local papers of J&K) all but ignored our report. As in the past, therefore, we have decided to print and disseminate on our own this detailed report. To atone partially for the four months' delay in bringing out this report, we have supplemented the information gathered during our visit with news of significant happenings in the valley since our visit. ●

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The team spent the 26th of May in Jammu, visiting, amongst others, the Hindu migrants in the Nagrota camp, and the officials of the State Government's Rehabilitation department. On 27 May the team proceeded to Srinagar and stayed in the Valley till 1 June, visiting places in Srinagar, Pulwama and Baramulla districts. On the way back, on 2 June, we visited the hilly district of Doda in the Jammu region, which is also seriously (though not as much as the Valley) affected by separatist militancy. However, as our study of the situation in Doda was incomplete, due to shortage of time, we are reserving our observations on that district for a subsequent report.

One evident consequence of the formation of the civilian government was the greater alertness exhibited by the local police on coming to know that a human rights team was visiting the State. We were dogged by intelligence men much more than in the past. One would wish the government was as sensitive to the violation of human rights as to the visit by a human rights team, but the two are evidently quite different matters. To the extent that the latter is aimed at noting who is meeting the team and telling what, its purpose may be exactly the opposite of an honourable concern for the protection of the people's rights.

The other - and more visible - change that was evident was the greater movement of people and vehicles, at least in the capital city and along and around the main highways. The movement in Srinagar lasts at least an hour after dusk, which is a remarkable change in itself. We even observed a traffic jam in Lal Chowk, the heart of commercial Srinagar, one afternoon. It must have been the first in many years.

If this seems to indicate 'normalcy', then one must apply the real test: whether the people are feeling really secure. To the extent that the militants have taken a beating and withdrawn from certain parts of the State, there is now, at least in those areas, less fear of attacks or explosions engineered by them upon the vehicles or barracks of the armed forces and the resultant cross-fires or retaliatory attacks by the armed

II.

THE CIVILIAN GOVERNMENT

forces upon the neighbouring civilian populace. This used to be one major source of fear of moving about, especially after dark.

Secondly, those Kashmiris who are targeted by the militants are also feeling more secure today, with the armed forces having gained ground in their war against militancy. Since the militants are quite ruthless in dealing with anyone who vocally differs from them, this feeling of security can be understood. This is the flip side of the picture. On the other side is the fact that the armed forces feel no more restrained today than they did under Governor's rule. This is one expectation placed upon the Farooq Abdullah government

If, then, the 'pro-India' elements are feeling a little more secure today than in the past, and the 'anti-India' elements are feeling a little less secure, can a government committed in law to provide safety and security to each and every citizen express satisfaction about the return of 'normalcy'? Its duty is to see that all are protected from fear, to the last person, and not to divide citizens into those it will protect, and those it need not.

In our earlier reports, we had noted that the average number of killings in the 'Kashmir War' was roughly 300 per month, with the armed forces accounting for nearly two-thirds of the killings

The armed forces feel no more restrained today than they did under Governor's rule. This is one expectation placed upon the Farooq Abdullah government that has been totally belied, according to everyone who spoke to our team.

that has been totally belied, according to everyone who spoke to our team. Thus, the fear of the arbitrary acts of the armed forces is as much today as it was in the past. This fear of the armed forces has been compounded during the last two years, as we have noted above, by the fear of Sarkari militants. This fear, far from decreasing after the formation of the civilian government, appears to have actually increased, as we shall see in the next section.

Armed 'renegades' moving around in the company of men of the army and the paramilitary, lounging at the gates of the State government officials' houses on Srinagar's Gupkar road, or moving in police jeeps brandishing their weapons at passersby, is a very common and unsettling sight in Kashmir. An unwary tourist who passes by the Ikhwan-ul-Muslimoon's headquarters in Srinagar, which is located within a stone's throw from the United Nations Military Observation Group's office in the city, would be startled to see armed teenagers relaxing in the front yard, or chatting with soldiers passing by. While a tourist would only be startled, the local people are understandably unnerved.

and the militants for the remaining one-third. We give below the monthly audit of death (taken from the daily newspaper *Kashmir Times*) since October 1996, i.e., the month in which the Abdullah government took power. The killings are classified as those committed by the armed forces (the army, the paramilitary and the police, col. 2), those committed by the militants (col. 3) and those committed by unknown assailants (col. 4). Killings by the 'renegade' militants are included in the first category, for they operate together with and under the direct protection of the armed forces. In fact, separate killings by the Sarkari militants are relatively very few, and those who would look for evidence of the fear they cause in the number of incidents of killing attributed to them alone would be misled into thinking that the fear is exaggerated. They always operate together with the armed forces, and many cases of killing attributed to the armed forces are in fact a joint effort.

The fourth column of the table shows that there are a considerable number of cases in which the perpetrator of the killing is not known. This number, in fact, appears to have increased now

compared to the situation last year. These are usually cases of persons picked up by unidentified gunmen, killed and dumped later - by the roadside, in a ditch or in a river, weighed down with stones. Considering the number of plain clothes gunmen going around the Valley - various separatist groups, pro-government militants working under the different wings of the armed forces, and the Special Operations Group of the J&K police - it is not to be wondered that people frequently do not know who has killed and why. These 'unidentified' killings naturally add to the terror.

Killings in J&K from October 1996 to May 1997

Oct 96	138	111	5	249
Nov 96	154	81	9	244
Dec 96	84	95	14	191
Jan 97	134	86	32	252
Feb 97	91	92	39	222
Mar 97	109	82	12	203
Apr 97	137	58	35	230
May 97	157	59	24	240
<i>Total</i>	<i>1004</i>	<i>664</i>	<i>170</i>	<i>1838</i>

This gives a monthly average of about 230 militancy-related killings, about 125 of them by the armed forces and Sarkari militants, 83 by militants, and the rest by unknown gunmen. The average number of killings per month has come down from the last year's figure of 300, but it is still too high to allow the government to say that normalcy has returned.

Considering that there is a perceptible decrease in the death rate in militancy related incidents in the Valley, it is interesting that we heard almost everyone say that 'things have become worse after the Farooq Abdullah government took over', or at least that they are as bad as ever. With some people, the declaration could be just maligning propaganda. But that cannot be said of all the people we met. One reason is that the number of killings does not reflect the sense of insecurity and fear among the people. That sense of insecurity is linked to the perception that the security forces and their proteges the Sarkari militants are on the

one hand feeling more confident with their success in containing the militants to some extent; and on the other are as immune from any lawful control or accountability as ever. The feeling that things have become worse is also probably linked to the hopes raised by the formation of the elected government. The government was expected to exercise at least some degree of control over the armed forces. The dashing of these hopes could have led to the feeling that things have become worse. It should also be remarked that there seems to be a greater felt need to agitate about human rights violations than in the past. In earlier visits, human rights groups noted that the political aspect of the problem used to be given central importance by the Kashmiris. This time round, we noticed that the emphasis was more on human rights. Whatever the reason for the changed emphasis, it could be one more reason for the greater number and severity of complaints about human rights violations. However, the government and pro-government news analysts prefer a more cynical explanation. Their reading is that since the militants are now taking a beating, their spokesmen in the All Party Hurriyat Conference have decided to make noise about human rights violations to attract international attention. Since anything bad said about the Hurriyat Conference is swallowed up uncritically by the Indian public, this cynical analysis finds a lot of takers in the country. But such easy belief should contend with the fact that the complaint about deterioration of the human rights situation comes not only from the Hurriyat Conference but from practically every Kashmiri. One then has to resort to the explanation - frequently offered by army officers stationed in the Valley - that all Kashmiris are liars. It is however simpler to accept that there is something seriously wrong with the functioning of the armed forces in Kashmir and the attitude of the Central and State governments towards their misbehaviour.

We will deal in the next chapter with the mode of functioning of the armed forces. Here we will look at the attitude of the Farooq Abdullah government towards the abuse of power by the

armed forces and the crimes of the pro-government militants.

The Civilian government and the Pro- Govt. Militants:

At the time of Assembly polls, both the National Conference and the Congress-I had spoken out against the atrocities of the pro-government militants and the patronage given to them by the armed forces. The daily newspaper *Greater Kashmir* dated 3 September 1996 ('Disarm Surrendered Militants', Farooq asks Government) quotes Farooq Abdullah as saying that he apprehended rigging of elections (to the State Assembly) by the gun wielding surrendered militants. He added that his party (National Conference) would opt out of elections if the 'renegades' were not disarmed. The context was an incident of firing upon the National Conference candidate for the Sonawari constituency by pro-government militants in which one National Conference activist, Abdul Majid, was critically injured. (Incidentally it was the pro-government militant chief Kuka Parrey who later won from that constituency). Farooq Abdullah, the news report says, added that 'if I come to power I will not allow them to do this. If they want to use the gun, they should get out of the borders'.

The daily newspaper *Kashmir Times*, dated 10 September 1996 ('Kar demands disarming of pro-government militants') quoted Jammu Kashmir Congress-I chief (PCC-I President) Ghulam Rasool Kar (who is also MP from Baramulla) as saying that the pro-government militants should be immediately disarmed, as 'they would bring a bad name to democracy which would have national and international repercussions'. He added, according to the report, that the pro-government militants have 1500 guns provided by the army and the Special Task Force, and 'they have let loose a reign of terror in the Valley'. Even his party, he said, was asked by some army authorities to accommodate some of them, but he had refused, since he had 'no wish to see them on the political scene', though he welcomed all

those who sincerely lay down the gun.

The Janata Dal, too, has unequivocally condemned the pro-government militants and their acts. Mohammad Maqbool Dar, the M.P. from Anantnag who is Union Minister of State for Home Affairs, has repeatedly spoken of the terror let loose by the pro-government militants. Last July, soon after he was appointed to the Union Home Ministry, he said that the army's patronage to the Sarkari militants must stop. He has spoken of the problem again and again. As late as 8 June this year, speaking to reporters at Srinagar after an 11-day tour of the Valley, Dar (*Kashmir Times*, 9 June 1997) 'reiterated that surrendered militants need to be reformed and disciplined as they are responsible for terrorising the people in the country-side'. He added that 'though the people communicate to him many problems and hardships they are facing, the main problem is the insecurity they are facing in the presence of the uncontrolled surrendered militants. Everywhere people said they are living in hell'.

We are quoting these top leaders of the National Conference, Cong(I) and Janata Dal not because they are necessarily more truthful persons than the ordinary Kashmiri or the Hurriyat Conference leaders, but because they cannot be accused of being anti-India, pro-Pakistan fundamentalists out to denigrate the image of the administration, as the Hurriyat leaders are routinely alleged to be, or habitual practitioners of exaggerations and lies, as the common Kashmiri is equally routinely alleged to be.

The statement of Farooq Abdullah quoted above was issued at the time of the election to the Assembly. What he has done after taking over as Chief Minister is exactly the opposite. Indeed, even during the elections, he did not mind taking the support of a minor Sarkari militant group, even as he complained about the biggest of them, the Ikhwan-ul-Muslimoon of Kuka Parrey. The Muslim Mujahideen of Ghulam Nabi Azad, a small counter-insurgent group of Anantnag, declared its support to the National Conference, and its activists were seen protecting the campaign

meetings of Farooq Abdullah against possible attacks by militants. Evidently his objection was not to the principle of army-sponsored private counter-insurgent gangs, but only to the trouble that he could have from groups opposed to the National Conference.

In one of his very first Press conferences after taking over as Chief Minister, on 19 Oct 1996, Farooq Abdullah admitted officially what everybody all along knew to be true, and the army for its part has never even bothered to deny. He admitted that the pro-government militants were working under the different wings of the security forces, the army, the BSF and the CRPF. This admission should have been followed, in the spirit of his campaign promise, with the declaration that they would all be forthwith disarmed. But no. He said that these militants who had hitherto been working under different commands would be brought under one command, probably the J&K Police. By November, some of them had been appointed as Special Police Officers, using a provision in the J&K Police Act which facilitates such ad-hoc appointments. The framers of the Act could not possibly have dreamt that the provision, evidently meant for extraordinary contingencies, would be used to enroll known murderers and extortionists into the police force.

Looking at the matter from the State government's point of view, one may surmise that it was seeking the most practicable way out of the problem: pull the Sarkari militants out of the control of the army and bring them into the police force, thereby putting them under its direct control, for their total disarming would be opposed by the Army and the Kashmir strategists of the Union government. The latter have made no secret of the belief that this 'strategy' cannot as yet be given up. Even at the time of the campaign to the elections, when not only Farooq Abdullah but all the political leaders of J&K were demanding that the 'renegades' be disarmed, the Union Home Secretary Mr. Padmanabhaiah replied by saying, in an interview with Zee TV, that it would not be possible. 'I may', he said, 'have to disarm them at some stage in the future,

but at this stage it is impossible.' Lt. Gen. J.S.Dhillon, Commander of the Srinagar-based 15 Corps of the Army, who is one of the two Security Advisors to the government of J&K, has described the Sarkari militants as 'friendlies' i.e., friendly militants, in a Press interview (*Kashmir Times*, 3 Feb 1997). For form's sake he pretends that they are only being used as informants and not as participants in armed raids. Though, he admits, the friendly informers do carry weapons for 'self-defence'.

It is perhaps understandable that in this situation Farooq Abdullah, who knows from past experience of J&K's Chief Ministers, including himself, that only those who cooperate with New Delhi's stratagems can survive in power in Srinagar, feels obliged to take inconsistent stands in the matter of the Army's 'friendly' criminals. For instance, in an interview to

Doordarshan broadcast on 8 Jan 1997, Abdullah admitted that efforts were being made to accommodate the 'renegades' in some paramilitary battalions, and simultaneously strongly condemned the excesses they were indulging in!

Whatever Abdullah's compulsions, the decision to 'regularise' the unlawful services rendered by the Sarkari militants to the Indian State, is highly objectionable. It effectively means

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putting the stamp of the law on their criminal attacks on any and all partisans of Kashmiri self-determination, and anybody perceived as obstructing the Indian authorities' operations against them. Their victims range from armed militants to journalists, lawyers, writers, human rights activists, cadre of organisations such as Jamaat-e-Islami, Hurriyat Conference leaders, and those among the common people of Kashmir who support and aid the movement. As said earlier, it is acknowledged by everyone including officials and army men in Kashmir that it is these criminal attacks backed by the might of the armed forces that succeeded in 'softening' Kashmiris enough to hold elections in the Valley. Abdullah's decision means that these unlawful and uncivilised tactics will be officially consecrated and made permanently part of the counter-insurgency operations of the Central and State governments.

Some of these Sarkari militants have been appointed Special Police Officers, as we have already said. Some others have been appointed to the security of ministers and other VIPs. The Press has reported that about a hundred of them have thus been appointed. Some have also been recruited into the Special Operations Group (SOG) also called the Special Task Force (STF) of the Jammu and Kashmir police. In appointing them, it is apparently understood that the police uniform is only a legal fiction. They operate in much the same way as in the past. They go around with their not-yet-uniformed colleagues of old, and indulge in murder and mayhem. But all of this now has the official sanction of performance of duty, that is to say the seeming sanction of law. In this sense the decision of the Abdullah Government has made things worse.

Indeed these Sarkari militants - the Union of India's best friends in Kashmir - are a strange lot. They lead a simultaneous three-in-one existence. First, they are gun-carrying militants who indulge in killing and blasting of their opponents and their property. Second, they are policemen who do much the same thing with the seeming authority of law. And third, they are activists and cadre of parliamentary parties such as the Jammu Kashmir

Awami League, Jammu Kashmir Ikhwan, Tehreek-e-Wattan etc, but who nevertheless carry weapons in 'self-defence' and do all the things they would do in their first incarnation.

Their existence traverses law, crime and legitimate politics, but crime is its idiom from start to finish. Crime in the interests of the Union of India's counter-insurgency strategy. The fear they cause is almost tangible. In this trip as in the past nobody in the Valley dared to be seen with our team in public. People would talk to us in their homes, journalists in the newspaper offices, academics in their campus quarters, and lawyers in the Bar Association room. But not one would accompany us even a couple of yards outside these safe zones. And all of them uniformly said that the main source of the fear they experienced was the 'renegade' militants. When we met lawyers of the Pulwama district Bar in their Association room on the evening of 30 May, the President of the Bar said to us in quite a matter of fact tone: 'If Papa Kishtwari comes to know that human rights activists have come here and are talking to the lawyers, he will blow up this court building and kill all of us right now.' Papa Kishtwari (alias Ghulam Mohammad Lone) is second most notorious 'renegade' leader, after Kuka Parrey alias Jamshed Shirazi, the chief of the Ikhwan-ul-Muslimoon, the principal Sarkari militant outfit. Papa Kishtwari lives in Pampore, a small town in Pulwama district, located on the Jammu-Srinagar highway. His house is guarded by a truck-load of CRPF men and at any time there is a van of the J&K police standing at the gate, ready for his use. It is indeed a macabre experience to drive past his heavily guarded house in the knowledge that there is a dreaded and known murderer inside, securely protected by the forces of Law and Order.

Four examples from cases investigated by our team will illustrate the role played by the Sarkari militants.

- 21 May this year was a day of hartal, that being the seventh death anniversary of Moulvi Mohammad Farooq, the slain Mirwaiz of Kashmir. The Hurriyat Conference had given a call for observing a

general strike that day. The Hurriyat being one of the enemies of the pro-India militants, it is in their interest to defeat the strike call. On 20 May, at about 11 a.m., six (eight, according to one version) Sarkari militants drove up to No. 2 taxi stand at Lal Chowk, the busy nucleus of Srinagar, in a vehicle of the Jammu and Kashmir police. The Kotibagh police station is within a stone's throw from the taxi stand. The Sarkari militants jumped out of the jeep, brandished their weapons, and threatened the taxi drivers that they should not observe the hartal the next day. The taxi drivers argued with them. This angered the 'renegades', who fired randomly and abducted one of the taxi drivers, Aashiq Hussain by name. The firing injured three taxi drivers and five passers-by, one of whom, a government employee by name Peer Mohammad Latif, our team met in the Sher-i-Kashmir Institute of Medical Sciences, where he is getting treatment for a fractured leg bone. The remaining taxi drivers ran and informed the local police. By that time the desperadoes had put Aashiq Hussain in the police jeep they were using and sped away across the Jhelum. The local police, to give them their limited due, chased the jeep, secured the release of Aashiq Hussain, but allowed the criminals to make good their escape in the police vehicle.

- Imtiaz Ahmed Wani was a lift operator at Lal Ded hospital, Srinagar, and Publicity Secretary of the Medical Employees Association. He was, it is said by his colleagues, active in organising protests against harassment of medical employees by the armed forces. It must be added that hospitals in Kashmir, among other places, are frequently subjected to crackdowns by the Forces, during which doctors, attendants and staff are interrogated and the patients searched with the aid of informers to see if there is any militant (presumably an injured

militant who has survived an 'encounter') among them. These crackdowns result in harassment, inconvenience and humiliation to all, and much more than that to the members of the staff who are suspected of helping militants to get treatment under a false name or a disguise. Protests against this kind of harassment are also quite common.

There was one such protest demonstration on 5 May this year. After the demonstration, Imtiaz Ahmed Wani went to his home in Dal Gate. His nine year old daughter Asma and his much younger son Md. Idris were with him. His wife Haseena was not at home that evening. At about 9 p.m. two jeeps (white coloured Maruti Gypsies) of the J&K Police Special Task Force came to his house. Six men dressed in Kashmiri style and armed with guns got down and called Wani out. His daughter was told that they would send him back soon, and he was forcibly taken away in the police vehicles. But the 'policemen' were identified by a scared neighbour, who does not want to be named, as men of the Ikhwan-ul-Muslimoon leader Papa Kishtwari. Imtiaz Wani's colleagues believe that he was taken away by the Sarkari militants only to silence the voice of protest against harassment of medical employees by the forces. Wani was killed brutally. From the day after his abduction his mother Zoonah went round all police stations in Srinagar trying to find his whereabouts, for after all he was taken away by men who came in police jeeps. But nobody answered the mother's queries. Finally, on the 26 May, when she went to the State Secretariat to give yet one more representation to the Minister of State for Home Affairs, Ali Mohammed Sagar, she met a young man there who had come to the minister to talk about his own missing brother. He had been going round police stations, looking at unidentified dead bodies to see if any of them was his brother. Hearing Imtiaz Wani's mother's description

of her son, that boy told her to go to Nowgaon police station where there was a body that fitted the description. Sure enough, it was Imtiaz Wani's corpse. It had been found the same day, weighed down with stones and drowned in the water.

- Rathnipora is a village in Pulwama district, about a kilometer off the Pulwama-Srinagar road. Close by, but on the Pulwama-Srinagar road, is another village called Lilhar. Lilhar is believed to be a stronghold of the Sarkari militants some of whom were appointed as Special Police Officers. On 17 May this year, there was an attack on Lilhar by militants in which three persons connected with the Sarkari militants were killed. In retaliation, on the intervening night of 18-19 May, the Special Police Officer (SPO) appointees of Lilhar, numbering ten in total, accompanied by an army officer whom the villagers of Rathnipora identified by name as Jagannath (but could not give the rank or regiment) raided Rathnipora and two neighbouring villages, Manvijah and Hanjipora. One after the other they picked up Gulzar Ahmed Mir (a tailor), and Nazir Ahmed Sheikh (a school teacher) at Rathnipora, 70 year old Ali Mohammad Bhat of Hanjipora, and Farooq Ahmed Dar (a carpet worker), Md. Ashraf (a student) and Dindar Mohammad (a student) at Manvijah. All of them were picked up from their homes with the authority lent by the abductors' designation as policemen. They were taken some distance and shot dead. The house of Gulzar Ahmed Mir at Rathnipora was set on fire.

All the dead were supposed to have died in an 'encounter' between militants and the Forces.

Thus, what would have been merely an act of retaliatory violence of one armed group against another was converted into State action against militants by dressing up one

group as policemen. That this travesty of the law does more damage to society than the gang war between militant groups is evidently a matter of no concern for our rulers.

Rathnipora is known to be a stronghold of separatist sentiment. We were told that about a dozen men of this village have died at the hands of the armed forces since 1991, and only one of them was actually an armed militant. Jalil Ahmed Andrabi, the Human Rights lawyer who died a horrible death at the hands of the Sarkari militant-Rashtriya Rifles combine in March 1996, belonged to this village.

Our team went to the village on 30th May at about 5 pm. We were told that the village had been subjected to a crackdown by the security forces that very day from 4 am till 2.30 pm, during which everyone in the village was beaten. We spoke to a student of the Law faculty of Kashmir University in the village. (He wishes to remain anonymous). He told us that the previous day, as he and other students of Rathnipora were proceeding by bus to Srinagar, the bus was stopped at Lilhar and he and another boy by name Mohammed Hussain Mir, a B.Sc. student at Srinagar, were pulled down from the bus by the local pro-government elements. The army and the police were looking on. This boy was beaten badly and let off but Mir was taken away. There is no knowing whether he will come back alive.

- At Kashmir University, Srinagar, on 29 May, we spoke to a large number of students who were vocal in condemning the atrocities of the Sarkari militants. We were told of two students, Shaukat Bahar (of Sonawari), of the Department of Mathematics, and Nasir Ahmed Mallik (of Kangan), of the Department of Urdu, who were picked up by an Ikhwan-ul-Muslimoon militant turned

SPO by name Shakeel Khan, about 8 to 10 days back. They were intercepted and taken into custody while boarding a bus at Lal Chowk in the city. The Sarkari militant outfit was asking for money to release them. Interestingly, about 10 days before that, the armed forces had raided the hostels and searched for these two very boys.

These four incidents, whose details were narrated to our team by the relatives and friends of the victims give an idea of the nature of the nexus between the armed forces and the pro-government militants, and in particular, the consequence of the institutionalisation of this nexus by taking the Sarkari militants into the police force by the Abdullah government.

But the armed forces are not content with the khaki uniforms given to the pro-government militants. They would rather give them BSF and CRPF fatigues. Appa Saheb Allur, IG of BSF, has gone on record saying that the BSF intends to raise a full battalion of Sarkari militants (*Kashmir Times*, 15 February 1997). The CRPF too was supposed to accommodate some of them. Official statistics say that about 2,500 militants have surrendered to date. (Some estimates put the number at 5000). Not all of them would be prepared to turn criminals for the benefit of the Army. Those who are prepared are sought out by the various wings of the armed forces. And now the proposal is that they be given uniforms and salaries for the contribution they make to securing the counter-insurgency strategies of the government.

However, these grand plans of raising whole battalions of Sarkari militants have not yet borne fruit. Evidently, there are some in the armed forces hierarchy who draw a line of demarcation between going around with private armed gangs (which is all right) and actually letting them into the force (which is not all right). The distinction is a minor one, but in the given circumstances, even that much is welcome.

The upshot is that as of now, according to Mr. Ashok Kapur, Brigadier, General Staff, who spoke

to our team on behalf of the Army, the CRPF has recruited 37 Sarkari militants and the BSF has recruited another 220. However, Maj. Gen. J.B.S. Yadava, in an interview published by the local Press on 10 June, put the total figure of Sarkari militants recruited by the two forces at 292. Whichever is the correct current figure, the recruitment may not stop there. In an interview given to *Kashmir Times*, the State's Director General of Police (DGP), Mr. Gurbachan Jagat, said that the Sarkari militants are not going to be taken into the police, and they will have to find a place for themselves in the paramilitary forces. (*Kashmir Times*, 10 Sept). Perhaps, then, the threatened battalions will in the end actually come up.

Our team tried to discuss this matter with the Chief Secretary of the State and the Brigadier, General Staff, Mr. Ashok Kapur. In spite of their polite replies and expression of respect for the rule of law, it is evident that both the civilian government and the armed forces have no desire to let go the tactical advantage they have secured through the creation of the Sarkari militant gangs. They are quite satisfied with their achievement. Nobody among the officialdom in Jammu and Kashmir denies the criminality of the 'friendly' militants. They add quickly that whenever they have received complaints they have taken action against them. But such confessions have no effect upon the tactics of relying upon them to weaken militancy and beat down its popular support. When we questioned the spokesman of the Army whether it is normal for the BSF and CRPF to recruit persons with a crime record, he said that it is not normal, but these are not normal times and Kashmir is not a normal place. This is, of course, the standard justification for all that is done in Kashmir: It is not a normal situation. Abnormal situations, the answer implies, require unlawful and undemocratic handling. This is a perverse form of reasoning which denies democracy and democratic rights any role in solving social problems and resolving social crises. Democracy, it appears, is only an ornament to be sported in times of peace.

The civilian government and the armed forces:

We have spoken of the peoples' expectations that the civilian government would restrain the armed forces from committing atrocities. This would have been possible if the Abdullah government had set up the required machinery to monitor the functioning of the armed forces and to make them answerable to the law. The expectation that the new Chief Minister would do so was belied quite soon. As the Army, the para military forces and the State police are all operating against militancy in Kashmir, there is a common or unified command that coordinates the operations of the various forces. The proper thing that Abdullah could have done was to make the DGP of the State the head of the unified command, thereby making the armed forces subordinate to the State police, who are answerable to the State Cabinet, and in particular to the Chief Minister who holds also the Home portfolio. It is rumoured that Abdullah tried to do this, but evidently the Army and perhaps also the central government did not like this. The head of the unified command is Lt. Gen. Dhillon, commander of Srinagar-based 15 Corps of the Army. He and Lt. Gen. Bhullar, commander of the Jammu-based Corps of the Army (located at Nagrota, a suburban village of Jammu) are the security advisers to the Government of Jammu and Kashmir. In other words, as far as counter-insurgency operations are concerned, the State Government functions upon the 'advice' of the two commanders of the Army in the two main regions of the State. This announcement which put paid to all hopes of civilian control of counter-insurgency operations, was made on 10 December last year, the International Human Rights day! But that was probably a coincidence and not an expression of black humour.

Having done this, the elected government has stepped back and let the armed forces operate as in the past. The Army and the other armed forces are supposed to function in accordance with the Armed Forces (Special Powers) Act. Indeed, they are in Jammu and Kashmir by virtue of the provisions of that Act. Draconian though that Act

is, it nevertheless lays down that the armed forces function only to aid the civilian government. In other words, it is the civilian government, through its police force, that maintains order in the State, and the Army functions in its aid, where the civil police feel that their strength is insufficient and they need the help of the armed forces. To ensure this, the Act lays down, among other things, that whoever is taken into custody by the armed forces must be immediately handed over to the local police, who should look after the rest of the process of investigation, report to the court, etc. It is contrary to the spirit of - even this draconian - Act that the civilian government makes Army commanders rather than the DGP the head of the unified command of counter-insurgency operations, appoints Army commanders only as its security advisors and allows the army to deal with human rights violations as if they are a matter for the internal discipline of the forces rather than violation of Rule of Law which is or ought to be a major concern of the civilian government and the judiciary.

That the Army believes that atrocities committed by its men are not crimes to be punished by just and fair process but matters of internal discipline to be set right by its own mechanisms is clear from the talk of the Army bosses as well as the notes they periodically circulate pertaining to the forces' human rights record. The Army's mechanism for dealing with complaints of atrocities by the forces is to depute an officer of the forces to enquire into the allegation and file a report. The report is perused by the higher-ups of the Army and a decision is taken whether to proceed further or not. The whole matter, thus, rests with and in the Army. The normal institutions of Law and Justice have no role in the matter. Whatever the propriety of this arrangement in times when the Army operates only against the armies of other countries, it is certainly not only very inappropriate but unconstitutional that this alone should be the mode of the armed forces' accountability to the law in times when the forces are engaged in counter-insurgency operations, that is to say

armed operations against citizens of the country, whether they are militants or civilians. It is a clear violation of Articles 14 and 21 of the Indian Constitution.

How this procedure operates will be seen in the next section in concrete examples. But the outcome is that most complaints of human rights violations are 'found' by the army to be baseless. '95 per cent of the allegations are false' says an Army handout on human rights released in October 1995.

The following is the table which shows the Army's record in investigating its own crimes. The figures are taken from Army handouts to the Press.

Period	No. of complaints recorded	No. of cases investigated	No. found baseless	No. of personnel punished
1991 - October 1995 (Kashmir)	351	322	301	41
1991 - October 1996 (Kashmir)	490	482	460	52
1992 - October 1995 (North-East)	120	89	84	50

The figures for Kashmir come up to Oct 1996. But an interview with Lt. Gen. Padmanabhan, GOC-in-C Northern Command, published by Kashmir Times on 24 July 1997, shows that between Oct 1996 and July 1997, another 102 complaints were investigated by the Army, and all of them were found to be baseless!

A comparison of columns 3 and 4 shows the large number of complaints that are discovered to be false or baseless. In an interview with the GOC-in-C, Northern command, Lt. Gen. Padmanabhan says that between October 96 and July 97, another 102 complaints were investigated and all of them were found to be baseless! The comparison would have been a fine compliment to the Army, but for the fact that it is the Army that is sitting in judgement over itself and arriving

at these benign conclusions. And Chief Minister Farooq Abdullah has only praise for the Army. He stated in the Assembly that it was the Army that was responsible for restoring peace in Kashmir and making the elections to the Assembly possible. The Opposition is no better. The Cong-I MLA from Bijbehara, Ms. Mehbooba Mufti, one of Abdullah's most vocal critics, is equally lavish in her praise of the Army. The Chief Minister is reported to have told the Assembly, not once but many times, that 'it is thanks to the Army that we are all sitting here'. And hence, by implication, that all the legislators must be grateful to the Army for their existence as legislators. This point of view reduces the issue of democracy to the holding of elections and the convocation of the Legislative Assembly. But democracy includes also that the whole process of administration must take place in a way that is consonant with the law and the democratic rights of the people. Otherwise, it only means that the armed forces, by whatever means, have made it possible for some individuals to occupy positions of power, and therefore those individuals will keep quiet about how the Army is dealing with the people, forgetting that they have taken oath to uphold the law and the Constitution, and that they have been elected by the people to protect their rights and legitimate interests.

The Army's attitude towards human rights violations can be elicited from its handouts. For instance, in the note circulated in October 1995, it is said that human rights violations can be curbed by 'a system of instructions, personal example, rest and recuperation and swift disciplinary action'. However, the Army also investigates all complaints about violations, but has found that 95 per cent of them are 'false and baseless, and raked up with the malicious intent of slowing down the pace of operations against anti-national elements'. The force that has already come to the conclusion that those whom it is fighting in Kashmir are all 'anti-national elements', and that their complaints of human rights violations are 'raked with malicious intent to slow down the operations (of the Army)' is sitting in judgement

over the complaints against its own misbehaviour, no doubt with the noble intention of taking 'swift disciplinary action'. And what are the punishments it awards in its court-martials? The same note proudly refers to a case where a suspected militant was apprehended and during questioning killed by an officer and his men. After the trial, which was completed within five months, the officer was sentenced to 3 years Rigorous Imprisonment (RI) and the men to 2 years RI. 'Which Army in the world would dispense justice in such a prompt and effective manner?' we are rhetorically asked. But in which country in the world does a cold-blooded murderer merit only 3 years RI? Certainly not in Indian courts that try civilian murderers. And in which judicial system are 95 per cent of criminal complaints found to be baseless? Surely, only in a system in which the judges have an interest in finding as many complaints as possible 'false and baseless'.

The note also says that the Indian Army has had a human rights cell since 1993, the first Army in the world to have one and that it gives training to its personnel in respecting human rights. That is no doubt a useful thing, but the real test will come only when the Army allows allegations against it to be judged by an impartial tribunal. On that, there is total silence or rather a sullen reluctance to admit even the legitimacy of the idea. The note says in fact that only serious human rights violations must be taken up by agitators and not any and every act of violation, so that 'the troops can concentrate on the unpleasant duty of counter-insurgency operations'. Once again who is to decide which violation is serious and which is not? Should the test be that the troops are left unhindered in 'proceeding with the unpleasant duty of counter-insurgency operation'? The operations, one presumes, are unpleasant for those at the receiving end too! Does not that fact merit attention in deciding our understanding of violations and the procedures set up for enquiry into them? What would be the proper procedure when the Army operates against other armies is a matter that we need not go into in this report.

But when the Army gets involved in counter-insurgency operations, it is using force against the country's own citizens, whether unarmed or armed (barring the small number of foreign militants) and under the Indian Constitution there can be no escape from an impartial and fair judicial scrutiny of all allegations of crimes committed. Apart from the fact that even armed or violently-inclined citizens of India are protected by the law as much as peaceful citizens, it must be remembered - and it can not be stressed too often - that counter-insurgency operations are aimed largely at the unarmed civilians who support the insurgency out of political and social sympathy (also, occasionally, the pressure of the insurgents). This fact is hidden by consistently refusing to acknowledge the fact that insurgencies are political acts with social support. That is to say, a number of people and their aspirations are involved in insurgencies. And when no political resolution is sought for the problems stemming from the aspirations, and military or police operations are believed to be the only answer, a large part of counter-insurgency operations is inevitably aimed at these people and their hopes and beliefs. Perhaps, it is this that is suggested by referring to the troops' duty as 'unpleasant'. But then this whole approach towards politically and socially grounded insurgencies is much more than 'unpleasant'. It is undemocratic, uncivilized and utterly unacceptable. By the Army's own estimate, the number of militants in Jammu and Kashmir is no more than 3000 to 4000, out of whom only 25 per cent are said to be active, i.e., about 800 to 1000. And what is the strength of the armed forces fighting these militants? There are 60000 personnel of the Army alone (not including the noncombatants like cooks, drivers, attenders, etc). The CRPF, BSF, ITBP and the Jammu and Kashmir Police STF would very easily take the figure well beyond 1 to 1.5 lakhs. Why does counter-insurgency require such a huge force, well beyond a ratio of 3:100, even if one counts also the dormant militants? Evidently, because a large number of common people are involved in the militancy - as supporters, as sympathisers, as

providers of food and shelter etc. And without denying or condoning the ruthless terror employed by the militants, it must be said that much of this support is out of political affinity. And it is this mass that is in one way or other at the receiving end of the heavy counter-insurgency operations. It must be realised that this is the context in which we are speaking of human rights violations. And the cacophony raised by the government about Pak-inspired militancy and Pak-inspired propaganda about human rights violations is aimed at hiding this 'unpleasant' reality, to borrow the Army's description of its task.

The civilian government and the Hindu migrants:

The migration of the Kashmir Pandits is one of the tragedies of the Kashmir situation. According to the office of the Relief Commissioner in Jammu, 28,561 families (which could easily mean 1.5 lakh people) have registered as migrants with the office. Of them, 25,250, i.e., nearly 89 per cent are Hindu families. 1468 are Muslim families, 1803 are Sikh families and 75 are 'others'. Registration entitles the migrants to relief and rehabilitation.

While 28,561 families have registered as migrants, the State Governments estimate of total migrants appears to be about 60,000 families i.e. close to 3 lakh people (*Indian Express*, 26 Oct 96). The migrants' organisations such as the Panun Kashmir put the figure of migrant Hindus at 7 lakh, though the source of their estimate is not clear.

The Hindu migrants from Kashmir are peculiar among the refugees in India. Whereas usually refugees are from the lower sections of society, these are not all poor or socially backward. All of them are Brahmins. A sizable proportion of them are of the urban middle class or rural landlord class. But a number of them are of the urban small trader, lower class employee or rural small farmer category.

According to the government's rehabilitation policy, those migrants who hold government

employment continue to draw their salaries. The other families get a relief of Rs. 450 per head per month subject to a maximum of Rs 1800 per family. They get 9 kgs of rice, 2 kgs of atta and 1 kg of sugar per head per month. Of the 28,561 families of migrants, 4500 are staying in government-organised camps. The rest have their own accommodation. The camps consist of one-room tenements constructed by the government. In the beginning they lived in tents, but one after the other all the camps have started acquiring permanent structures. The camps in and around Jammu city house 90 per cent of the migrants living in camps. There are also camps at Udhampur and Kathua.

Our team visited the Nagrota camp near Jammu. The residents spoke to us in very bitter tones about their problems and their prospects. As many of them have seen a better life, they find life in the one-room tenements irksome. The government's logic is that it cannot create bigger dwellings for the refugees who are expected to go back some day. That sounds reasonable on the face of it, but since that 'some day' looks remotely far away, the refugees do not think it is all that reasonable. But what is not reasonable even according to the government's logic, is that the camp at Nagrota does not have regular water supply even after seven years of residence. Municipal water tankers come from Jammu two or three times a day. The promised overhead tank has not materialised. The camp has no drains either.

Educational and employment opportunities are a cause of just complaints. The Jammu schools and colleges are not able to cope with the influx of prospective education seekers. Perhaps there is also the usual resentment of locals against refugees, especially the kind of refugees who can compete for education and jobs. Most of the migrants study in the additional shifts of the schools, and that tells on the quality of the education they get. Jobs are equally difficult to get. When the migrants are selected for government jobs, they are not given posting in the Jammu or Ladakh regions but in the Kashmir region, where they cannot go.

Their request that either they be posted outside the Valley, or else their joining report be taken and kept in abeyance until they are able to go and work in the Valley is not accepted.

One complaint we heard from the residents of the Nagrota camp is that a surrendered militant (who is a criminal and an anti-national in the eyes of the migrants, even if he is repentant) gets much better rehabilitation. Apart from those who are allowed to carry guns and indulge in loot and extortion, even those rehabilitated by lawful methods get Rs 2400 per person per month, whereas each refugee gets only Rs 450 per month upto a maximum of Rs 1800 for the whole family, irrespective of its size. This, incidentally is a commonly heard complaint in all militancy-affected areas. The victims of militancy are looked after by the State, but not as well as surrendered militants, who are regarded as a prize catch. But then there is a third category, viz, the victims of the Army or the police's counter-insurgency operations, who get no rehabilitation at all, and are in fact looked upon as enemies of the State and society.

But the biggest complaint of the migrants is that their prospect of going back to their home looks bleak. No amount of rehabilitation in the place of refuge can be equal to an opportunity for a safe and honourable return to the Valley. This is quite apart from the fact that Kashmiris find the heat and dust of the North Indian plains, of which Jammu is very much part, physically unbearable.

But much of their property back home has been destroyed or looted. The government has been making an estimate of the loss, but is yet to compensate them. As for their return, they are not very hopeful. After the Parliament polls last June, and more so after Assembly polls, there was a trickle of returning migrants. The *Indian Express* reported on 5 October 1996 that 69 Hindu families had returned to Baramulla, but the staff officer of the Relief Commissioner's office in Jammu told

us that 18 families had gone back to Baramulla but they all returned to Jammu soon. While Farooq Abdullah has been occasionally saying that the Pandits could go back, the Pandits themselves are skeptical. As early as October 1996, soon after taking power, the Abdullah government announced that it would set up a panel headed by the State's Financial Commissioner (a post equivalent to that of Chief Secretary), to coordinate the return of the migrants to the Valley. It was actually constituted about eight months later, in May 1997. It is not known what work, if any, it has done to date. In the meanwhile, on 23 March 1997, there was a brutal massacre at the village Sangrampora in Budgam district in the Valley, in which seven Pandits who had not migrated, were taken out of their homes and killed by unidentified militants. This was evidently aimed at forestalling the return of the migrants to the Valley. As with all such unjustifiable acts of violence, no militant organisation in the Valley has taken responsibility for the gruesome act - and nobody in the Valley ventures any opinion as to who could have done it: the militants who want no semblance of normalcy to return, or the agents of the Indian Army who aimed at creating a situation for which the militants could be blamed. For the record, all public personalities and organisations condemned the killing. From the All Party Hurriyat Conference to the Ikhwan-Ul-Muslimoon, from Farooq Abdullah to the RSS. The Muslim neighbours of the massacred Hindus grieved with their families and consoled them. Their open expression of sorrow has been described by the not usually very sympathetic Srinagar reporter of the *Indian Express* as 'the first instance in seven years of insurgency wherein Muslims have openly grieved for persons of the minority community killed by militants'.

After this incident, what little enthusiasm the migrants had about their return has evaporated. But not the hope that some day they might.



The security forces are frequently alleged to have violated people's rights in the course of counter-insurgency operations. The table given above indicates that a total of 1004 persons have been killed by the security forces (including the Jammu and Kashmir police) during the period October 1996 - May 1997. Officially, all these are killings in the course of combat between the forces and the armed militants. Many of them are not. There are at least two ways in which a killing may take place at the hands of the armed forces other than in the course of operations permitted by the Armed Forces (special powers) Act. One is when a person or persons who have no weapons in their hands or who are in no position to use them to cause violence are shot down by the forces. Two, when a person (whether militant or civilian) is taken into custody and then killed by the forces. The extent to which killings by the armed forces are actually such incidents and not a killing condoned in law by the provisions of self-defence or defence of another person, or the specific powers granted by the Armed Forces (special powers) Act, has never been documented in detail in Jammu Kashmir. We are not speaking here of lawful proof that a killing has taken place within the law. Such a mechanism does not exist. No impartial (or any) investigation ever takes place to elicit the circumstances under which each killing has taken place. Nor does any court of law go into the report of such an investigation to decide whether any infringement of law has taken place. But even without such a procedure, there can be a fair assessment of the kind that civil rights organisation do on the basis of fact finding investigation in the rest of the country. Such investigation is very difficult, almost impossible to do in Kashmir. Both the magnitude of the killings and the extremely difficult circumstances make it impossible. What is possible is only a vague estimate.

Custodial torture and killing:

The Human Rights division of the Institute of Kashmir studies, in its recent publications, has said that about 2000 persons are estimated to have been

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HUMAN RIGHTS VIOLATIONS BY THE ARMED FORCES

killed in the custody of the security forces ever since the militancy began. There is no way of assessing the veracity of this figure. In the first six months of the coming to power of the Farooq Abdullah government, they estimate that about 130 persons have died in custodial killings. 'Catch and kill' is the brief and telling title they have given to this form of abuse. For it is not that the armed forces torture the arrested person to elicit information and he dies in the course of the torture. This is what happens in deaths in police custody elsewhere.

In Kashmir the killing is often the purposeful culmination of torture. The torture may sometimes be to elicit information, but equally often it is a brutal signal to other Kashmiris that they had better not get into militancy, for this may be their fate. Whatever the purpose of the torture, the torture is frequently extended till it becomes fatal. Or else, bullets are pumped into the body at the end.

A look at the few who have survived the torture - either because the forces decided that he is not important enough to kill, or because some pressure, including payment of bribes, was exerted on them to save the life - will tell a lot about the nature and degree of torture. Our team met and spoke to patients in the Sher-e-Kashmir institute of medical sciences at Soura, Srinagar (popularly known as the Soura hospital) on the evening of 28th May. They were in the nephrology ward of the hospital, i.e., they were being treated for kidney damage. The particular disease they are suffering from is called Rhabdomyolysis. It is a severe form of kidney failure, and may result in death if not treated in time. The cause of this type of damage to the kidneys is said to be very severe beating on the thighs and (especially) the buttocks. Doctors at the nephrology ward of the Soura Hospital said that almost every day they get one patient with torture inflicted kidney damage. Only those who come to hospital within 24 hours have a chance of survival. If they require dialysis the patients will have to pay for the Hemodialyzer which the hospital does not supply. This means a cost of Rs. 1000 to 1200 every day or once in every

two days. The doctors said that about 300 torture-induced Rhabdomyolysis patients have had dialysis done in the last six years. There is no count of those who needed to but did not have dialysis for want of money, and those who could not even reach the hospital in time. The following are the brief details of the patients we met and spoke to at the nephrology ward of the Soura hospital on 28th May.

1. **Ghulam Ahmad Bhat:** A native of village Watlar, Gandarbal Tehsil, Srinagar district, Bhat is an employee, a technician in the cancer department of this very hospital. He lives in the hostel attached to the hospital. He was taken into custody by a unit of the Assam Rifles on 19th May with the permission of the hospital authorities. They tortured him for 5 days demanding that he should handover the weapon that he allegedly had, and released him on 23rd May. He was beaten severely all over his body with rifle-butts and given electric shocks to his penis. After release, his kidneys were found damaged, and he was hospitalised.
2. **Ghulam Mohammad Chopan:** A native of Rafiabab, Baramulla, he was taken into custody by the local Rashtriya Rifles (RR) camp on the night of 25 May. He too was told that he should handover the pistol he allegedly had with him. The nails on the forefingers of his left hand were brutally pulled out, and he was hit all over the body with rifles. He was released the next day with bleeding fingers and damaged kidneys.
3. **Nazir Ahmed Baghwan:** A resident of Rainawani, Srinagar, and a farmer by occupation, he was picked up on 24 April by the Special Task Force of Jammu and Kashmir police. He was tortured severely and released on 5 May to be hospitalised at the Soura Institute. He was suspended from his wrists and thrashed with rifles. Then he was suspended upside down from his ankles

and again thrashed for four hours. He was given electric shocks to his penis and his testicles. A thick string was tied to his penis and pulled with a jerk. While shocks were being given to him he was forced to drink four buckets of water, and water was splashed on the spot where the shock was being given. That evidently enhances the impact of the shock. He is now in hospital with kidney damage and damage to his arms. Doctors treating him told our team that the muscles of his arms will never fully recover and he will not be able to work normally.

4. **Mohammad Subhan Dar:** A native of Baramulla, and an employee in the irrigation department of the State government, He was picked up because he 'looked like a militant', on 18th May, and tortured for just three hours. He has been in hospital for 10 days with damaged kidneys. He still carried huge dark bruises on his back when we saw him 28th May.

We also heard of another torture victim who was being treated in a different ward of the hospital. We could not meet him, but the following is the information we gathered.

5. **Intiaz Ahmed Bhat:** A pre-university student, resident of Amira Kadal, Srinagar, he was arrested on 23rd May and released after a couple of days. He was in hospital with a ruptured and bleeding anus, the consequence of a rod being forced up the anus. Doctors said his condition was serious.

The above instances and the other examples of torture we heard of from victims, doctors, and the relatives of victims in the Valley, help us to identify the following forms of torture commonly used in Kashmir:

1. Beating repeatedly and hard for hours at a stretch with rifles and thick sticks all over the body, but especially the thighs and the

buttocks, leading to kidney damage, and the disease of Rhabdomyolysis. The person is often suspended (upright or upside down) while being beaten.

2. Keeping wooden rollers on the thighs, with the person lying on the stomach or on the back, and trampling upon the rollers, sliding up and down, crushing the thigh muscles, or else standing on the rollers and beating on the legs and soles of the feet with sticks and rifles.
3. Giving electric shocks to sensitive parts of the body such as penis and testicles. Splashing the organ with water simultaneously to enhance the impact of the application of current.
4. Forcing the person to stand bending forward and keeping a lighted stove between the legs, thereby burning the legs, thighs and sexual organs. Or, in winter, forcing the person to sit or walk on snow without any protection to the skin.
5. Sticking sticks and rods up the anus, causing rupture and hemorrhage inside.
6. Forcing the person's head into water, sometimes even drain water, until he nearly chokes to death.

It will perhaps be said that these are not new to Kashmir and that the police (and army and paramilitary) operating anywhere in India indulge in all such forms of torture. That is true enough. All civil rights organisations know of the various forms of torture used routinely by the 'forces of law and order' in India. But we also know that the degree and severity of the torture is no where so barbarous as we have observed it to be in Kashmir. In Kashmir, the invariable result of these commonly used forms of torture is death or permanent disablement. It is possible to speculate about the reasons for this:

(i) *The army, when it does police duties, whether it is counter-insurgency or suppression of a local riot, behaves much more brutally than the police. This is the other face of the efficiency with which the army is usually credited. It is, firstly, much less accountable to the law and the normal processes of justice. Not that the police are greatly accountable, but the army is even less so, because the State wants it to be that way. Secondly, policemen have some degree of social accountability because they live and work within the local community. Army personnel live in cantonments or barracks. They are outsiders in terms of language and culture, and the contrived distinction between the 'civil' and the 'military' serves to keep them outside the local society. A unit of the army can conduct 'operations' in one place for a while, and then be shifted to a totally different place, or sent back to its headquarters. All this lessens its social accountability.*

(ii) *In Kashmir, the Indian armed forces are not just suppressing a revolt. They are, in addition to that, in their view and in that of most Indians, fighting India's principal enemy, Pakistan. And, even otherwise generous-minded Indians give no quarter to Pakistan and its agents. Much has been said about the mindlessness of Indo-Pakistan enmity. No where does this mindlessness exhibit itself more brutally than in that extra bit of cruelty and callousness the armed forces exhibit in Kashmir. And,*

(iii) *We dare say, the fact that the separatist Kashmiris are muslims adds its mite to the torture they suffer. The Kashmiri who does not want to be in India is a muslim, an anti-Indian subversive, and a Pakistan agent, is the series of ideas that defines common Indian attitude towards the political movement going on in Kashmir, and the attitude of armed force personnel is no different.*

This degree of torture, naturally, frequently leads to deaths in custody. As we have said, in its recent publication, the Institute of Kashmir Studies has given a general estimate that about 2000 persons would have died in custodial killings in the last seven years. They have recorded 130 such suspected custodial killings in the first six months of the Abdullah government. There have

been frequent strikes or hartals in the valley in response to custodial killings. The most prolonged such hartal took place in March this year, in protest against the custodial killing of four prominent leaders of the Hizbul Mujahideen. Mohammad Yousuf Ganai (alias Naseebuddin Gazi), Deputy Supreme Commander of Hizbul Mujahideen, Firdous Ahmed Kirmani, Finance distributor of Hizbul Mujahideen, Manzoor Ahmed Khan, Financial adviser of Hizbul Mujahideen, and Abdul Majid Wani, Sectional commander of Hizbul Mujahideen, as well as General Secretary Shoura-e-Jehad (a united front of the separatist militant groups, including Hizbul Mujahideen) were arrested by the Special Operations Group (or Special Task Force) of Jammu and Kashmir police on 5th March at Abiguzar, a densely populated locality on the banks of the Jhelum in Srinagar. On 7th March, the first of the four was killed at the village Chee in Anantnag district, and on 8th March the remaining three were killed at Wanabal, Srinagar. The protest this cold blooded custodial killing gave rise to lasted quite a few days, though the Jammu and Kashmir police regard the killing as a feather in their cap, as proof that the State police can take over from the Union armed forces the job of counter-insurgency.

The Institute of Kashmir Studies, as we have said, has prepared a list of 130 custodial killings in the six months period after the Abdullah government came to power. Our team investigated three specific allegations of custodial killings, of which details of one, the case of Imtiaz Ahmed Wani, have been given in the earlier section where we were speaking of the nexus between the Forces and the Sarkari militants.

We give below the facts our team could gather about the other two killings. The facts were gathered by visiting the village in question and talking to the victims' family as well as other local people.

- Pattan is a small town in Baramulla district, on the Srinagar-Uri highway (the old Rawalpindi road). Shabir Ahmed Bhat was

a taxi driver of Pattan. On 8 November 1996, he was taken away along with his taxi (bearing number JKC 7151) by army men from the camp located at Mirgund nearby. His mother Zaina begum went to the camp where the officers acknowledged the fact of arrest and said he would be released in a day or two. On the third day, the proprietor of the taxi went to the camp to take his taxi. He spoke to Bhat but was told by the army men to take his taxi and move on. He did. Nobody ever saw Shabir Ahmed Bhat afterwards. His mother petitioned the Superintendent of Police, Baramulla district about her son's detention. The SP wrote an official letter to the army authorities at Baramulla relaying the mother's complaint and asking them non-committally to do the needful. This was on 21 November 1996. One does not know what reply the SP, Baramulla, received from the Army but Zaina Begum received none, either from the army or the police. Finally, Shabir Ahmed Bhat's dead body was found on 7 March 1997 at Dewar Ekmanpora near Pattan. It was lying in a ditch.

- Ganderbal is a tehsil headquarters in Srinagar district, located on the Srinagar-Kargil highway. About 10 kilometers off the highway from Ganderbal is the village of Tulmulla. There is a temple for Ksheer Bhavani in this village. Perhaps for that reason, the village has been the seat of an army camp. The camp was commanded by one Major Yadav of 13 RR (Rashtriya Rifles). On 16 February this year, this man came along with some soldiers to the house of Abdul Khaliq Wani, school teacher, at about noon. They cordoned off the house and 'interrogated' Wani in a neighbour's home till 5 pm. He was then taken out in a half dead condition and his head was forced under water for a while in the rivulet Shekharnag that passes by Tulmulla. Then he was dropped in his house and the army men went

away. Wani's family tried to take him to the Soura hospital, Srinagar, but he died at 9 pm before he could get any treatment.

Ghulam Nabi Parrey was a tailor of the same village. He had some land and a house in the village, and his shop at Ganderbal. On the same afternoon as Wani's death, Parrey was picked up from his shop by army men and Sarkari militants. He was brought home. His wife Saleema was tied up behind the house, and he was beaten till 4 pm, asking him to hand over the gun he allegedly had with him. Then the soldiers and their 'friendly' militants searched Parrey's house and found Rs. 1,25,000 in cash which they pocketed. They took the severely injured Parrey away with them. Next morning his dead body was found at a nearby village.

To deter protests against the killings, the Major undertook a crackdown in Tulmulla on 17 Feb. In the course of the crackdown, the Major fired in the air and arrested and tortured 20 to 25 students of that village. The frightened people ran away from the village. Yet, later there was a major protest at these custodial killings. Both the General Secretary of the National Conference, and Ali Mohammad Sagar, the Minister of State for Home, came to the village. The villagers had earlier given a police complaint about the two custodial killings, but it was only after Sagar came to the village that a case was registered (crime no. 162/97, Ganderbal PS). But no investigation has been done till now.

Some of the stories told by the villagers about this Major make ugly reading. He and his men had the nasty habit of searching school girls physically as they went to and from school. The major also insisted on taking classes for 9th and 10th standard girls. He only wished to educate them, he said, but his educational philanthropy did not extend to younger girls. One day in January this year, this Major took 11 year old Seema, daughter of Bashir Ahmed to his camp, but the father rushed to the camp, shouted at him

and got the girl back. Perhaps in retaliation to this, the same day (10 February) that Abdul Khaliq Wani was picked up and killed, Bashir Ahmed, who happens to live close to Wani's place, was picked up and beaten severely and released. He too was admitted to the Soura hospital, but he is fortunately out of danger.

When our team discussed this case with Mr. Ashok Kapur, Brigadier, General Staff, who spoke to us on behalf of the Army, his reply was that the Major was very efficient in counter-insurgency operations and that therefore the militants and their sympathisers were interested in discrediting him by spreading malicious stories about him. This is, of course, an answer that fits all situations. A cruel officer has only to be (or be declared to be) efficient in counter-insurgency operations for the complaints against him to become malicious propaganda of the militants and their sympathisers. Infact, the Army spokesman gave an interesting explanation of these complaints. Whenever an army crackdown takes place, he says, those among the local people who are sympathisers of militancy immediately come up with complaints of torture, molestation etc., to discredit the operation. Those who are not sympathisers of militancy never complain. This argument can be, and is actually meant to be, used in the converse form. All those who complain about abuses by the forces must be sympathisers of militancy, because those who are not do not. When our team pointed out to the Army spokesman that we did not go to Tulmulla with any previous contact; that we simply entered the village and took the help of the first person we came across to meet the families of the dead men; that the man whom we thus picked up as our guide turned out to be a staunch supporter of Kashmir's accession to India, and a strong enemy of Pakistan and the militants; and yet-it was he and the persons whom he took us to that said all that has been narrated above, the Army spokesman's answer was that the man must have been pretending. That Kashmiris are liars is the recurrent refrain of the arguments offered by the (non Kashmiri) authorities in reply to complaints

of human rights abuses. This kind of an attitude precludes any need to verify and punish such abuses. It is a different matter if one is cautioned to beware of possible exaggerations. That is a necessary condition, not just in Kashmir but anywhere, and civil rights organisations are quite aware and alert about the possibility, though false and exaggerated complaints are no where as common as the authorities accused of the abuses would like the world to believe. But this kind of self-serving logic by which all those who complain about human rights abuses are painted as sympathisers of militancy motivated by malafide

A cruel officer has only to be (or be declared to be) efficient in counter-insurgency operations for the complaints against him to become malicious propaganda of the militants and their sympathiser .

designs, or worse still, a whole people are described an habitual liars, needs to be condemned outright and unreservedly. Indeed, if Kashmiris are such despicably dishonest people, why does India want to retain Kashmir?

A few words about 'disappearance' from custody, before we go on to the next topic. As should be clear by now , persons taken into custody by the armed forces frequently come out dead. The Armed Forces (Special Powers) Act says that the armed forces must hand over anybody taken into custody to the local police within twenty four hours. The spokesmen of the Army say that this is invariably done and the delay that is sometimes observed is only because of the difficult terrain and inaccessibility of many of the areas of operation. This is a blatant falsehood. As a matter of fact, prolonged illegal detention and torture are very common. It is at the end of the 'interrogation' that the severely injured person is handed over to the police. Too often, it is only the dead body that is handed over.

While this is the common pattern, there are

many cases where the person taken into custody simply disappears afterwards. There is no count of how many such 'disappearances' have taken place in Kashmir in the last seven years. But the Kashmir Bar Association has recorded the pendency of 409 writ petitions concerning 'disappeared' persons in the High Court at Srinagar. Of course, any one of them may turn up dead any day. Hopefully, some of them may even turn up alive if not exactly well.

In Kashmir it is frightening how easily one can be picked up by the armed forces and just be not heard of afterwards for any length of time. Our team visited the Regional Engineering College, Srinagar, to confirm newspapers reports of arrest of senior teachers of the College. We were shocked to hear of two professors who had been arrested by the armed forces and were not heard of ever since. Manzoor Ahmed Tantrey of the department of Civil Engineering had been taken into custody on 8 May this year. Dr. Nazir Ahmed of the Mechanical Engineering department who was also arrested along with him, was released a couple of days later. But nothing is known of the whereabouts and the welfare of Tantrey. And Prof. M. Akbar Lone, also of the Civil Engineering department, is missing for two months. He was last seen being taken into custody by the armed forces.

The family and friends of such 'missing' people usually run around the police and the army officials, using all the influence they can muster to find out where the person is, whether he is still alive and when and by what means his release can be secured. The 'means' include payment of bribes, too. One of the scandals of the counter-insurgency operations of the armed forces is the lucrative business of taking money for letting off an abducted person alive. There is no estimate of the proportion of army officers who indulge in this criminal business, nor of how much money has been made on this account. But the occurrence of such instances of extortion is frequently alleged.

Rape by the armed forces:

Complaints of rape, molestation and other

forms of sexual abuse by the armed forces during counter-insurgency operations are heard with alarming frequency. Our team investigated one such incident which happened a few weeks before our visit to the valley, and had created quite a furor because the people agitated about it and forced the Minister of State for Home Affairs, Ali Mohammed Sagar, to visit the village. The army had routinely denied the incident. Ali Mohammed Sagar, making a statement in the Assembly, had said that 'some thing seems to have happened, but not as much as is claimed'. This is in line with the peculiar explanations one often hears in Kashmir, such as that 'only one woman has been raped' or that, 'women were only molested and not raped', and so on.

- The village in question is Wavoosa near Rangreth, Budgam district, quite close to Srinagar city. What happened (as narrated to us by the victims and other woman of the village) was that at about midnight of the intervening night of 22-23 April, a group of army men from the 13 Raj Rifles unit came to the village. They went into three houses, one after the other, and sexually assaulted women. The first house was that of Abdul Ahad Mir who has seven daughters. He was not at home that night. Only his eldest daughter, Maqsooda, is married, and her husband Ghulam Hassan Mir was the only man at home that night. The Raj Rifles men, led by an officer who was described as having a 'French cut beard', came to the house. The officer himself stood outside, but the men entered the house saying there were some Afghan militants in the house and they wanted to search. As a matter of fact, according to Abdul Ahad Mir's wife Mughli and three daughters (Waheeda, Maqsooda, and Rubeena) who spoke to our team, they did not search the house at all. They were more interested in searching the women for the weapons allegedly hidden in their clothes. We are to suppose that the soldiers honestly suspected the women to be sleeping with

guns hidden in the clothes they wore. Maqsooda's husband was dragged out by one man, and the women were forced to put off the lights. Maqsooda was threatened that if she shouted her husband would be killed. Then she was forced to remove her clothes and she was sexually assaulted. Another man went into the room in which her younger sister Waheeda, who was suffering from an infected appendix, was sleeping. Waheeda ran into her mother's room. When the mother tried to put on the light, she was forcibly restrained, and Waheeda was taken to another room and assaulted sexually. Rubena, too, had the same experience. She was asked to remove her clothes so that they could search for hidden weapons, and was raped. Two other sisters, Kulsooma and Rifat, suffered the same fate, but they were not there when we visited the home.

- Next the Raj Rifles men went on to a neighbouring house, that of Ghulam Qadir Bhat whose wife Mahmooda spoke to our team. She was alone at home with her young son and daughter. Her husband was out on duty. He works for BEACON, the Indian Army's border roads organisation, as a driver. The soldiers went and knocked upon the door at the back. She thought they had come for drinking water and opened the door. When they tried to come in, she asked them not to do so, as the children would be scared. But they barged in. They asked her where her husband had gone. She said he had gone on duty. 'No', they said 'he has gone to Pakistan'. Then they said you have a pistol hidden in your clothes, and forcibly removed her clothes and raped her. This time it was the commander with the 'French cut beard' who committed the assault.

Then the soldiers went to another neighbouring house, that of Ghulam Qadir Wani, whose wife Khati and daughter Naza spoke to our team. Khati told us that it was

nearly 1.45 am by the time they reached her house (their expedition had started at about midnight with Abdul Ahad Mir's house). They broke the window, showed a torch inside, and tried to come in, but there was a mesh that prevented them. They then broke open the door and came in. Khati's husband and son (Fiaz Ahmed Wani) were thrown out of the house, and Khati was thrown on the floor. A pistol was put at her throat and she was threatened that she would be shot if she shouted or tried to put on the lights. Then the soldiers raped her daughters Naza and Fareeda. Naza spoke to us and confirmed what the mother said. Khati's daughter-in-law Sara (wife of Fiaz Ahmed) also caught the attention of the army men. But about her, the comment of the household is that she prefers to say that she was 'only molested and not raped'. Sara was not there for us to talk directly to.

The women who wept while narrating the terrible incidents of that night, told us that the soldiers selected these three homes with the knowledge that there was only one man in one house, none in the second, and two (of whom the elder is an asthma patient) in the third. The soldiers who have the prerogative of questioning any one and searching every house, know well which house is fair game for their nocturnal assaults.

The spokesman of the Army had his own explanation to offer for the Wavoosa outrage. His version is that there was an army operation against militants that night at Wavoosa, and the army men saw some lights being flashed from these three houses. Suspecting that the inmates were signaling the militants, the soldiers raided the houses. They may have, in their anger, behaved a little roughly with the people in the houses, which was exaggerated into a complaint of rape at the instigation of the Hurriyat Conference leaders. Such are the facile explanations possible when men in uniform are allowed to sit in judgement over

their own acts and to exculpate themselves without fear of any challenge to their judgement.

The day after the outrage, a police complaint was given by the people of Wavoosa. No case was registered by the police. Nor were the women sent for medical examination. Then, after about 20 days, the Minister of State for Home went to the village and heard the victims. Only then, under his directions, did the police register a criminal case. Later the District Magistrate, Budgam, came to the village and took down the statements of the victims. And a certain Brigadier Sanyal of Raj Rifles also came and enquired into the incident. Yet the army's official version remains what we have quoted above, and the civilian administration is yet to move in the matter.

Here are a few more recent cases of rape by the security forces reported in the press. They merit at least an honest and impartial enquiry before being dismissed as 'malicious propaganda by secessionist forces', the Army's standard reply to all such allegations. Allegations of rape and molestation are quite commonly reported in the Kashmiri press. We are giving here only those instances wherein the Press has carried sufficient particulars of the outrage.

- On 4 December 1996, at Bazar Chogal in Handwara tehsil, Kupwara district, soldiers of RR cordoned off a house at 7 am and ordered all the men to come out. They then went into the house on the plea of searching the house. Shahmali (or Shamma), wife of Ghulam Ahmed Khan, aged about 45 and mother of four, was gang raped, leaving her in a state of shock. She was later taken to the civil hospital at Handwara, from where she was referred to the Lal Ded hospital at Srinagar, where the doctors confirmed forcible intercourse. An FIR has been lodged at Handwara PS.
- On 4 January 1997, soldiers of 5 RR raided the house of Gul Mohammed Shah at Hakura, Anantnag district, at about 5.30 in the evening. They pounced upon Arti (15)

and Akhter (28) and raped them. Their brother is supposed to be a militant, and the jawans were supposedly searching for him. A complaint has been lodged with Anantnag police.

- A widow by name Zaitooni of Lachipora, Uri (Baramulla dt) was taken into custody by men of the army on 30 April 1997 from the house of her sister at Chenan, Uri. For three consecutive days, she was detained at an army camp and raped by two officers identified as Major Pathania and Subedar Bharat. On the fourth day she was released in a critical condition. Ms. Zaitooni was treated at the government hospital, Baramulla. She has lodged a complaint at the Uri police station.
- During the intervening night of 4-5 May 1997, men of RR raided the village Kanir in Chadoora tehsil, Budgam district. They entered houses by force and assaulted women sexually. Raja (35) w/o Ghulam Hassan and Naseema (30) w/o Rajab Bhat were assaulted in their homes. Hearing their cries and the commotion, people of neighbouring houses ran out for safety. The soldiers chased three other women, Khati w/o Maqbool Dar, Raja w/o Sonallah and Khati w/o Ghulam Nabi Ganai.

This outrage led to widespread demonstrations. A complaint has been lodged with Chadoora PS.

- On the intervening night of 21-22 May 1997, armed forces raided the house of Md Ramzan Bhat of Soibugh, Budgam dt. They were accompanied by a pro-government militant by name Mushtaq Ahmed Paul. First the soldiers and then Mushtaq Ahmed Paul raped Bhaty's wife, while Bhat and his son were confined and tortured in a separate room.

The following are instances (reported in the

press with adequate details) of young women being taken into custody and detained at camps in the custody of male soldiers.

- (i) on 6 January 1997, at the village Seer Jagir near Tral, a 20 year old girl by name Raja, daughter of Md. Akram Dar was taken into custody by soldiers led by an intelligence officer by name Raj Narayan.
- (ii) This was reported in the daily newspaper *Kashmir Times*, 3 March 1997. Bahadur Khan was a militant of village Chatragul, Ganderbal tehsil, Srinagar district. He had switched over from militancy to pro-India militancy. But later switched back along with 20 followers to the Hizbul Mujahideen. The frustrated forces in retaliation abducted his wife (name not reported) and took her away.
- (iii) On 25 December 1996, in village Wussan (probably in Baramulla district), soldiers led by one Major Sumeer Singh of RR took into custody one young girl by name Raja Begum. When nothing was heard of her for a week, on 31 December her brother Nazir Ahmed, accompanied by a friend Naseer Ahmed went to the camp intending evidently to have a show down with the Major. The sentry at the gate would not let them in. They quarreled with the sentry, who got angry and opened fire upon them, killing Raja Begum's brother and critically injuring his friend. This tragedy caused panic in the camp and the girl was immediately handed over to the village elders.
- (iv) On 17 March 1997, in Rainawari in Srinagar city, BSF men housed in the empty residence of a Hindu family that had migrated out of the valley, dragged a 12-year old school girl into the camp. She was identified as Irfat Jan, daughter of Abdul Majid of Dhobi Mohalla. She was abducted as she was returning from school. Her cries were heard and local people started gathering in protest. Noticing the

But often, the local people suspect, the purpose of the arrest is only sexual abuse and has nothing legitimate to do with the armed forces' counter-insurgency operations.

mounting tension the BSF released her. She was bruised and her clothes torn by the time she came out. Local people demonstrated and lodged a complaint.

(v) Similar to this is the case of Seema, daughter of Bashir Ahmad of Tulmulla, Ganderbal tehsil, Srinagar district, of whose abduction and release we have spoken in the earlier section while narrating the story of the custodial

killing of the teacher and the tailor at Tulmulla.

Why do the security forces take women into custody? If it is on suspicion that they are involved in a specific act of militant violence, the forces are not supposed to detain them in their custody but hand them over to the local police who must keep them in a separate cell with women constables to guard them. But the armed forces do not hand over anybody to the police until they are through with the 'interrogation', whether that takes weeks or months. Often it is only the dead body that is handed over. This is a criminal violation of law in any case but in the case of women, it results in the totally unacceptable situation that the women then are in the custody of male officers for prolonged periods. The army has no woman soldiers.

But often, the local people suspect, the purpose of the arrest is only sexual abuse and has nothing legitimate to do with the armed forces' counter-insurgency operations.

This opinion, as well as the veracity of the incidents of rape and molestation reported in the Press may be challenged by the armed forces. We too may be challenged to substantiate the allegations quoted by us. As we have said, the Wavoosa outrage is the only such incident investigated by our team, and we have given our report in detail. Yet the other allegations must be recorded. They cannot be brushed aside as unsubstantiated in the absence of any enquiry where they could have been substantiated. It is one thing to say that for the purpose of proving a

crime the allegation must be substantiated in accordance with formal procedure in a fair enquiry. It is quite another thing to convert this procedural requirement of fairness into a fetish and declare that the statements of victims and witnesses do not at all amount to substantiation of the allegation for the purpose of rendering the accusation credible and serious. This twist given to the notion of substantiation is used as a cover to deny the crime altogether with the aid of the simple device of not holding any enquiry at all. The refutation of the allegation must then, by the same logic, be held to be equally unsubstantiated, for it is as much a mere declaration by the army and hence the allegations must be put on record. That is to say, as long as the authorities in Jammu & Kashmir do not create and cooperate with a fair process of enquiry into allegations of human rights abuses by the forces, allegations against them that are clearly and coherently made must be put in print and publicised.

The response of the elected government, in this as in other matters, has been pathetically inadequate. That is illustrated by the one incident of alleged rape in which the State government did respond, because the victim happened to be the wife of a National Conference leader. On the intervening night of 20-21 August this year, an inspector by name Mukesh Kumar of the SOG, accompanied by a 'renegade' militant, went to the house of Block President of Lar, Mr. Ghulam Mohammad Bhat (National Conference), in the village Raipora, Ganderbal, Srinagar district. They said they were looking for his son. When told that the son (Manzoor Ahmad Bhat) was not at home, the two men barged into his bedroom and attempted to rape his wife Mehbooba. The young woman screamed, and her mother-in-law Mukhti came to her rescue. But even as the daughter-in-law escaped, the mother-in-law fell prey to the lust of inspector Mukesh Kumar and his renegade friend. Because of the National Conference connections, the matter went up to the Chief Minister. He is reported to have called a meeting of the top brass of the police, got Mukesh Kumar sent for, and personally questioned him. He

discussed the matter with the police officers for two and a half hours. Yet nothing came of it at the end.

Killing in the name of cross-fire:

Frequently, one hears of incidents where militants and the armed forces exchange fire, and some unarmed civilians are caught in the cross-fire and die. Since real exchanges of fire do take place every day, the possibility of someone being caught in between cannot be ruled out. But often, this possibility is only a cover for retaliatory attacks upon unarmed civilians. That is to say, the militants attack the forces and make good their escape, sometimes before and sometimes after the forces hit back at them. But after they are gone, the forces continue with their revenge, targeting the civilian population. In the beginning of militancy in Kashmir there were plenty of such incidents. They probably brought more disrepute to the Army than any of the other forms of human rights abuse. Subsequently, the Army has been more cautious in its reactions. One often sees odd news items in the Press in which a spokesman of the armed forces, while reporting an attack upon the forces by militants, makes it a point to add the self-congratulatory bit of information that 'the forces did not retaliate'.

However, while such retaliatory murders of civilians have decreased over the years, they have not vanished altogether. The following is a very sad instance of that kind that our team investigated.

- At about 2-45 pm of 11 March 1997, there was a grenade attack on a CRPF truck by militants on the main road at Dal Gate in Srinagar. The CRPF men in the truck, it was later said, fired back at the attackers, and in the cross fire, two passersby were killed. They were identified Sameena and Gulzar Ahmed.

What actually happened is quite different. The grenade attack did take place. The CRPF men then got down and beat up the public in anger. But

they did not, at that instant, go beyond that. Normalcy returned soon, and people started going about their work as usual. Half an hour later, another CRPF truck came roaring into the Dal Gate area. The armed men in the truck started firing into the air in front of them. People ran helter-skelter seeking protection. Sameena Yousuf (22), a daily wage employee of the State government's handicrafts department, was coming back from her office. She lived in the thickly populated locality of Buchwara in Dal Gate. She too ran for shelter along with everybody else, and hid in the taxi stand at Dal Gate. Gulzar Ahmed, a taxi driver, resident of Batamaloo in the city, also ran in with her. So did two constables of the J & K police, who were as scared as the civilians.

The CRPF men, in the meanwhile, got down from the truck with guns in hand. Some of them came to the taxi stand, pulled out Sameena and Gulzar Ahmed, and shot them dead in an act of whimsical cruelty. The protest of the J&K Police

Dwellings suspected to be shelters of militants are attacked by the armed forces, and dwellings used as camps by the forces are attacked by the militants. The houses of many migrant Hindus have been destroyed by militants, and the dwellings of persons sympathetic to or participating in militancy have been destroyed by the armed forces.

constables, that the two were ordinary people and not militants, was to no avail.

This is one example of what could actually have happened when somebody is said to have died in a crossfire. No matter that the armed forces may claim in the press release given after the event, that their men refrained from retaliating against civilians.

Destruction of dwellings and other property:

The gory images blood and death created by the statistics of killing in Kashmir have the effect of dulling any response to other forms of

destruction and loss. One is the extensive destruction - burning and blasting - of dwelling places, schools, cinema halls etc that has taken place in the last six years. The following are the official figures pertaining to this destruction.

No.of incidents	-	4018
Educational Institutions	-	686
Hospitals	-	6
Bridges	-	337
Shops	-	1162
Government Buildings	-	1206
Private Houses	-	8468

(Indian Express, 29 October 1996)

Both the militants and the security forces are responsible for this. Each punishes its enemy not only by physical liquidation but also by burning down property. Also, dwellings suspected to be shelters of militants are attacked by the armed forces, and dwellings used as camps by the forces are attacked by the militants. The houses of many migrant Hindus have been destroyed by militants, and the dwellings of persons sympathetic to or participating in militancy have been destroyed by the armed forces.

The Institute of Kashmir Studies has compiled figures of the number of houses blasted during the first five months of this year in Kashmir.

Jan	-	64
Feb	-	40
Mar	-	16
Apr	-	21
May	-	40

Our team had occasion to speak to one victim of the army's destructive urge, Amiruddin Wani of Badkote, Handwara tehsil, Kupwara district. He narrated to us how he and his family were harassed and their home and apple orchard

destroyed by the armed forces. His son, Md. Amir Wani (25), was a former militant who gave up militancy and came home. Later he joined the Sarkari militants. The father says that they pressurised and forced him to join them. Later the militants put pressure on him to give up his 'renegade' connections. Since an uncommitted life was impossible for him, he joined the militants again. This angered the armed forces who are the sponsors of the Sarkari militants. Men of the 21 RR started harassing Amiruddin Wani and his wife. The demand was that their son should be brought back from the militants. Once Wani's wife was taken to the army camp and 'humiliated'. This simple word can mean anything from vulgar abuse to molestation. Unable to stand this long, Wani and his wife decided to shift their residence to Srinagar. They vacated their house in Badkote and moved to Srinagar in the last week March this year.

The local army men were angry. They did not like the family escaping their clutches so easily. They blasted the Wanis' home in Badkote, and cut down their three acre apple orchard. The orchard was cut down in two phases. The first time was on 10th and 11th of April and the second time was on 28th May. After the first attack Wani met and told of his woes to Abdul Gani Lone, the Hurriyat Conference leader at Srinagar. Lone immediately wrote a letter (of which he showed us a photostat copy) to the IG of Police, Kashmir zone, Mr. P.S.Gill, on 14th April. There was no reply to this letter either to the Hurriyat leader or to Amiruddin Wani. But perhaps the answer came in the form of the May 28th attack in which the remaining apple trees were all cut down.

Freedom of expression:

The people affected by the violence of the security forces and the Sarkari militants frequently resort to protest demonstrations. Rapes and custodial killings usually give rise to such protests. Army crackdowns on villages or urban areas are commonly followed by demonstrations in which people complain about abduction of persons, destruction of property and molestation of

women during the crackdown. Such demonstrations are tolerated by the police and the forces only up to a point. They are frequently lathi charged and dispersed.

The Press is an important vehicle of expression under conditions such as prevail in Kashmir. Unfortunately, the Press has been under tremendous pressure from both the militants and the authorities to toe their line, or to refrain from writing uncomfortable truths. While the militants use the threat of physical attacks and ban on newspapers, the authorities have on occasion resorted to confiscation of newspapers and, much more frequently, veiled threats of physical attacks. Sedition cases have been filed in plenty against the Kashmir Press. In an article written in Kashmir Times, 29 Sept 1997, Showkath Shafi Masudi says that since the beginning of militancy in 1990, about 400 sedition cases have been filed against Kashmir papers! Sedition is such a vague charge that this can effectively stifle all critical writing or reporting.

In recent times, the All Party Hurriyat Conference has been the target of repeated arrests for undertaking demonstrations against human rights violations by the armed forces. On 27 June this year, for instance, the Hurriyat leaders planned a rally at Iqbal Park in Srinagar, to protest against human rights violations by the armed forces. Permission for the rally was refused and prohibitory orders under section 144 of Criminal Procedure Code were promulgated. Hurriyat activists distributing the handbills for the rally were arrested on 24 June, and on 25 June, all the senior leaders of the Hurriyat were arrested from that organisations office at Rajbagh, Srinagar. They were, however, released the same day. On the 27 June, the Hurriyat Conference leaders decided that in lieu of the rally for which permission was denied, they would proceed in a group to the office of the U.N. Military Observation Group in Sonawar, Srinagar, and submit a memorandum. The group was lathi charged and prevented from going to the U.N.M.O.G office. A group of women demonstrators who also tried to approach the

U.N.M.O.G office was also lathi charged. Presspersons who tried to photograph the women and talk to them were attacked by the police and beaten. In protest against this, journalists led a procession later in the day to the Secretariat to meet the Chief Minister. They were stopped on the way by the police. When they argued with the policemen, they were again beaten with sticks and rifle butts. The Press persons then sat in a dharna right there on the road. The police again burst teargas shells and beat them. Two hours later, the Chief Minister personally came there and took the journalists into the Secretariat and tried to make peace with them. But he would not agree to suspend the police officers whom the journalists identified as the ones responsible for the attack on them.

This incident - a rather minor one, in comparison with what routinely goes on in the valley - is symbolic of the Farooq Abdullah government's attitude towards human rights.

The Police, the Courts and the Army:

In the examples given above, we have frequently stated that 'a complaint was given in the local police station' or that 'an FIR was registered' about an act of violence perpetrated by the armed forces.

The Counter-Insurgency operations in Kashmir have been conducted by the armed forces of the Indian Union until recently, and the State police have even been looked upon with suspicion by the armed forces. All Kashmiris, it must be added, were (and still are) looked upon with suspicion, even persons of normally pro-establishment strata of society: Judges, professors, doctors, engineers, policemen etc. It is only recently that the Jammu and Kashmir police or at least the Special Operations Group (also called, as we have said earlier, the Special Task

Force) of the police has started playing a role in the operations, aided by the Sarkari militants-turned- Special Police Officers. Until recently, and even now to an extent, the police reflected the hostility shown towards them by the army. Though, the Director General of Police, J&K, Mr. Gurbachan Jagat, appears confident now (*Kashmir Times*, 10 Sept 1997) that the J&K Police will completely take over the task of counter-insurgency operations from the Army by May 1998.

However that may be, the situation of mutual distrust should have resulted in the police taking complaints about soldiers' misbehaviour seriously. There is nothing in the law which prevents the police from investigating any crime - though when it comes to prosecution, the law provides protection to the armed forces by making the prosecution contingent upon permission from the central government.

But the Jammu and Kashmir police do not usually dare to take up investigation of the complaints. Indeed, as we have seen above, they do not even register a case upon receiving a complaint. It requires some pressure from somebody to goad them to register a case. In the Wavoosa and Tulmulla cases we have seen that it took a direction from the State's Minister of State for Home Affairs to do such a routine thing as register a crime upon receipt of a bonafide complaint. The reason is quite simple. The police are as scared as everybody else of the charge of aiding and abetting militancy, and even a routine attachment to one's duty can elicit such a threatening accusation if it causes inconvenience to the Army. The police therefore would like to have some pressure to show before registering a crime.

Usually the matter stops there. The normal

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course of investigation is not taken up again for the same reason. It often requires a writ petition to be filed and a direction obtained from the High Court to initiate investigation which is the fundamental duty of the police force. But even this cannot go far because the Army refuses to co-operate. And since the accused are army personnel, unless such cooperation is forthcoming, the investigation cannot proceed far. Even if it does, and a final report (charge sheet) is prepared by the police, prosecution requires permission from the Central government, and the permission is difficult to get.

The following are a few examples illustrative of the vagaries of criminal investigation in Kashmir.

- We have spoken of the custodial killing of the four prominent Hizbul Mujahideen leaders in March 1997. We said that they were picked up in the Abiguzar locality of Srinagar and killed elsewhere. Soon after coming to know of their death, Hurriyat conference leaders Yasin Malik and Abdul Gani Lone went to Kotibagh police station, in whose jurisdiction Abiguzar lies, to lodge a complaint. The police unlawfully refused to register the complaint, saying that the case did not come within their jurisdiction as the dead men were killed elsewhere. The Hurriyat leaders then filed a writ petition in the High Court (to get a criminal case registered!) which gave appropriate directions to not only the Kothibagh police station, but all the police stations concerned with the killings. But to date no case has been registered in any police station.
- Last year, in Pashpora, Pulwama district, soldiers along with Sarkari militants raided the house of Abdul Majid, a doctor, and shot him dead. Two more persons were injured in the firing. The case has been investigated only against the Sarkari militants and they alone have been charge sheeted. The Army pressurised the local police not to proceed against the soldiers.
- This incident happened in 1992. The Dal Gate area of Srinagar was cordoned off by the BSF and people were forced to assemble for identification. Later the commander of the unit, Mr. A.K Sethi, directed the arrest of four youth. They were taken into neighboring hills and shot dead. They were declared to have died in a cross-fire. When people went to the police station to lodge an FIR, the Sub Inspector said that there was a circular not to file such FIR's. Then the parents of the four youth filed four writ petitions in the High Court, seeking a direction to the police to lodge an FIR. The High Court issued the directions asked for, and the police registered the cases and completed the investigation. But the trial of the BSF officer has not started, as the Central govt has not given sanction.
- Sixteen year old Javed Ahmed Ahangar of Batamaloo, Srinagar was taken into custody by armed forces from Dhobi Mohalla on 17 Oct 1990, in the initial days of militancy. He then just 'disappeared.' On a Habeas Corpus petition, the High court ordered a probe by a judicial officer who has come to the conclusion that three Majors of the National Security Guards, Messrs. S.C.Katoch, Dinesh Sharma and S.L. Gupta are responsible for the boy's disappearance. As the army would not cooperate in sending the officers to be interrogated by the J&K police, the High Court had to intervene. This March it gave a direction to the National Security Guards to produce the three officers in Srinagar. There is no response as yet.
- The case of Jalil Ahmed Andrabi, human rights lawyer, is well known. He was abducted by Sarkari militants acting under the instructions of an army officer on 9 March 1996. The High Court was moved immediately, and upon the direction of the High Court, the IG of police, Kashmir Zone constituted a special investigation team (SIT) headed by Mr. S.K.Mishra, SSP Srinagar.

Even as this was going on, 26 March, Andrabi's dead body was fished out of the Jhelum River. The SIT then continued its investigations, goaded by frequent criticism from the High Court. After many months, the SIT came to the conclusion that one Major Avtar Singh was the officer responsible for Jalil Andrabi's abduction and killing. This was informed to the High Court by the SIT on 10 April 1997. He belonged to 103 Territorial Army, based in Ludhiana. The Army then informed the High Court that under the Territorial Army Act, the Army recruits persons temporarily for a specified period, and that this Major Avtar Singh, who had been so recruited, had been 'disembodied', i.e., his services dispensed with, effect from 7 Nov 1996, (perhaps round about the time it became apparent that the SIT was closing in on Avtar Singh as the likely culprit). His whereabouts, the Army told the High Court, were not known!. The irritated judges of the Srinagar High Court directed the Army and the Union government to extend all cooperation to the SIT in unearthing that man's whereabouts. To date, there is no news of the whereabouts of this Major Avtar Singh. It is difficult to believe that the Army 'disembodied' that man all that innocently.

- Another story we heard of this Major Avtar Singh is that he, accompanied by one BSF officer by name Ashok Kumar Joshi, arrested a certain Ghulam Qadir Wazar of Baazar Batamaloo, Srinagar, on the intervening night of 16-17 Feb 1996. When the family made efforts to get the detained man released, Avtar Singh the Major asked for Rs. 40,000. As the family would not raise that amount of money, Ghulam Qadir continued to suffer unlawful custody and torture, to which he succumbed soon after.

One only has to contrast this criminal who is, somewhere in this country, strutting about as a

retired Major, with the widely acclaimed dedication of the human rights lawyer Jalil Andrabi who died in his hands, to realise the shameful consequence of the 'freehand' provided to the armed forces by the State in counter - insurgency operations.

These few examples should serve to give an idea of how difficult it is to make the Armed forces answerable to the law in Kashmir. Threats, evasion and non-cooperation make investigation by the police into offences by the Armed forces all but impossible, and if and when the investigation is successfully done, the Union govt comes to the rescue of the guilty officer by dragging its feet over the sanction to prosecute. And yet the few prosecutions that do take place and the even fewer punishments that are awarded are held up as proof of the Army's and the government's concern for human rights!

The Courts, too, must share the blame for the abysmal depths to which rule of law has plunged in Kashmir. The High Court of Jammu and Kashmir has two benches, one in Srinagar and one in Jammu. In Srinagar, there are five judges in Summer and two in winter. This puts a lot of pressure on the Srinagar bench since it is within its jurisdiction that routine and regular violations of the law by the armed forces take place. The lawyers of Kashmir Bar Association told our team that in cases where persons are taken into custody and detained beyond 24 hours, they move a Habeas Corpus petition under Sec. 491 Cr.P.C. (it is the old Code that is applicable to J & K), and in the case of persons detained under the preventive detention law, Public Safety Act (PSA), they move the High Court under Act 226 of the Constitution of India.

There are, we were told, 1300 such petitions pending in the Srinagar bench of the High Court. Of them 409 concern missing persons, i.e., persons who were taken into custody by the Armed forces, and have not been seen thereafter.

These petitions take a long time to reach any kind of a conclusion. PSA detenus usually find that their period of detention is over by the time

'Missing' persons remain missing and it is only occasionally that an order emanates from the High Court directing a District Judge to enquire into the person's disappearance and file a report with the High Court.

their petition is disposed of. 'Missing' persons remain missing and it is only occasionally that an order emanates from the High Court directing a District Judge to enquire into the person's disappearance and file a report with the High Court.

The reasons for this are many. The High Court hears these habeas corpus cases (whether under 491 Cr.P.C. or Art. 226 of Constitution of India) only on Tuesdays. Whatever the stage of the case, it is heard only on that one day of the week. This arrangement was instituted at the time when Justice S.S.Kang was Chief Justice of the J & K High Court. (He later became a member of the National Human Rights Commission, and is now Governor of Kerala). Whatever the rationale of this arrangement, its practical effect is that the 1300 pending cases have to pass through the Court which hears them only once in a week. And this in the teeth of the uncooperative attitude of the respondents (the Army, the State and the Union Govts.), who do everything possible to prolong the hearing. And if the High Court, at any point in the hearing of a case, directs an enquiry by the District Judge of the concerned district, it does not act immediately upon receipt of the Judge's report. It does not immediately issue a writ of habeas corpus or mandamus, as it could. Instead, it again gives the government four to six weeks time to file objections to the report. Whatever directions it finally gives come only after receiving and hearing the objections. One recent instance is the case of Riyaz Ahmed Khan of Seer Jagir, Sopore, Baramulla dt. He was taken into custody on 21 Jan 1992 by the Army and is missing ever since. In a habeas corpus petition filed by his family, the High Court directed the District Judge, Baramulla, to enquire and file a report. The Judge identified the unit responsible for Khan's abduction and filed his report on 2 Feb 1997. Justice A.Q.Parray before whom the matter came,

directed the government to file objections to the report and gave it five weeks time. The report was yet to be filed as of mid-September.

This is not all. The Srinagar High Court has been in the habit of giving four weeks notice before admission to the State in habeas corpus petitions under 491 Cr.P.C, that is, four weeks time to file objections to the admission of the petition. In the case of Art 226 petitions, it gives a six week notice before admission and if the objection are not filed at the end of the period the court does not usually admit the petition and proceed to hear it but gives the State further time to answer the notice. One lawyer told us that there are cases where the objections are awaited for more than a year, for the petitioner's advocate gives up out of frustration, and nobody else is interested in proceeding with the case. The case of Ghulam Nabi Dar of Anantnag district is a pathetic instance. He was arrested on 10 July 1994 by 10 Mountain Brigade. A complaint was immediately filed at the Kulgam police station. As his whereabouts continued to be unknown, a habeas corpus petition was filed in the High Court in 1995 by his family. The High Court, before admitting the petition, issued four weeks notice to the State to file objections. Four weeks have turned into two years, and the State is yet to file objections. The Court keeps giving more and more time to the State (to file objections preliminary to admitting the habeas corpus petition). In September this year, the High Court finally lost its temper to the extent of levying a fine of Rs 1000 on the Superintendent of Police, Anantnag, to be paid from his personal account, for not goading the State to file its objections. But it nevertheless gave ("for the last time") two more weeks time to file its objections. Such a procedure, evidently, stands little chance of saving the lives of unfortunate young men like Ghulam Nabi Dar.

While this is the generosity shown towards

the State by the Courts, the attitude towards the petitioners is the opposite. The High Court is known to dismiss even habeas corpus petitions for default, that is if the lawyer fails to appear in time.

But even when the Courts do give orders they are not obeyed by the administration. A prisoner who obtains bail has no guarantee that he can get out of jail, for the release order may just be ignored. It then requires another habeas corpus petition to obtain the person's release! of course, a simpler and seemingly 'legal' method of defeating bail orders is to rearrest the released person under a preventive detention order (PSA). The administration makes no secret of its malafide intention in issuing PSA warrants. Or else, the released person is simply implicated in any one of the umpteen cases pending investigation, which is enough to ensure that he is not released. In July this year, Justice Ali Mohammad Mir of the Srinagar bench of the High Court had occasion to comment upon this atrocious practice. The case pertains to one Nooruddin Shah of Doru, Anantnag dt. He was arrested on 25 May 1993 under the PSA. One year later, when the detention period came to an end and he was to be released, he was shown as an accused in a criminal case. This stratagem was resorted to again and again, and today he is still in jail. Commenting that 'the liberty of an individual is of prime importance', Justice Mir directed the police to shift the prisoner to the Srinagar Central prison and submit to the Court the entire record of the cases pending against him.

The sad case of Farooq Ahmed Khan of Gulistan, Baramulla district, exemplifies well the extent to which the orders of the judiciary have been rendered irrelevant in Kashmir. We give the details from the information provided to us by the Kashmir Bar Association, and the letter written in desperation by Farooq Ahmed Khan's lawyer Hussamuddin Ahmed to the Supreme Court of India in the hope that he will thereby activate that Court's famed epistolary jurisdiction, and that at least the apex Court's orders will be obeyed by the Army and the

administration in Kashmir.

Farooq Ahmed Khan a graduate from Kashmir University, just then selected as a teacher by the State's Service Selection Board, was rounded up in a routine crackdown as early as 1990, the beginning of militancy, by the 8 Bihar Regiment. Today, seven years later, his family is unable to obtain his release inspite of many release orders issued by competent Courts. After his arrest, Farooq Ahmed was subjected to brutal torture by the armed forces before they realised that he was an innocent young man, unconnected with any crime or with militancy. But as he had been severely tortured, they did not wish to release him immediately. They asked his father Baba Nawab Khan to execute an undertaking that he would not report his son's arrest and detention to any authority. Then they asked him to come and collect his son after a week by which time his wounds would have healed.

Right at that time the commandant of the army unit that had arrested Farooq Ahmed was directed to shift all the arrested persons in his custody to Srinagar for further interrogation. He did, and thus Farooq Ahmed Khan went to Srinagar instead of home. From there he was booked under PSA and taken to the district Jail, Udhampur, to be detained for one year.

It was three months after he was locked up in Udhampur jail that his father found out what had happened to his son. He sought the help of the Kashmir Bar Association, which filed a habeas corpus petition for Farooq Ahmed Khan, challenging the detention order. By the time the petition was decided, the detention period of one year was over. But inspite of the completion of the period, Farooq Ahmed Khan had not been released. Hence, on 17 Nov 1992 the High Court directed the young man's release.

This order was not obeyed. The young man was removed from Udhampur jail and taken to the detention centre at Kotbilwal, Jammu. This detention was not authorised by any law or lawful procedure. Unable to secure his son's release, the frustrated father died of heart attack. There was thereafter nobody to plead on the young man's



Tortured victims in Soura hospital, Srinagar

behalf. Two and half years later, on March 1995, he was shifted again to the detention centre at Rangreth near Srinagar, where his incarceration continued, without any legal sanction. In July 1996, a team of lawyers from the Kashmir Bar Association visited this detention centre. They were moved by Farooq Ahmed Khan's emaciated appearance and sad story. They then moved the High Court with a habeas corpus petition under 491 Cr.P.C. The court asked the respondents to either show which law the young man had been detained under or else produce him in court.

The authorities then showed him as an accused in FIR 1/93 CIK (CIK stands for Counter-Insurgency Kashmir. It is one of the investigating agencies for militancy-related crime). The lawyers then obtained bail for him. Instead of releasing the young man the authorities showed him as accused in FIR 1/94 CIK. Bail was again obtained and a release order shown to the authorities. They now showed him as an accused in FIR 19/92 CIK. Again bail was obtained. But the release order was again not honoured. When the lawyers moved the court again, the authorities showed Farooq

Ahmed Khan as an accused in FIR 2/92. Once again, bail was obtained, but once again he was not released.

The lawyers then went to the High Court with a habeas corpus petition which came up for hearing on 4 Feb, 1997 before Justice Kawoosa. The lawyers narrated the sordid story of the petitioner's totally unjustified and unlawful detention for 7 years. The Judge then directed the respondents to declare in an affidavit once for all the particulars of all the FIR's Farooq Ahmed Khan was wanted in, and made an order that he shall not be shown as an accused in any other FIR after the filing of this affidavit. The authorities were given three weeks time but took 7 months to file their affidavit, in which the young man was shown as an accused in FIR 6/94 CIK. The lawyers then obtained bail for him, but this release order too was not honoured. Instead, the authorities flashed messages to the police stations in Baramulla and Sopore to register fresh cases against Farooq Ahmed Khan.

The lawyers then filed a contempt petition against the authorities before Justice Kawoosa. But the judge, this time, dismissed it without even given a hearing to the petitioner.

That is where the matter rests - or did rest as of 31 May when our team met the members of the Kashmir Bar Association at the District and Sessions Court, Srinagar. Farooq Ahmed Khan's advocate Hussamuddin Ahmed has narrated this very sordid tale in his letter-petition to the CJ of the Supreme Court of India. It is worth quoting a paragraph from his letter:

"The court is considered to be the last and only hope for the victims of administrative despotism. As custodians of the Basic rights of the citizens of India, the Courts are supposed to come to the rescue of those people whose most precious right to life and liberty is jeopardised by unscrupulous administrative action, especially that of those in uniform It is not too difficult to imagine the level of frustration and dismay of a person who has been denied justice even after exhausting all the legal, Constitutional and peaceful measures available to a person in a civilised society established by the law of the land. If the

functionaries of the government do not honour and comply with the orders of the Court, as in the present case, and the Courts overtly or covertly express their helplessness to come to the rescue of the victims, it will encourage lawlessness and everybody under the cover of law will become a law unto himself leading to anarchy. This exactly is the situation prevailing in this part of the country".

It would be wrong to give a picture of unrelieved bleakness. In the teeth of all its difficulties (some of them self-created) the Srinagar bench of the J&K High Court has been off and on successfully getting enquiries conducted into allegations made in habeas corpus petitions. In 55 cases, reports have been submitted by District Judges indicting clearly identified units of the forces, or sometimes even individual officers of the Army. And then, of course, the scene shifts to the Central government, which must give sanction for prosecution. That is not very easy to obtain, as we have noted.

Bringing to life the institutions of law and justice is one of the areas where one could reasonably expect the civilian government to have had some success. After all, there is no policy decision involved in it. It is merely a matter of insisting on respect for the institutions of law and justice which are as vital to democracy as the legislature. Yet, the rulers of India as well as of J & K who were so vocally concerned about holding elections to the legislature so that democracy may be restored in the State, have shown little concern for restoring to life the rest of the institutions of democracy. Or perhaps one should understand their concern for elections as not a concern for democracy but only for power. Then it makes sense why the politicians back in power are not interested in restoring to respect the Law and the Courts. That would give them no power, and would on the contrary act as a check on their power. More pertinently, too much insistence on this matter might irritate the powers that be in Delhi, and that would create problems for the newly restored power of the rulers of Jammu and Kashmir.

Before putting forward some concrete demands before the central and state governments, we would like to comment in brief on some aspects of the political process. We do not wish to advocate any final 'solution' to the 'Kashmir problem' but only to reiterate our earlier stand that any solution must be grounded on the hopes and aspirations of the people of Jammu & Kashmir and not what is called the 'National interests' of India, or Pakistan for that matter. It is from within this perspective that we would like to comment briefly upon the political process.

Two things are admitted by every one who has written about Kashmir. One is that there is a strong feeling in Kashmir for what one may call Separatism for want of a better word. Neerja Chowdhury, to quote just one example of a columnist who can not be accused of being a partisan of Kashmiri separatism, admits that 'autonomy is an emotional issue in Jammu & Kashmir' (*Indian Express*, 4th November, 1996). She adds that 'No one defines it'. They do, provided they are freely allowed to. The meaning of the feeling of separateness ranges all the way from a desire for autonomy within India to merger with Pakistan to total independence for all Kashmiris from both India and Pakistan. In conversation, most Kashmiris say that it is the last that they want. It is upto us whether we choose to believe them or suspect their bonafides in declaring that what they want is not merger with Pakistan but total independence. However that may be, there is no way that the 'Kashmir problem' can be tackled without recognising and respecting this feeling. Of course, the people of Jammu and Ladakh have different feelings. They have frequently given expression to their apprehensions. And not all people in those regions think alike, just as not all people in Kashmir think alike. And yet, it is the 'emotional issue of autonomy', or the feeling of separate Kashmiri identity, widely held in Kashmir, that is the starting point and the root of the problem. Other feelings and apprehensions must be

IV.

CONCLUSION

considered in conjunction with this fundamental root of the problem. Only an honest and democratic approach on this basis can result in an acceptable political solution. Instead, what we have seen all these decades, is a manipulative approach to the problem. An approach that has sought to manipulate and force the situation so as to make the incorporation of Jammu & Kashmir in India an 'accepted fact'.

The second fact, which again all observers accept is the 'alienation' of the Kashmiris, which expression is apparently intended to convey the complete lack of faith in the Indian government on the part of the Kashmiris.

This is not a capricious loss of faith but a well grounded mistrust. There was a certain situation prevalent in the valley upto 1953, a situation created to the mutual satisfaction of the Kashmiris and Union of India. Two agreements marked this situation. One, the instrument of accession by virtue of which Jammu & Kashmir became part of India (without which it would never have become part of India), which was given constitutional status later in article 370. And two, the Delhi Agreement of 1952 between the Prime Minister of India and the then Prime Minister of Jammu & Kashmir. The elements of this autonomy were eroded gradually after 1953, not by any democratic means, not with the free consent of the people of Jammu & Kashmir, but by putting in Jail anybody, (beginning with Sheikh Abdullah himself) who would stand by the provisions of the autonomy, by suppressing the civil rights of critics, and rigging elections to provide a pliable government in Jammu & Kashmir that would endorse all that New Delhi did. Once again, we can do no better than quote the prominent columnist Kuldeep Nayyar, who cannot be accused of being a partisan of Kashmiri separatism:

"If posterity ever apports blame for the

conditions in Jammu & Kashmir, New Delhi will have far more to explain than Islamabad. From the beginning, we have made a hash of things in that state. We jailed Sheikh Abdullah, who was instrumental in the integration of Jammu & Kashmir in the Indian Union. We never allowed the people of the state to choose their rulers as the rest of the country did and saw to it that New Delhi's choice was Srinagar's choice" (Indian Express, 14th October, 1996).

It is in this context that the recent promises of restoration of autonomy must be seen. It is not a sop to the Kashmiris to give up the demand of

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secession, but a restoration of what was agreed upon in good faith but taken away by undemocratic and forcible means. To restore the autonomy is the only an act of atonement by which New Delhi recovers the trust of Kashmiris so that an honest process for resolution of the crisis can be begun.

But the promise of restoration which began with a bang threatens to end in a whimper. The Janata Dal, in its election manifesto, promised maximum possible autonomy to the State. It is only now becoming apparent that the 'maximum possible can well be zero'. Farooq Abdullah, for his part, spoke of restoration of the pre-1953 position while campaigning for the polls. After winning with a thumping majority, all that needed to be done was the passing of a resolution by the Assembly (in which the ruling party has 57 out of 87 members) and the Council (in which all members belong to the ruling party) to be sent

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to Parliament, requesting the Parliament to withdraw all the statutory changes made vis-a-vis Jammu & Kashmir from the time of Sheikh Abdullah's arrest in 1953. Instead, after taking over power, Farooq Abdullah has constituted a committee headed by Karan Singh to go into the question of restoration of autonomy. According to its terms of reference, the Committee is to 'examine and recommend measures for the restoration of autonomy consistent with the instrument of accession and the Delhi agreement of 1952'. That seems to be in accordance with the poll promise, but even as the Committee was getting on with its labours, Abdullah made statements that effectively negate the promise. He has declared that the restoration that emerges from the labours of the Committee may be anything between the pre-1953 position and the position at the time of the Sheikh Abdullah - Indira Gandhi Accord of 1975. By that time infact autonomy had almost been totally eroded. The Committee was soon caught in a crisis. Karan Singh, its Chairman, resigned on 29 July 1997, giving as reason the other pressing commitments he had. The resignation was accepted by the government on 6 August. The real reason for the resignation, according to Press reports, appears to be that Karan Singh had prepared a draft of the proposed restoration of autonomy, which was too meagre to satisfy the other members of the Committee. What will finally emerge from all

this, and whether it will serve the purpose of restoring the average Kashmiri's faith in the Indian polity, is anybody's guess.

But Farooq Abdullah has done a good thing by constituting another committee to go into devolution of power within the state, that is the question of regional self-rule, which will help calm the trepidations of the people of the Jammu & Ladakh regions. But as far as the Kashmiris are concerned, and therefore as far as militancy is concerned, autonomy for the state is bound to be the central issue, and in that matter, Farooq Abdullah has clearly diluted his poll promise by implying that it can mean anything short of the promised pre-1953 position. In Kuldip Nayyar's words, again, Indian rulers may well be loosing their last chance of settle their record right in Kashmir and regaining the faith lost.

Before going to the demands that we place before the Union and State governments we would like to refer to the acts of arbitrary violence indulged in by the militants. As we have said above, they use methods of ruthless terror against anyone who opposes or disagrees with them. Terror is used also to force the media, the intelligentsia, and society at large to obey their dictates. As we have explained earlier the fact that the goal of separation espoused by the militants finds sizable sympathy in Kashmir does not excuse their methods of arbitrary violence and terror. This year, for instance, the militants imposed a ban on five Srinagar based daily newspapers (*Srinagar Times*, *Nada-i-Mashriq*, *Al-Safa*, *Roda-e-Jehad*, and the weekly, *Chattan*) because they did not expose the army's human rights violations to the satisfaction of the militants. The ban lasted from 1 March to the end of April. The militants also killed a TV journalist, Syedian Shafi, on 16 March, because they did not take kindly to his working for *Doordarshan* programmes on Kashmir, which were not to the militants liking. The fact that the *Doordarshan* programmes are slanted does not excuse such violent intolerance towards the professionals working for the programmes. We heard that Shafi was an honest

and dedicated worker. There have also been many instances of militants killing their political opponents merely because of political differences. Such arbitrary acts of violence cannot be justified even by the noblest cause, and must be condemned.

We put forward the following demands before the central and state governments.

1. Withdraw the Armed Forces (Special Powers) Act and the J&K Disturbed Areas Act, that give arbitrary powers to the armed forces and the police. Also withdraw the Public Safety Act (PSA), a preventive detention law that is being misused to rearrest persons lawfully released by the courts. Punitive and preventive action must be taken only within the frame work of normal legislation, without making recourse to such extraordinary legislations.
2. Put an immediate end to all human rights violations such as torture, custodial killing, fake encounters, arson, rape looting of property, etc. A firm direction must be given to the forces to follow lawful procedure and rule of law.
3. Hold an enquiry into violations of human rights by the armed forces, the police, and the pro-government militants by a retired Chief Justice of India.
4. Disarm the pro-government militants, Stop the policy of recruiting them into the police and the armed forces. Stop the policy of encouraging private armed gangs to do the State's counter-insurgency job. If the surrendered militants are to be rehabilitated, they may be given loans or employed in government departments other than the police and the armed forces.
5. Investigate all allegations of bribery. and extortion by security forces and the police.
6. The State government must ensure that every complaint of human rights violation is registered as a crime by the police and investigated without fear or favour. The Centre should ensure that the armed forces cooperate with these investigations. Sanction must be given for all such prosecutions. The counter-insurgency operations must be supervised by the state police under the control of the state government and not by the army, which should only aid the state government at its request.
7. The State government has set up a State Human Rights Commission, which is a welcome step. It must, however, appoint members of proven independence and integrity. This caution is necessary because the appointing authority will be an almost exclusively National Conference body, given the overwhelming majority for that Party in the State Assembly and the Council.
8. The Supreme Court's directions regarding arrest and interrogation given in D.K. Basu versus State of West Bengal, 1997, must be strictly followed by the police and the security forces. These directions have been reiterated by the Srinagar Bench of the Jammu & Kashmir High Court in W.P. No. 79 of 1997, Nazir Ahmed Baghwan versus State.
9. The J&K state government has issued an order laying down compensation to be paid to victims of militant's violence. We have come to know that this order is not being fairly implemented. The government should ensure the impartial implementation of the order. Similar compensation must be paid to the victims of the violence of armed forces and pro-government militants.
10. The civic problems of the migrants in Jammu must be immediately attended to. Their

educational and employment needs must be fulfilled. Conditions for their honourable return to the valley must be created.

We will end the report by drawing attention to two recent incidents of senseless violence perpetrated upon the Kashmiri civilian population by the Indian and Pakistani armies. The incidents are perhaps symbolic of the brutal logic that has been at work in the Indo-Pak conflict over Kashmir: the least prized thing in this war over the prized possession is the well-being of the Kashmiris themselves.

On 18 September, Indian armed forces engaged in counter-insurgency operations in Bandipora tehsil (considered to be a militant strong-hold) of Baramulla district rained shells upon the house of Abdul Aziz Mir in the village Arin. It was the first time in seven years of counter-insurgency operations that the Army had shelled civilian residences in Kashmir. Eleven persons, seven of them women, died in the outrage. In acknowledgment of the utterly indefensible nature

of the massacre, the government granted monetary compensation of Rs 1 lakh for each of the dead persons. It is perhaps the first time that compensation has been paid for killings in Kashmir by the armed forces.

The Arin killing did not get much publicity in the mainstream Indian Press. But less than two weeks later, there was a similar killing in Kargil, but this time by the Pakistani army, which led to loud protests in our Press. On 30 September, the Pakistani army shelled Kargil township for seven hours, terrorising the people and killing seventeen. It was many days before the terrorised survivors returned to Kargil. Pakistan is yet to even apologise for having killed defenceless civilians.

These 28 unarmed civilians of the State of Jammu and Kashmir killed in such a horrible manner in the space of less than two weeks should serve us as a reminder of the urgency of the task of resolving the 'Kashmir problem' quickly, justly and to the satisfaction of the people of Jammu and Kashmir.



ANNEXURE

Chronology of relevant events in J&K upto the beginning of militancy

15 Aug 1947

The British leave India. The country is partitioned. Princely States allowed to choose whether they would join India or Pakistan or be independent. Maharaja Hari Singh, ruler of J&K, is undecided.

24 Oct 1947

Raiders in large number from Pakistan enter J&K in the Poonch region.

26 Oct 1947

Maharaja Hari Singh offers accession to India in return for help to fight the raiders. But he offers accession on condition that J&K will be an autonomous entity within India. The Centre would have power only in matters pertaining to Defence, Communications and Foreign Affairs.

27 Oct 1947

Government of India accepts the offer of accession, including the condition of autonomy, and adds that once law and order is restored in J&K, the consent of the people of the State would be obtained, and only then the accession would be treated as final.

2 Nov 1947

Prime Minister of India, in a broadcast over All India Radio, says that the future of J&K would be decided by the people of the State, and that a referendum would be held in the State under international auspices once peace is restored.

31 Dec 1947

Govt of India applies to the United Nations (U.N) to intervene against the aggression committed by Pakistan on J&K. In that plea, it says: 'the Govt of India wants to make it very clear that as soon as the raiders are driven-out and normalcy is restored, the people of that State will freely decide their fate, and the decision will be

taken according to the universally accepted democratic means of plebiscite or referendum. To ensure free and fair plebiscite, the supervision of the U.N will be necessary'.

21 Apr 1948

U.N. passes resolution on the Indian complaint. Inter alia, it notes with satisfaction that 'both India and Pakistan desire that the question of accession of J&K to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite.' It initiates measures to pave the way for implementation of the promise. Eight more resolutions are passed until December 1957 to the same effect.

26 Jan 1950

Constitution of India adopted. Article 370 of the Constitution incorporates the autonomy of J&K as envisaged by the instrument of accession. But it adds two clauses that give the Central government the scope to dilute the autonomy.

Oct 1951

The Constituent Assembly of J&K is elected and convened. It is to draft a Constitution for the State in accordance with the instrument of accession, and also function as legislature for the State until the adoption of the State's Constitution. Sheikh Mohammed Abdullah's National Conference (NC) wins all the seats in the Constituent Assembly unopposed. There are allegations of intimidation from his opponents.

24 July 1952

In the background of differences between the NC and the Govt of India about the nature of the Constitution J&K was to have, Sheikh Abdullah and Jawaharlal Nehru enter into the 'Delhi Agreement' which lays down some specific details about the contours of the autonomy that J&K was to enjoy.

9 July 1953

Sheikh Abdullah, Prime Minister of J&K, arrested on vague grounds and dismissed from office. He is not charged, then or later, with any specific offence, never tried in a Court of Law, and never sentenced to imprisonment, but spends the next fourteen years and a half (till 2 Jan 1968) in jail, except for two periods of freedom in 1958 and 1964-65, totalling one year and five months.

1954

Constitution (Application to J&K) Order is passed by Parliament, extending the list of subjects. Parliament could legislate upon vis-a-vis J&K. This is done while the State's Constitution is still in the making.

9 Aug 1955

Sheikh Abdullah's associate Mirza Afzal Beg forms Plebiscite Front to oppose the National Conference, which he declares to have become a stooge of the Central government.

17 Nov 1956

The Constitution of J&K is adopted by the State's Assembly. It declares that 'the State of J&K is and will be an integral part of India'. Sheikh Abdullah protests from prison.

24 Jan 1957

U.N Security Council passes a resolution saying that the above declaration would 'in no way constitute a valid disposition of the State in terms of the U.N resolutions'.

1957

Elections held to the State Assembly under the new Constitution. NC, led by Bakshi Ghulam Mohammad, wins. But 43 out of the 75 seats are returned unopposed. Allegation of intimidation and terror by NC.

1958

Parliament passes law extending Central Services such as Indian Demonstrative Service to J&K.

1962

National Conference wins the Assembly elections once again, taking 70 of the 75 seats in the Assembly. But 34 of them are elected unopposed. Allegation of terror and intimidation by NC

11 Oct 1963

About one year after the thumping victory, Prime Minister Bakshi Ghulam Mohammad is deposed and Khwaja Shansuddin is elected in his place. Allegation that the change was imposed by Delhi.

1 March 1964

Shamsuddin also deposed and G.M. Sadiq elected in his place, again allegedly at the behest of Delhi. Bakshi Ghulam Mohammad protests. He is arrested on grounds of corrupt practices, but released eleven weeks later, without being charged or tried.

1964

Series of statutory amendments made by Parliament with approval of J&K government, which dilute the autonomy of the State. In the U.N., India's representative declares that under no circumstances will India agree to the holding of a plebiscite in Kashmir.

1965

National Conference reconstitutes itself as the J&K wing of the Indian National Congress.

1967

The Congress, led by G.M.Sadiq, wins the Assembly polls with a thumping majority. But 39 of the 75 seats returned unopposed. Allegations, once again, raised against the Congress for its tactics of terror and intimidation.

9 Jan 1971

Sheikh Abdullah, now free and the leader of Plebiscite Front, plans to go to Srinagar (from New Delhi) to campaign for Parliament polls, but he and his associate M.A.Beg are served with

orders prohibiting them from entering J&K. The State Assembly later bans the Plebiscite Front from participating in polls.

24 Feb 1975

The Indira-Abdullah accord (also called the Parthasarathi-Beg accord) signed by Indira Gandhi and Sheikh Abdullah. It swears by Article 370, but accepts that J&K is an integral part of India. Sheikh Abdullah agrees to become Congress party's leader in J&K, and thereby regains his freedom to participate in political activity in the State.

25 Feb 1975

Sheikh Abdullah is elected leader of the Congress Legislature Party in J&K. But in July he revives the National Conference.

1977

Assembly elections held in J&K after the lifting of the Emergency. Generally described as the first free and fair elections in the State. Abdullah's National Conference wins with a sizable majority.

8 Sept 1982

Sheikh Abdullah passes away. His son Farooq elected leader of N.C.

1983

National Conference, under Farooq Abdullah's leadership, wins the elections to the State Assembly. Farooq takes the N.C into the anti-Congress camp in Indian politics. He attends the Vijayawada conclave of Opposition parties, and himself convenes a conclave in Srinagar.

1984

Gul Shah, N.C leader, engineers a split in the party and requests J&K Governor B.K.Nehru to recognise his faction, to which the Congress declares its support, as the majority. Nehru refuses. Central government then replaces Governor Nehru with Jagmohan who dismisses Farooq Abdullah's government on 2 July and swears in Gul Shah as Chief Minister.

6 March 1986

Congress withdraws support to Gul Shah and Governor's rule is imposed in J&K.

7 Nov 1986

Farooq Abdullah enters into power sharing agreement with Rajiv Gandhi. He comments: 'Anyone who wants to form a government in J&K cannot do so without sharing power with New Delhi'.

23 Mar 1987

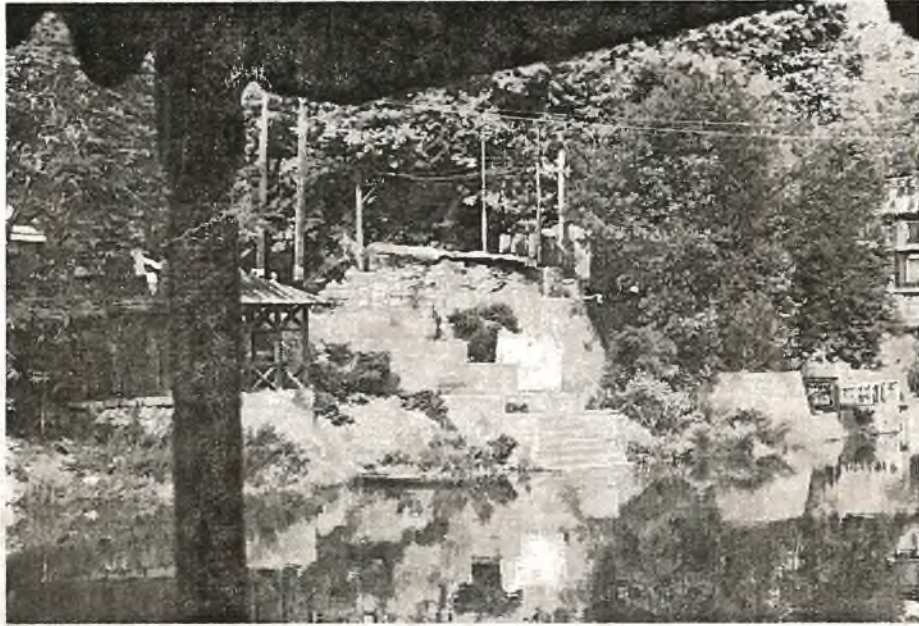
Elections held in J&K for the State Assembly. NC-Cong combine formed as a consequence of the Rajiv-Abdullah accord opposed by Muslim United Front, consisting of 13 parties including Jamaat-e-Islami. Widespread allegations of rigging and malpractices in counting. By all accounts, MUF did well in the polls, but was declared to have won in only four seats. Farooq Abdullah forms government, but militancy takes over the State by 1989.

1990

Jagmohan sent as Governor once again. He dismisses the State Assembly and takes over the administration.



*Army bunkers can be seen
in every lane and by-lane
in Srinagar.*



At Dal lake



Neat Hazratbal