

# KASHMIR: AN ENQUIRY INTO THE HEALING TOUCH



WHAT DOES THE FUTURE HOLD FOR THEM?

# **KASHMIR: An enquiry into the Healing Touch**

A report to the people of India by Association  
for Democratic Rights (AFDR), Punjab, Human  
Rights Forum (HRF), A.P. & Organisation for  
Protection of Democratic Rights (OPDR), A.P.

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Published by K.Balagopal on behalf of the above three organisations.

# The terms of reference

A joint Fact Finding Committee of three Rights organizations, Association for Democratic Rights (AFDR), Punjab; Human Rights Forum (HRF), Andhra Pradesh & Organisation for Protection of Democratic Rights (OPDR), Andhra Pradesh, toured the State of Jammu & Kashmir from 20 May 2003 to 30 May 2003. The purpose of the tour was to gather facts concerning three issues: 1) The State of human rights in the regime of the coalition government of People's Democratic Party (PDP)-Congress that took charge in the State last year, in particular whether there has been any improvement. 2) The problems of the people living near the border (the International Border as well as the Line of Actual Control), especially in the context of Operation Parakram, the heavy deployment of Forces along the border post-Dec 13, 2001 and the consequent shelling, bombing and mining along the border. And 3) the views of the people of the State regarding the proposed talks for resolution of the 'Kashmir dispute' between India and Pakistan under barely concealed US pressure.

## *Why these terms of reference*

### **Human Rights record of the new government**

News is never fully objective, but when it comes to Kashmir even the normal effort made by honest sections of the media to be as factually accurate as possible is not believed to be worth making, even by the self-consciously independent sections of them.

It is an article of faith in India that last year's elections which brought Mufti Mohammed Sayeed's Government to power in Jammu & Kashmir (J&K) were free and fair, and that the people braved the threats of militants and rejected the boycott call of the Hurriyat Conference to come out and vote in large numbers. It is a further article of faith that this voting signifies rejection of the politics of 'separatism'.

A brief comment on this belief is pertinent for the issues we are looking at. Voting during the recent elections was hardly as much as people in India believe, and it was motivated more by a desire for bringing in governance that would have concern for people's basic needs and rights, than any determination to reject the politics of separatism (or azaadi as Kashmiris call it). If there was the threat of the militants and the pressure emanating from the boycott call of the Hurriyat Conference, there was equally the pressure put upon the people by the armed forces to come out and vote. This worked strongly in the border areas, including a populous town like Kupwara. There is no assessment of what these pressures of opposite tendencies added up to, but all said and done, participation is measured by numbers, and in Kashmir Valley, the percentage of voting was just 28% (8.23 lakhs out of a total electorate of 28 lakhs). It was certainly more than in the previous elections, but much less than what is regarded as average voting in our country.

This is effectively obscured by quoting the voting percentage for the entire State and passing it off as representing the degree of participation of the electorate in the teeth of opposition by the separatists.

The factor that worked in favour of the relatively greater participation this time round was the main election plank of the People's Democratic Party (PDP) of Mufti Mohammed Sayeed, and his (more popular) daughter Mehbooba Mufti (presently President of PDP). That was restoration of respect for human rights in the administration of counter-insurgency. There is little doubt, and little surprise considering what the people of the affected parts of the State have suffered in the last fourteen years, that this promise was attractive. Inasmuch as, at least with Mehbooba Mufti, it was not a last minute election promise but a continuation of a vocal political campaign against human rights violations for quite some time now, the people trusted the promise more than they would otherwise have.

It becomes important therefore to look at the actual performance of the new government in this area. In addition, it needs to be emphasised that in the absence of an atmosphere free from fear and anxiety, the people cannot take part effectively in any process of resolution of the dispute concerning their territory's accession to India.

### **The problems of the border people**

India has a long border with Pakistan. The portion of it that starts in Gujarat and ends in about the middle of Akhnoor tehsil of Jammu district of J&K is the International Border (IB). The portion starting from there (in the village of Pallanwala in Akhnoor tehsil) and going up to Kargil beyond the Kashmir Valley is the Line of Actual Control (LOC). The tens of thousands of families living along this border – and more particularly the LOC – are among the silent victims of the half a century of conflict between the two countries. They have been killed, maimed, displaced, their houses shelled, their cattle killed and their fields devastated. Uncertainty and occasional displacement has affected their children's education and their livelihood prospects including development of their lands. This is a massive human problem, and yet it has not attracted human rights activism till now. The problem was there from the fifties, but it has got exacerbated in phases: after 1989, when the movement for azaadi broke out in Kashmir, leading to movement of would-be militants from this side of the border to that and back, and therefore increase of border patrolling to prevent the traffic; later after the Kargil-centred conflict, resulting in concentration of the Indian Forces in Kargil, and therefore enhanced 'infiltration' along the rest of the LOC, leading to further enhancement of troop deployment along the LOC thereafter; and later again after 13 Dec 2001, when India decided to deploy massive forces along the border to pressurise Pakistan to put an end to 'cross-border terrorism'. It is time that the devastating impact all this has had on the lives of the border people was properly documented and disseminated as yet one more dimension of the human rights problem in J&K.

## **The people's perception of the proposed talks**

It is easily and frequently forgotten that the 'Kashmir dispute' is a dispute not because Pakistan disputes Kashmir's accession to India, but because the people of Kashmir and to some extent the other parts of J&K dispute it. The Government of India does not wish to acknowledge this fact because it would bring back memories of the much-regretted promise of plebiscite made fifty five years ago. But it must necessarily be acknowledged. As such, the people of J&K should have the first and last say in any 'resolution' of the dispute, being the primary party to it. Yet, all the talk one sees of discussions between India and Pakistan make no reference to this primary party, but only to their territory. The need to restore the primary party to its rightful status cannot be ignored, and a beginning may be made by letting the world know what the primary party thinks of the proposed talks.



# The Report

In the last few months there has been considerable debate in J&K – more particularly the Kashmir Valley – about the impact of the new government on the human rights situation in the State. Leaving out the rhetoric, it would appear that initially at least there was a slight let up in the number of custodial killings and ‘cross fire’ deaths of civilians. This, at any rate, is what we heard from observers whose objectivity we have no reason to doubt. This initial improvement is believed to have suffered a reversal after the Nadimarg massacre of 23<sup>rd</sup> March 2003, in which 24 Hindus were shot down in cold blood. That horrible killing was soon made an occasion by the army as well as spokesmen of the NDA government at Delhi to fault the Mufti Mohammed Sayeed Government for being ‘soft’ on militancy. And it is generally believed that thereafter the army started giving up whatever inhibitions it had begun to acquire in deference to the new government’s policy

pronouncements, in particular the ‘healing touch’ promised to the Kashmiris. None less than the President of the PDP has gone on record saying that the civilian government is finding it difficult to make the armed forces behave themselves after the Nadimarg massacre.

However, without data for comparable periods of past years, it is difficult to come to any conclusion in the matter of increase or decrease in killings. But in our view, what is more important than decrease or increase in *numbers* of killings is the regeneration of institutions which will keep the police and armed forces in check and accountable to the law. This is in any case the weakest aspect of Indian democracy,

anywhere and at any time, but it had sunk to miserable levels in Kashmir. We looked for signs of improvement in this regard, but could find none.

## **Civilian Government’s control of the armed forces:**

The army and the paramilitary in J&K have always regarded themselves as accountable only to their internal hierarchy and their bosses in Delhi. The authority of the State Government whether under Governor’s rule or of the civilian governments after elections, has mattered nothing to them. Nor has the civilian administration made any serious effort to control the functioning of the armed forces, to ensure that the basic rights of the people are not trampled upon in the course of the armed forces’ anti-insurgency operations. It was one of the election promises of the PDP that they would set this matter right.

Of course, it is no longer the case today as it was up to 1995 that the entire counter-insurgency operations are carried on by the army and the central paramilitary forces. The army and paramilitary hold exclusive sway only in the areas close to the border. Inside, the State police have been sharing in substantial measure the task of counter-insurgency operations at least from the years 1996-97. A Special Operations Group (SOG) of the State police (it is some times also described as the Special Task Force – the STF) was created to tackle insurgency. At that time the change was sought and justified on the ground that local policemen, being familiar with local people and indeed being part of local society,



would be less brutal. The SOG however soon acquired notoriety rivaled only by the more brutal wings of the army.

The demand to disband the SOG soon became a constant refrain of all protests against human rights violations in the State. This, too, was a promise of the PDP at the time of elections. Whether that has indeed been done is a controversy of a largely semantic character that we found raging in Kashmir. What the new government has done is to abolish its 'special' character and make it part of the regular police. Earlier, the SOG was headed by officers who were not accountable or answerable to the local Superintendent of Police or the District Magistrate. And its personnel, who were permitted to move around in plain clothes without insignia or identity but carrying lethal weapons, were answerable only to its Superintendents of Police who were invisible to the public. If they took some one away, there was no one to complain to, and no one who could assure the victim's family that the victim would be released or produced in a Court of law. It was like having licensed gangsters in the midst of society. Now the Superintendent of Police of the SOG in an area has been made an Additional Superintendent of Police of the district police force, under the command of the Senior Superintendent of Police of the district and in theory at least answerable to the District Magistrate. This certainly creates at least the possibility of complaining to an officer who has authority over them, and who is visible to the public.

This is good so far as it goes, but the wholesale merger of the SOG with the local police means that members of the regular police force are now cohabiting with personnel who do not think twice

before committing the most brutal offences 'in the interests of the State'. It may have been a different matter if at least the more notorious of them had been tried, punished and removed from the force. Merging the entire force with the regular police without doing so may well have a negative impact on the mode of functioning of the regular police.

As far as the army and the central paramilitary are concerned, civilian control over them continues to be as weak as ever. In the localities close to the LOC, even the local police are subjected to check by the army. Captain Pankaj Singh, Adjutant of the 18 Rashtriya Rifles camp at Kuligam in the Lolab valley, Kupwara district, who stopped our team for about one hour (see box: Tigers of another kind) told us by way of explanation that 'the RR does not permit even the police to go past its camp without permission'. He adds an explanation for his distrust of the local police: 'in one family one brother can be in the police and another a militant'. How does a police force honoured with such trust register and investigate offences against the public committed by the armed forces? Beyond the Kuligam camp are a number of villages close to the LOC. The villages are heavily patrolled by the armed forces. The Kuligam camp of the RR has effectively locked them out from the public eye. The local people are regularly harassed for the whereabouts of the militants. If in the course of this activity of the army some injury is caused to the people, the police cannot even visit them to record their statements and conduct investigation without the permission of the army!

Warnow is one such village. A 17 year old girl by name Shakeela Rashid of Warnow was shot dead by men of the RR on 16<sup>th</sup> January 2003.

There is a check-post of the armed forces located about a kilometer from Warnow. Shakeela's paternal uncle Ghulam Md Bhat was working on the repair of a road bridge near the check post. As he was not well, Shakeela went there to see him on that date, along with three younger girls, and started back to the village. The girls walked along a nala instead of taking the road because that was a shorter route. Men of the RR who were

patrolling at a height fired directly at the girls from a distance and killed Shakeela instantly. The excuse trotted out was that the army men saw some militants and fired at them, but the villagers say that there were no militants in the vicinity.

It is not that the villagers are necessarily right and the army necessarily wrong. The question is: who decides who is right, and by what procedure. In insurgency-affected areas such as

## *Tigers of another kind*

Kupwara is a heavily guarded and patrolled district. Lolab Valley is a part of the district that surpasses the rest of Kashmir Valley in natural beauty. This beautiful place is however hemmed in by the troops, more particularly the Rashtriya Rifles of the army. The RR, which has a strength of about 50,000, gives itself the appellation of Tigers of various kinds: Rajwar Tigers, Lolab Tigers, etc are the names printed in bold letters on the gates of its camps in the Lolab Valley. Thanks to these tigers, there is practically no freedom of movement or expression in the area.

As we proceeded towards Warnow in the Lolab valley on 22 May, we had to identify ourselves at check-posts all along the way, causing some bewilderment, some suspicion and some patronising amusement to the personnel manning the posts, until we came to the last and most unbreachable post of all, the security at the RR camp at Kuligam. Capt Pankaj Singh, a young officer in charge of the camp at that time, expressed surprise that we had been allowed to get that far, and insisted on having a discussion with us since 'he did not get intellectual company in these remote places'. But, as we realised later, he was in fact buying time to arrange for a 'renegade' to accompany us, to ensure that our purpose is scuttled as much as possible.

He starts off his discussion by saying that India will never solve the 'Kashmir problem' because 'we have become pseudo-secularists'. When we try to elicit an elaboration of that view – familiar from the rhetoric of the Sangh Parivar – he changes the topic and goes on to a more normal complaint the armed forces voice in Kashmir: the Kashmiris are not trustworthy, for they say different things to different people, and so we had better not get carried away by what we hear from them. He then hops back to the reason why India is unable to solve the 'Kashmir problem', and concludes that the culprit is democracy. We would not have bothered to report the views of an immature officer of the army, except that his views are quite typical of the men of the forces: distrust of democracy, resentment that India has opted to be a secular country, and fundamental suspicion of all people who are perceived as a threat to the country's territorial identity. And it is such a force that practically rules the troubled border areas of the country.

Kashmir it is the army which decides by mere declaration of its opinion that it has killed with justification, and that is that. Real change in the human rights situation would require change in this situation. We could find no such change in Kashmir. The Rashtriya Rifles not only declared itself to be the arbiter of the truth of its act in killing Shakeela, but also ensured that a 'renegade' (a surrendered militant who has turned into an armed agent of the armed forces: see below) accompanied our team as we were finally allowed to leave the presence of Capt Pankaj Singh at the Kuligam camp to proceed to Warnow. The 'renegade' got into our jeep pretending to be a villager who would show us the way to Warnow, and we realised who he was only at the end of our conversation with Shakeela's father Abdul Rasheed Bhat who found it prudent in his presence to affect a miserable nonchalance in the matter of his daughter's death. It was only as he accompanied us out of his house at the end of half an hour of circumlocutory conversation that he told us in a low voice that the man who had accompanied us was a 'renegade' and that is why he could not talk very frankly.

The killing of Ghulam Nabi Dar of Panzgam in Pulwama district by men of the 118 Border Security Force (BSF) is another instance of the armed forces taking a life in alleged 'cross fire', and then setting themselves up as the judges of that. Panzgam is located on a heavily patrolled



*The family of Ghulam Nabi Dar*

road, being close to the army's airfield. Dar of Panzgam was the eldest of three brothers, and a middle aged farmer. It is not the case of even the BSF that he was a militant. On 23<sup>rd</sup> Feb 2003, two persons of the village, Farooq Ahmed Dar and Janam Ahmed Dar were taken away by the BSF men who came from Srinagar. After two days of interrogation at Srinagar, the two were brought to Panzgam in the evening of 25<sup>th</sup> Feb 2003 and another eight villagers including Ghulam Nabi Dar were picked up to search an alleged hide-out of militants in the village precincts. Presumably the first two had revealed the location of the hideout. It was dark by the time the search started. But suddenly there was gunfire from the BSF men accompanying the search party, and the villagers of the party ran helter-skelter. All but one of them reached home that night. Dar lay dead in the fields. The rest of the village did not know this until the morning, except that later in the night the BSF men went around the houses of the other seven who had been taken out along with Dar and told them to remember that only seven had been taken out.

The villagers of Panzgam do not know to this day why the BSF men opened fire that evening. One rumour is that Farooq Ahmed, one of the two youth taken to Srinagar and brought back,

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*In insurgency-affected areas such as Kashmir it is the army which decides by mere declaration of its opinion that it has killed with justification, and that is that.*

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managed to break free and run and the BSF men fired upon him. However, that is not very probable since Farooq Ahmed is back and safe in the village.

What happens after such a killing? Every such killing is a death in suspicious circumstances and must necessarily be investigated by the police after intimating the nearest Executive Magistrate. The report of the police investigation shall be forwarded to the District Magistrate. So says Sec 174 of the Code of Criminal Procedure (Cr.P.C.). This provision in the new Code is the same as in the old Code, which continues to apply to J&K. The provision, in the context of killings by the armed forces in areas where the forces are involved in counter-insurgency operations, acts as some kind of a check on the brazenness of the armed forces, even if nothing of practical import emerges from it. But only if it is given effect to.

Where the victim survives the firing, even such a formal enquiry, if pursued with zeal, can have some effect. Zaithunbi of Saathra, Poonch district is an unfortunate mother of seven children who has survived to speak of the senseless firing by the armed forces that will probably see her left leg amputated from the hip. Her village is close to the LOC. On the morning of 28 May 2003, a

prolonged encounter between the forces and the militants started off at the neighbouring village of Jandrola, three and a half kms away. The sounds were audible because Jandrola is at a higher elevation than Saathra. As Zaithunbi listened to the sounds of the encounter, she noticed that an army picket had appeared opposite her house in Saathra. Living as she does almost on the LOC, she knew better than to give it a second thought. She went about her household chores, and came out of the house at about 9-30 in the morning to go to the bazaar. A bullet immediately hit her, splintering the left thigh bone badly. Zaithunbi is confident that it could not be a stray bullet from Jandrola that hit her, but only a bullet fired straight at her from the newly set up camp opposite her house. She was writhing with pain at the District hospital, Poonch, where we met her on the afternoon of 29 May, waiting to be taken to Jammu, in all probability to have her left leg removed. The way her husband Haider Shah recounted the incident as told to him by her leaves little doubt that any impartial investigation would conclude that it was trigger-happy firing that has incapacitated her for life.

In Kashmir, such investigations rarely take place, and the situation remains the same today as it has been in the past. Our team had a discussion on this issue with the Deputy Commissioner (the District Magistrate), Anantnag. He was quite frank in speaking of the limitations the civil administration suffers from in J&K. In spite of repeated criticism of lack of civilian control over the functioning of the armed forces which are supposed to be there 'in aid of civil power', and in spite of the clear pronouncement of the Supreme Court that civil power continues to be alive and continues to exercise its powers under



*Zaithun Bi*

## *Judicial Balm*

In recent decades, the Supreme Court of India has not struck down a single repressive law enacted in the name of national security, integrity, prevention of terrorism, etc. But it has explained and some times limited the provisions in a manner that gives some protection to people subjected to the laws. On some occasions, it has by these means 'read down' and saved the provisions from unconstitutionality. The issue is indeed quite simple: ever since the mid-seventies, the law as laid down by the Supreme Court has been that any legislation that deprives people of liberty or life must be fair, reasonable and just, and in particular it must not put arbitrary or capricious power in the hands of executive authorities. That is precisely what most repressive legislation does, but the Supreme Court has found it possible to close its eyes to that fact, by discovering safe guards in the enactment, or reading its own sage guards into it.

Naga People's Movement for Human Rights vs Union of India is a case where the Armed Forces (Special Powers) Act, 1958 applicable to the North-Eastern States was upheld as Constitutionally valid by a bench of five judges of the Supreme Court. The Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 is very similar in its contents. These enactments bristle with arbitrary power, and so the Guwahati High Court also thought, but the Supreme Court found it possible to think otherwise. But in the course of declaring that the act is constitutionally valid, the Supreme Court said:

- a) The deployment of armed forces of the Union shall be for the purpose of enabling the civil power in the State to deal with the situation affecting maintenance of public order which has necessitated the deployment of the armed forces in the State.
- b) The word 'aid' postulates the continued existence of the authority to be aided. This would mean that even after deployment of the armed forces, the civil power will continue to function.
- c) The power to make a law providing for deployment of the armed forces of the Union in aid of the civil power of a State does not include within its ambit the power to enact a law which would enable the armed forces of the Union to supplant or act as a substitute for the civil power of the State.
- d) The Central Act does not displace the civil power of the State by the armed forces of the Union, and it only provides for deployment of armed forces of the Union in aid of the civil power.
- e) While exercising the powers conferred under Sec 4(a) (the power to use force against a person violating prohibitory orders or carrying weapons or things capable of being used as weapons) the officer of the armed forces shall use the minimal force required for effective action.
- f) A person arrested and taken into custody in exercise of the powers of arrest given by the Act to the armed forces shall be handed over to the officer-in-charge of the nearest police station with least possible delay so that he can be produced before the nearest magistrate within 24 hours of such arrest.
- g) The provisions of the Cr.P.C governing search and seizure must be followed by the armed forces when conducting searches in exercise of the power given by the Act, and the seized material must be handed over to the officer-in-charge of the nearest police station.
- h) A complaint containing allegation about misuse or abuse of the power conferred by the Act shall be thoroughly enquired into, and if on enquiry it is found that the allegations are correct, the victim should be suitably compensated and the necessary sanction for institution of prosecution and/or suit should be granted.

See AIR 1998 SC 431.

ordinary law even after the extraordinary provisions of the Armed Forces (Special Powers) Act are invoked (see box: Judicial balm), it appears that there are no clear instructions from either the State or the Central government to the army and the civil administration regarding their inter-relation. The DC, Anantnag puts on a brave front and says however that if the DC chooses to exercise his magisterial powers he is free to do so, but adds that any DC who runs too much behind the army is liable to get into trouble. He refers specifically to a previous DC of his district who made it a point to exercise his powers of control over the armed forces, and was in the end accused by the army of being an ISI agent! The Deputy Commissioner, Poonch with whom we later had a discussion of the same issue also expressed the same view regarding that former DC, Anantnag: that he was labeled an anti-national only because he insisted on enquiring into the human rights violations by the armed forces.

In practice, therefore, prudence gets the better of lawful duty. The killing of Md Ashraf Mallik of Kupwara in the custody of the army (41 Rashtriya Rifles) is a very recent instance. The town was observing the third consecutive day of bandh when we went there on 22 May 2003. Nobody in the town, including ruling party leaders, has any doubt about how he died. A daily wage labourer in the Forest department, Mallik was a twenty eight year old man with two children. Nobody including the armed forces had ever suspected him of having links with militants in the past.

On 12 May there was a *fidayeen* attack on the CRPF post at Kupwara Chowk. A militant blew himself up and caused the death of three CRPF men. Such incidents have always in the past

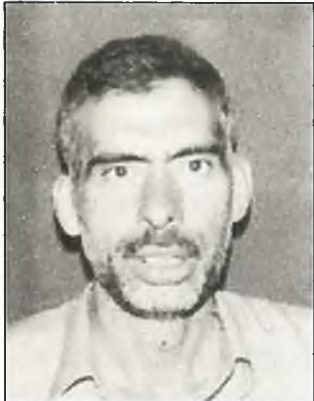
signaled vengeful retaliation. Some times it leads to immediate and arbitrary retaliation on the civilian public in the vicinity. Some times the retaliation takes the form of torture and killing of people suspected of having assisted the militants. Over the years, in Kashmir, the former type of retaliation has given place to the latter type, though incidents of immediate revenge against the local public do happen off and on.

In Kupwara, the armed forces started rounding up local youth for 'questioning' concerning the *fidayeen*. One of them was Md Ashraf Mallik. When his family came to know that the forces wanted to interrogate him, his uncle Md Jamal Mallik took him and handed him over on the morning of 16 May to Major Chouhan of the local army unit, the 41 RR. In the afternoon Md Ashraf came home for *namaaz* and went back to the RR camp at 2-30 pm. Major Chouhan told Mallik's family that he would be sent back at 4 O'clock in the evening. When he did not come back that evening the people went to the camp the next morning. They had to wait till evening to see the C.O. He came at 5-30 on the evening and said that the S.P., Kupwara, wanted to interrogate him, and he would be released the next day. Next evening (18 May) the S.P called Mallik's uncle and told him that the youth was innocent and would be released the next day. The next day the uncle went to Srinagar and got the J&K People's Conference leader Sajjad Lone to ring up the S.P., Kupwara. The S.P told Lone that the youth would be released on Tuesday, i.e the 20 May. But he was killed that night, the night of 19 May. The armed forces said that Md Ashraf Mallik confessed to having links with the militants and took them out to a hide out, but on the way there was a landmine blast and Mallik was blown to pieces. The family was handed over

only a piece of his mangled torso, though the army men who were supposed to have been accompanying him came back safe and sound.

Nobody believes this story, and rightly so. It is a clear case of custodial killing by the 41 RR (and the district police, too?). But the DC Kupwara could not make up his mind to even announce a magisterial enquiry into the gruesome killing, and it was left to the Chief Minister of the State to make the announcement on the fourth day of the consecutive bandh of Kupwara!

But the army alone is not privileged. The very fact of being involved in counter-insurgency is enough to confer immunity on even ordinary policemen. The very first custodial killing in Kashmir after the new government took over illustrates the fact that even in this matter there has been no change from the past.



Abdul Hameed Wani

Abdul Hameed Wani (45), a mason of Machoow (pronounced Machu), Budgam district was taken into custody on 26 November 2002 by the Station House Officer, Nowgam PS, an officer by name

Ghazanfar Ali. Machoow is almost a suburban village of Srinagar city and Wani was travelling to Lal Chowk in a city bus when he was forced to get down from the bus by the police. The police apparently suspected him – or claimed to do so – of supplying weapons to militants. Till 2 December 2002, the date of his death, he was in the custody of the Nowgam police. His wife Fareeda went to Nowgam to visit him in police



Family of Abdul Hameed Wani

custody. Initially she was allowed to see him, but later that 'privilege' was discontinued. The food she brought had to be left at the gate of the police station.

One day the SHO and the local SDPO Md Yousuf asked Fareeda to get Rs 1 lakh for her husband's release. She was in no position to pay, and told them so. On 1 December an ASI from the Nowgam PS came to her and told her that her husband was unwell and he had been taken to the Sher-e-Kashmir Institute of Medical Sciences (SKIMS), Soura, Srinagar. She and other villagers rushed to the Soura hospital, and found Wani in a very bad condition. He died in the intervening night of 1 and 2 December, at about 1-30 am. The police tried to take away the dead body, but the doctors would not permit them. They said he had committed suicide by strangulating himself with a wire, but the autopsy report differed categorically. A magisterial enquiry conducted by an Assistant Commissioner held that the police had falsified records and that their version was not believable. Initially the SHO Ghazanfar Ali was suspended but he has not been arrested till now. Nor has the wife of the deceased received any compensation, inspite of the categorical finding of the magisterial enquiry. The local Press has reported

that the same officer had once in the past been suspended for causing the death of eight unarmed civilians by opening fire on a peaceful procession at Brakpora, Anantnag district in April 2000. He was evidently reinstated outside his district, only to commit one more killing.

### **Cats and Renegades:**

The title may give the impression that this is a humorous interlude. It is anything but that.

Cats are young men (see box: Meet a Cat) picked by the armed forces from the villages, given weapons and ammunition and let loose on the public to help the army hunt for

militants. Their job is to threaten and terrorise

people to reveal information about militants. They live in the shade of the army's camps set up in the rural areas and operate in the neighbouring villages. They enjoy total immunity from prosecution for any thing they do. Naturally, they end up using the immunity for their personal advantage: their crimes range from molestation and abduction of women to extortion and killing for reasons of personal enmity. The most valuable Cats are those who were former militants and therefore have more information about the militants and their sympathisers in local society. These surrendered militants turned armed agents of the army are referred to locally as renegades. That value-loaded expression is not used only by the

### *Meet a Cat*

Fayaz Khan is a bearded and good looking young man from a forest village in Beerwah police station limits. Presently in detention for his role in the abduction and confinement of the sisters Shahzada and Shameema, he became a Cat through the good offices of Md Maqbool Mir (the renegade who engineered the abduction and forced Shahzada to marry him). His story is that the army – 34 Rashtriya Rifles, which has its camp at Beerwah – pressurised him to give information about militants and their sympathisers. Unable to withstand the pressure, he approached Mir, a known renegade working for the army, who took him to the officers of 34 RR and got him the status of a Cat. The real story may be less innocent. It is possible that he was wanted for some crime or for collaboration with militants, and could escape the law or the army's wrath (as the case may be) only by agreeing to act as an agent for counter-insurgency. He is still fresh at his job, for his eyes have not yet acquired the drugged look that one commonly finds – the army gives them drugs as an initial incentive, and soon they become addicts, which helps to keep them in the army's control - in long time renegades and Cats.

Fayaz carries with him a certificate dated 22/8/2002 issued by an officer of the 34 RR, which describes him as a source person for the army and puts it down in black and white that he has been given one pistol, two magazines and sixteen rounds of ammunition. We would not have believed this if we had not seen the certificate with our own eyes. Needless to say, there is no law – not even the draconian Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 – which gives the army the power to arm civilians - and criminally inclined ones, at that - and let them loose on Society.



sympathisers of militancy. Everyone, including mainstream politicians and the police, employ it. Like crackdown, militant, cross-fire etc.,

renegade is an English term that has entered the day to day language of the Kashmiris.

The Rashtriya Rifles is the wing of the army that

## *The militants are no angels, either*

Complaints of sexual harassment by militants are often heard in whispers in Kashmir. Given the hostility of the Indian Press in general towards militancy, the slightest such story may be publicised to discredit the movement for self-determination in Kashmir. This, however, does not mean that all such stories are false. Here are the brief details of one incident, reported by the Kashmiri journalist Masood Hussain, by no means an enemy of the Kashmir movement. Our team would have been able to obtain a first hand account of the sad tale if the 18 RR had not detained us for one hour on our visit to the Lolab Valley, and upset our schedule.

Parveena, ninth of the eleven children of Mohammed Sikander Khan of Dawar in the Lolab Valley, was tormented by one Gulzar Khan, leader of a minor militant group called Al Baraq, to marry Showkath, one of his lieutenants. Gulzar Khan had a group of twenty under him. The group made one attempt to kidnap Parveena, and when that failed they abducted two of her brothers and tortured them severely. The condition for their release was that Parveena should marry Showkath. Having no option, Parveena agreed and married Showkath. This was in 1993.

After marriage, Showkath surrendered to the army and went to live in Srinagar to escape the wrath of his former comrades. But one day in 1995 Showkath and Parveena paid a visit to their area to visit their parents. Gulzar Khan's gang kidnapped Showkath. He was killed within three weeks allegedly in an encounter between the armed forces and Al Baraq. Thus freed from the forced marriage, Parveena lived with her parents for six years, looking after her girl child born to Showkath. But in the meanwhile Gulzar's gang had surrendered and started working for the armed forces. Nasir Khan, one of the gang's members, started putting pressure on poor Parveena to marry him. Fortunately, before his proposal turned violent he was killed. But then Gulzar Khan himself started harassing her to marry him. He had already married and dumped two women – Husna Akhter of Mirgi and Jameela of Dawar. Unable to resist the AK-47 carrying renegade, Parveena married him on 20 July 2001. He then told her that her first husband had been killed by him and not by the forces.

Soon Parveena had a son by Gulzar. But Gulzar continued his depredations. He kidnapped another girl called Sameera of village Nishat and married her by force. On a complaint by Sameera's father, Gulzar was arrested by the police. Parveena picked up a quarrel with him, and he served a hasty talaqnama on her. She is now 'free' again, with two children from two forced marriages, one when Gulzar Khan's group were militants, and one after they became renegades.

(See Masood Hussain's article in MEATIME for further details).

is credited with having invented this strategy of maintaining a posse of cats/renegades. Each camp of the RR has ten to twelve cats attached to it, says a Sub-Inspector of Police, whose name and identity we feel it prudent not to disclose. 'All of them are criminals', he adds. 'They enter any house, behave as they please with women, forcibly extort money from the people, and beat them if they disobey them'. He then looks at us a little hesitantly – after all, we are 'Indians' – and supplements his criticism with the diplomatic comment that 'the army has a difficult job to do, and it must adopt a thousand strategies'. But the moment we say: 'that is so, but should the strategies not be within the four corners of the law?' and 'can the army be permitted to injure ordinary people in the pursuit of their task?' he vehemently agrees and adds: 'But we cannot fight the army'. For his part, he intends to arrest all the cats in his police station area, come what may.

The effect this obnoxious practice of the army, in particular the RR, has had on Kashmir society is a story incompletely told. And the darkest part of it is the molestation, abduction and rape of women by these criminal proteges of the armed forces. Here is one very sad story, which deserves to be recounted at some length. (See box: The militants are no angels, either)

Budgam is a central Kashmir district which in certain parts creeps up to the outskirts of Srinagar city, and in certain parts goes up to the LOC. Beerwah (pronounced Beeru) is a police station in Budgam whose jurisdiction extends to the difficult hilly terrain close to the LOC. Dangerpore is a hamlet embedded in the hills deep inside Beerwah police station area. Shahzada(17) and Shameema(15) daughters of Abdul Rehman Dar of Dangerpore have suffered

hell for the last one year and more thanks to the cats armed, maintained and protected by the 34 RR which has its camp at Beerwah. Md Maqbool Mir, Nazir Denda, Fayaz Khan, Rashid Khan and Bashir Mir are the cats, with whom is associated one unarmed criminal Ashraf Var. This gang has been wreaking havoc in the hills beyond Beerwah. The first two of the five are former militants. In May last year, the gang abducted the sisters from Magam on the Gulmarg road while they were returning after having attended a wedding. Three days later Shameema escaped from their clutches and ran back home. Shahzada however had to suffer a forced marriage with 40 year old Md Maqbool Mir, father of five. Three months thereafter, Shahzada also escaped from her 'husband'.



Abdul Rehman Dar

The matter would have ended there if the father of the girls had succumbed to the threats of these ruffians not to make an issue of it. With the help of Srinagar-based human rights activist Md Ahsan Untoo and the Press, he made an issue of it after his

elder daughter too came back. The Press reported it and Amnesty International issued an appeal for Urgent Action. A case was filed in the High Court of J&K seeking investigation into the offence. The High Court passed an order on 5<sup>th</sup> April this year directing the State Government to submit a status report on the case if it had

been registered at all, or else to register an offence and investigate it immediately. When nothing happened for more than three weeks thereafter, the girls and their father held a Press Conference on 30<sup>th</sup> April along with a local activist Md Ahsan Untoo of the Human Rights Forum of Kashmir, and declared that if no arrests were made in three days they would stage a dharna outside the Chief Minister's residence. Responding to this, a Cabinet minister Muzaffar Hussain Beig promised arrest of the renegades within two days. Nothing happened as usual. Then on 5<sup>th</sup> May the girls and their father along with Untoo threatened self-immolation at the Civil Secretariat at Srinagar. The police arrested them, but the extreme threat had some impact: the police arrested Md Ashraf Var, the only one in the gang who was not a protégé of the RR, but was an associate of the proteges! About Md Maqbool Mir, the police said he was not available as he had joined the ranks of militancy. The Press derided that explanation, and rightly, for once the police realised that no one believed them, they arrested Mir too, on 23<sup>rd</sup> May. The SHO Beerwah who arrested him gave no explanation for the earlier stand of the police that Mir had joined militancy. But he went on to arrest Fayaz Khan too, the next day.

In the entire period, the principal actor of this macabre drama, the Rashtriya Rifles of the Indian army, did not once open its mouth. More disturbing still is that nobody in Kashmir expected it to. It had nothing to say about its practice of arming criminals and letting them loose on society, and no explanation to offer as to why, even after the story became public, it had no word of apology to offer to Shameema and Shahzada, and no promise of assistance to offer to the police in apprehending its criminal

proteges. The army goes on as if the evil consequences of its counter-insurgency 'strategies' are no concern of its, and it is for others to worry about them.

As much to our point is the fact that it was one of the oft-repeated election promises of the PDP that 'the renegades would be totally disarmed'. Yet, in the entire discussion and claims and counter-claims in the Shameema-Shahzada episode, there was no reference to this promise. It was as if the only relevant consideration was whether the abductors would be arrested or not. That would have been proper if they were ordinary criminals, but not in the case of criminals certified in print as source-men of the army and supplied with weapons by the army.

### **Civilians as human shields:**

There is a certain attitude of the armed forces that has done incalculable harm to Kashmiris in the last thirteen years. It is that while the army is fighting valiantly to save Kashmir from the enemy, the Kashmiris are joining hands with the enemy and making things difficult for the army. This attitude reflects a complete lack of understanding of the politics of the 'Kashmir dispute', not to speak of the political thought-processes of the people of the State. Yet, it appears that the Indian State is perfectly content to let its armed forces think along these lines and act accordingly, for there are no signs that it takes any pains to inculcate a more sensitive political understanding in its forces.

No wonder that the armed forces often behave in a manner that smacks of an almost private vengeance against the local people.

Using the local people as a shield against possible attacks by militants is one regular instance of such callous behaviour. A very horrible incident

of that type happened at Gambhir in Rajouri tehsil on 17<sup>th</sup> September 2002. Gambhir is on the Rajouri-Poonch road. Nearby is the village of Katarmal. On the morning of 17<sup>th</sup> September, a prolonged encounter began on the hill slopes of Katarmal between the army (6 Grenadiers) and the militants. By evening the guns fell silent. A havaldar of the army, identified by local people as Babu Khan came down to Gambhir and rounded up 21 persons from the shops and the streets. He said that the militants had died but a jawan too had died, and the people should go up the hill and fetch the dead body. The havaldar handed them over to one officer identified as Captain Arvind, who gave them a some what different task. He said they should go up the hill and fetch the belongings of the dead militants. He in turn handed over the civilians to another officer identified as Major Ganguly, who directed them to go up the hill. Both the excuses given by the army personnel were in fact ridiculous,

since the jawans themselves could as well have fetched the dead body or the belongings.

The real reason must have struck the people as they went up. The militants were neither dead nor had they gone away. As soon as the civilians came within sight they started firing at them. The army below the hill identified the position of the militants and started firing upon them, unmindful of the unarmed civilians it had sent up the hill. In fact, it is clear that they had been sent up only to act as human bait to identify the presence and position of the militants. The villagers shouted and pleaded with the army to stop firing so that they could move down the hill. The army men did not oblige them. The villagers started running any way, and while eighteen of them escaped, three were hit by bullets and fell down. It appears that two of them died soon, but the third was alive and shouting for help for a long time. It is said that he even wrote his name on a piece of

## *Memorial for Human Baits*

More macabre perhaps than what the army did in Gambhir and Katarmal on 17 Sept 2002 is the memorial it has built for Vijay Kumar and Rakesh Sharma. The memorial lies just outside the village of Gambhir, on the Rajouri road. It describes the two hapless victims of the brutal tactics adopted by 6 Grenadiers as valiant men who laid down their lives fighting militancy. That is how indeed, the army tried to explain its conduct to the weeping parents of the deceased. The youth had contributed their mite to the fight against insurgents and had lost their lives in the process. They would surely get a posthumous reward and perhaps some title or the other and the fathers would receive it in the name of their valiant progeny. The fathers were gullible enough to wait until 26 January passed. When the two men received neither a reward nor any citation, nor their families any compensation, the fathers realised that they had been cheated. Sham Lal, father of Rakesh Sharma was even forced by the army to withdraw the complaint he had made to the State Human Rights Commission about the death of his son and two others. Now the two parents are willing to fight, but who will prosecute the 6 Grenadiers for the sake of two dispensable lives?

But there were three of them and not two. The third had a different sounding name: Hakmuddin @ Md Sharief. Why is there no memorial for him?



Rooplal, Father of Vijaykumar

rock dipping his finger in the blood oozing from his body. A villager up the hill from the place where the firing was going on noticed the injured person shouting for help and made a phone call to Gambhir below the hill to inform the people of the fact. The villagers gathered near the place from where the army men were firing at the militants and begged with them to stop the firing so that they could go and get the injured man down. The army men refused even though the Superintendent of Police, Rajouri and the Deputy Commissioner, Rajouri also requested them. The firing went on for two days, taking a significant toll on both sides. By the time it came to an end, the injured civilian too had died.

The three civilians who died are Vijay Kumar s/o Roop Lal of Gambhir, Rakesh Sharma s/o Sham Lal, also of Gambhir and Hakmuddin @ Md Sharief s/o Niaz Mohammed of Katarmal (see box: Memorial for Human Baits).

### **The Border Residents:**

India's long border with Pakistan is home to tens of thousands of badly harassed families.

The valiant patriotism that glories in martial valour has never come down close enough to the earth to look at things through the eyes of these

witnesses to the real meaning of war. What they suffered in 1947 is known to some extent, thanks to the literature of partition, but not what they endured in 1965 and 1971. From 1989, the year of militant upsurge in the Valley, it has been continuous uncertainty – merging into terror – for the border dwellers. The Kargil misadventure of the Pakistani army in the year 1999 made things worse, and the period after 13 December 2001 marked by massing of troops (seven lakh personnel) along the border for about ten months brought their sufferings to a peak, from which they are just now recovering. If only the likes of Vajpayee, Advani and George Fernandes – and their counter-parts across the border – could hear how juvenile their prattle about war sounds in the border hamlets!

From Gujarat through Rajasthan and Punjab, up to the village of Pallanwala in Akhnoor tehsil of Jammu district the border is the mutually accepted and totally fenced International Border (IB). It lies mostly in the plains and is not very hospitable for India's principal border concern: infiltration of militants. It is not packed with anti-personnel mines except at war time, and is mostly de-mined thereafter. It is therefore a relatively unproblematic place to live in, except when there is war between the two countries, or there is border build-up as during the ten months after 13 Dec 2001. Then, there will be shelling across the border that destroys houses and takes the lives of people and their cattle. People therefore have to pack up and leave for the interior, leaving their houses uninhabited, their fields untilled and their cattle untended. Their children's education and the petty trade or commerce they have in their native villages suffers for the duration of their migration.

During the recent post-13 Dec 2001 build up,

## *Ghost villages*

Pallanwala is a border village in Akhnoor tehsil of Jammu district. Its neighbour is Panjtooth, hardly 200 to 300 yards from the border. Evacuation of these villages started in 1999, at the time of the escalation of border firing that preceded the Kargil war. It was completed during the Kargil war. Many of the migrants are at the camp at Devipur, about half way between Pallanwala and the tehsil headquarters of Akhnoor. After Operation Parakram, people of other border villages also joined the Pallanwala-Panjtooth residents in the Devipur camp.

The Devipur camp consists of 2800 tents. Each tent is a one-room tenement housing one or more families. People of five villages including Pallanwala and Panjtooth are staying here. While officially, 12,000 families were displaced in these five villages, the Government's accommodation at Devipur suffices only for 2800 families. The rest are living with their relatives or in rented accommodation.

Pallanwala and Panjtooth are ghost villages today. They must have been moderately prosperous villages at one time. For even today one can see some well built houses. But while shelling has destroyed some houses, some have sunk with disuse. Plants grow in some walls and an eerie silence rules the vacant front yards. When we reached the village, one Kiryana shop was open, and there was a small cluster of villagers chatting idly in the sun. No, they are not residents who have stayed back. Nobody has. These are also dwellers at the Devipur camp who keep coming back once in a while on some minor chores.

There were no landmines at the border here prior to 1999, but from about the middle of 1999, the Indian army started placing anti-personnel mines along the border. Prior to 1999, firing from across the border was small arms fire, but after 1999, use of heavy mortar shells increased in frequency. One farmer of Panjtooth died in the shelling and many were injured. Along the border in Akhnoor tehsil, the deaths due to shelling are variously put at 8 to 15. And then the migration started. After 13 Dec 2001, mining of the border was completed. Human loss of life due to blowing of anti-personnel mines is not much here, unlike in the hills along the LOC in Rajouri-Poonch. But cattle have been lost in large numbers. 'Each day, 10 to 15 cattle are either maimed or killed due to anti-personnel mines' says a farmer in the Devipur camp. This being the area where the IB merges into the LOC, de-mining will probably never take place.

according to official records, about 28,000 families migrated from the border in the district of Jammu alone (some of the families came in 1999, at the time of the Kargil war), to live in one-room canvas tents out in the open wherever the Government found place to re-locate them. Such relocation took place in all the border

districts, but whereas the State Government claims that it is a measure of rehabilitation provided by it to the migrants, in fact it has not covered more than one-third (as in Rajouri district) to one-half (as in Jammu district) of the displaced families. This, inspite of assistance from Oxfam, Red Cross etc in procuring tents.

The others lived – and many continue to live – with relatives or in rented houses.

Whether it gives a tent to live in or not, the State Government gives rations for these displaced persons. It gives 2 kgs of rice and nine kgs of atta per month per head and cash allowance of Rs 400/- per month per person subject to a maximum of Rs 1600/- per family. This is evidently insufficient unless supplemented by other earnings, of which most of them have none outside their native villages. These internal refugees inevitably compare their treatment with that given to the Kashmir Pandits, who have been refugees from 1989. The Pandits get ration of 5 kgs of rice, 11 kgs of atta per head per month and cash allowance up to Rs 3000/-per family per month. None of the officials we met was able to explain the rationale of this discrepancy. The people have their own explanation, expressed in a bitterly humourous idiom: Pandits are Class A and we are Class B, says one farmer in the Devipur camp which houses the families displaced from the border villages of Akhnoor tehsil. (see box: Ghost villages). Another says it is because the Pandits are white and we are dark. Such a sense of unjust discrimination obviously does no one any good, but the administration evidently does not care.

After the de-escalation of the post-13 Dec 2001 army build up along the border began in October 2002, the Government wanted the migrants to get back. De-mining of the anti-personnel mines placed along the border as part of the build up was undertaken by the army, and as soon as it was over, the migrants were asked to go back. In Punjab and Rajasthan, where the border situation is not as problematic as in J&K, they have mostly gone back. But the people of the parts of the Jammu region of J&K that lie along the IB are

afraid the calm will not last long. A certain sense of resignation has enveloped them insofar as resolution of the dispute between the two countries goes, and they would therefore prefer to be given some land and be rehabilitated inside the State. They have a poor opinion of the valiant challenges the leaders of the countries frequently throw at each other, for every rise in the temperature between the leaders of the two countries is invariably accompanied by greater shelling across the border. 'Farmers normally keep an eye on the weather when they take up cultivation. But we have to keep an eye on the international and South Asian political scenario as well' says a farmer of Pallanwala, only half in jest. But the Government is adamant that they go back. It has put pressure upon them by declaring that they will continue to get the ration only if they go back to their villages. An exception has been made only for those migrants who came at the time of the Kargil war, says the DC, Jammu. Many have gone back, and others too probably will soon. But they will keep a wary eye on the temperature of Indo-Pak relations, for any sharp rise may mean one more journey inward.

Another problem is that their houses back in their villages are either blasted by shells from across the border or in a dilapidated condition due to disuse. This is more particularly true of those whose migration dates back to the Kargil war of 1999 and not 13 Dec 2001. Their fields have grown weeds and require as much as de-weeding as the border requires de-mining. The DCs of Jammu, Rajouri and Poonch told us that the State Government has a proposal of rebuilding the blasted and dilapidated houses and giving loans to clear the weeds in the fields. It has sent the proposal for the approval of the Central

Government (as any construction near the border requires Central Government's clearance) and is awaiting sanction. But there is no question of rehabilitating them inside the State, they say. Evidently, any such rehabilitation would mean an acknowledgement of the permanence of Indo-Pakistan dispute over the territory of J&K, which our rulers find politically inadvisable. So the people along the border have to suffer permanently to keep up the pretence that the dispute is not permanent.

If this is bad enough, the situation of people living along the LOC is many times worse. The LOC starts at Pallanwala in Akhnoor tehsil and goes on for about 940 kms to Kargil beyond Kashmir. The hills start where the LOC starts, and become bigger and bigger along the way to Kargil. The terrain is undulating and covered with forests. Since it is a disputed boundary, it is not fenced, and it would be illogical to fence it (as India desires to) when it is disputed. Indeed, there is a constant attempt by the two armies to push the line this way and that, leading to capture and recapture of border posts. This means that there is constant firing along the LOC, unlike the IB where there is firing only at the time of war or war-like situation as in the aftermath of 13 Dec 2001. Moreover, the LOC being the theatre of infiltration of militants, the two armies exchange fire frequently in their effort to enable and disable the infiltration, respectively. This would not have affected the civilians living close to the border if it had been only small arms fire (i.e., rifle fire), but shelling with big guns is also frequently resorted to, which can and does damage and injure the local habitations and people.

It must also be stated that as one moves from the IB to the LOC, the communal composition of the border population changes progressively



*Migrants camp at Dhargloom, Mendhar Tehsil*

from predominantly Hindu to predominantly Muslim and finally exclusively Muslim, as one crosses Poonch. Which means that from being merely overlooked as a nuisance coming in the way of ensuring the safety of the borders, they are suspected as possible collaborators of the 'enemy'. And then, *their* problems become an ever more remote concern.

The biggest of their problems are the unbridled shelling across the LOC, and the laying of anti-personnel mines along it. The mines have been there from the beginning, but their intensity and spread has increased after 1989, and further after 1998, and 13 Dec 2001. Unlike the IB which is de-mined after the 'need' is over, no de-mining ever takes place here, whatever the army may say once in a while as part of its PR exercise, since the mines are aimed at preventing infiltration of militants across of the LOC, and that is a duty that brooks no other concern.

Since the soil along the hill slopes on the LOC slips in the rains, the anti-personnel mines planted in the soil too slip and wander around their original position. A Jammu-based journalist said to us that when he asked a senior officer of the armed forces whether even the army knew the location of the mines, that officer replied



frankly that no one knows. The consequence is that people step onto the mines at regular frequencies and lose life or limb. (See box: A Victim). Unlike cases of death in cross-border shelling, which are recorded by the administration and known, there is no exact estimate of the number of people killed or

maimed in land mine blasts. For a long time no compensation was paid for such injuries, on the pretence that any one who gets blown by an anti-personnel mine went to the mined area asking for it, which is nonsense when even the army does not know their exact location. Only recently, compensation that amounts to one-tenth that

## *A Victim*

Salothri is ten kms from Poonch. Mushtaq Ahmed of Salothri is a 30 year old small farmer with four children aged seven, five, four and less than one year. His right leg was blown off in an anti-personnel mine explosion on 26 May 2003. The leg had been amputated below the knee by the time we met him in the District Hospital, Poonch, on 29 May. He does not even have the consolation that it was his fault that he went into the mined area and stepped on a mine.



Mushtaq Ahmed

On the morning of 26 May a jawan of the army came to Ahmed's house and took him along to chop trees near the LOC. The jawan knew the area was mined. He is supposed to have had with him a device for detecting mines, which he used as he took Ahmed along to cut trees. The work is unpaid, of course. A lot of work of carrying loads, setting up tents, fetching water, and chopping trees is taken from the local people by the army without payment of any kind.

Mushtaq Ahmed worked from 6 am to 3 pm. Then he stepped casually into a depression on the ground, and a mine blew. Whether the jawan's mine-detecting device did not work, or he operated it negligently – whatever the reason, poor Ahmed is disabled for life.

Will he at least be adequately compensated? The Government of J&K is following a peculiar discrimination in the matter of compensation for injuries caused to border area people. Those killed/injured in shelling by the Pakistani army or by militants get (at present) Rs 1,00,000 for death and Rs 75,000 for permanent disablement. But those killed/injured by anti-personnel mines get only Rs 10,000 in case of death and Rs 1,000 in case of disablement. This too is a recent munificence. They used to get nothing till a few years ago. The argument is that people know the land is mined, and it is their fault if they go there. As a matter of fact, mines are liable to shift their position in the loose soil, especially during the rains. Even otherwise, there is no precise indication as to where the mined area ends. It is only known notionally to the local people. Moreover, in Mushtaq Ahmed's case, it was not his decision but the authority of a jawan that took him there.

But will Mushtaq Ahmed get only Rs 1,000 for the leg that was blown off by a mine?

## *Unusual Philanthropy*

Pritam Spiritual Foundation or Pritam Trust, headed by Dr Jagbir Singh Sudan is a philanthropic organisation working from Poonch. They have been working informally from 1975, but got organised as a Trust in the year 1990. Of all the avenues of philanthropy open to them, they have by accident or design chosen the most needed in the Rajouri-Poonch area. This is assistance to the disabled.

While officials in the two districts tend to downplay the extent of injury caused by anti-personnel mines, and there is no comprehensive record since not even the slight compensation being given now was given even a few years ago, Pritam Trust is more forthright. Its recent "Profile of 13 years' activity" shows that it has got artificial limbs provided for 1738 victims of 'militancy, mine blast, and cross border firing'. Of them the single largest category are mine blast victims, says Dr Jagbir Singh.

Pritam Trust takes the help of the Bhagwan Mahavir Viklang Sahayta Samiti, Jaipur for the provision of artificial limbs and for the operation. Travel expenses to Delhi and back are borne by the Trust through donations. Victims are taken in groups, by chartered buses. The majority of the victims in Poonch district are from Balakote block of Mendher tehsil, Dr Jagbir Singh says. In Rajouri district the majority are from Noushera tehsil. Mendher and Noushera are 'infiltration' routes for militants entering India's side of J&K from the Pakistani side, and so they are heavily mined by the Indian army.

given to victims of cross-border shelling is being given to them. We may not be accused of being cynical if we say that the real difference is that the latter are injured by the 'enemy' whereas the former are injured by our own army, and the two cannot be equated.

However, Dr Jagbir Singh of Pritam Trust, a social worker of Poonch says that of all causes of loss of life and limb along the LOC, mine-blasts comes first in numbers (see box: Unusual Philanthropy). So says the DC, Rajouri when he confesses that in a routine official visit to the border tehsil of Noushera to distribute certificates to the physically handicapped, he was struck by the unusual number of them, including more than one in some families, and adds that upon enquiry, the anti-personnel mines were given as the single most common cause. In the Valley, too, the

villages on the hills close to the LOC exhibit a similar pattern. Dr Jagbir Singh says that when he held a camp for distribution of accessories for the use of the physically disabled in Kupwara district, about 300 needy persons turned up in the single border village of Langate. In that village alone, Pritam Trust has provided 31 tricycles, 41 wheel chairs and 61 auxiliary clutches!

Cattle too have died in large numbers. 'Thousands' is the answer given by every one, including the administration. No compensation whatsoever is given for cattle loss due to anti-personnel mines, on the plea that it is impossible to prove ownership of dead cattle. It appears that in the beginning the people tried to claim compensation for death or maiming of cattle in land mine blasts, but apart from lack of a

favourable policy in this regard, they found the very procedure for making an application too cumbersome: a veterinarian's certificate that the animal is in fact dead, a police certificate that it died in a mine blast, and the village administrator's certificate that the claimant is indeed the owner of the animal, are the minimal requirements.

There is a movement at the international level against anti-personnel mines, for the reason that they can cause permanent injury or even death to non-combatant civilians. On 3 May 1996, the United Nations adopted a Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps, and Other Devices, following which a Convention briefly described as Mine Ban Treaty (whose full and unwieldy title is: Convention on the Prohibition of the use, stockpiling, production and transfer of anti-

personnel mines and on their destruction) was opened for signature and ratification. As of 13 May 2003, 147 countries had signed the Convention, of which 134 had ratified it. India is one of the countries that have not signed it. We are in the company of only 46 other countries, including the US. (See box: Salient Features of the Mine Ban Treaty). While Pakistan is in our company, our other neighbour Bangladesh has signed and ratified the Convention.

For the tens of thousands of families living along the hills-and-forests of the LOC, India's accession to the Mine Ban Treaty is a matter of life and death. Particularly badly affected are the Gujjar and Bakherwal communities who live with their herds of cattle or sheep on the border hill slopes and who have no other place to go, even if the choice were given to them. Since they have no spokespersons in the Press, and since

### ***Salient Features of the Mine Ban Treaty***

Each State Party undertakes to never, under any circumstances, use anti-personnel mines or to develop, produce or otherwise acquire them. It undertakes also to destroy all existing anti-personnel mines (Art 1). The destruction will be completed as soon as possible but not later than four years after this Convention comes into force for that State Party (Art 4). All anti-personnel mines already implanted will be isolated by being fenced all round until their destruction is complete, which will be as soon as possible but not later than ten years after the Convention comes into force for that State Party (Art 5).

State Parties shall report to the UN, within 180 days of the coming into force of the Convention for them, the number, with breakdown as to type and quantity, and location of the stock-piled anti-personnel mines as well as the deployed mines. It will further report the progress of the measures undertaken for their destruction and removal (Art 7). The State Parties will consult with and cooperate with each other in the implementation of the provisions of the Convention and will work together for it in a spirit of cooperation (Art 8). Disputes that may arise between them in the course of the implementation of the Convention will also be settled through 'consultation and of cooperation' (Art 10).

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visiting human rights teams have found it difficult to meet and talk to them, the extent of their suffering, caught as they are between the two most hostile armies in the contemporary world, has barely been told. We heard at second or third hand about Gujjar families in Poonch district who have lost one person in each living generation to border shelling, anti-personnel mines, militancy or counter-insurgency. The militants who cross over from the Azad Kashmir side of the LOC along the high Pir Panjal ranges encounter these nomads. So does the army as it combs the hills for militants. Willy-nilly they become collaborators of the militants or the army, and either way they lay their lives open to fatal risk. If that does not kill them, the anti-personnel mines which they are bound to step on one day or the other as they tend their cattle along the hill slopes will account for them.

Violent death apart, even displacement for these nomads comes without advertisement and goes unrecorded. The DC, Poonch gave us the exact number of border people (22,000 'souls' in the archaic language the bureaucracy uses) from the 30 villages spread along the LOC in that district, who were displaced during 'Operation Parakram', and a proportion of whom were housed in 13 to 14 camps. We met and talked to some of the refugees in the camp at Dhargloom, Mendhar tehsil. The DC, Rajouri similarly told us of 10161 'souls' displaced in the period, of whom about one third were housed in 9 camps in Noushera and Sunderbani tehsils. But the informal displacement that affects the Gujjar-Bakherwal communities every once in a while when the army asks them to keep off the hills is not recorded any where.

The last three months have been a bad period from this point of view. The army claimed to

have woken up to the presence of extensive training camps and shelters of militants on the Pir Panjal hills, and launched a campaign called 'Operation Hill Kaka' on the hills in Surankote tehsil of Poonch district. While this operation is believed to have terminated successfully just

### *Perversely cruel*

Panihad is a village of Rajouri district. The papers of 29 March 2003 reported an incident that is macabre in its cruelty. A group of heavily armed militants in army uniform are said to have entered the village and gone to the house of one Mirwaiz, son of Jamal Din. They evidently had some grudge against him. But he was not there. The militants then got hold of his wife Fatima, his son Mohammed Rafiq, his relatives Nazir Hussain and Noor Din. They also went to the house of Abdul Khaliq, beat him and picked up his relatives Noor Hussain, Nasir Hussain and Mohammed Rafiq. These seven persons, including Fatima, had their noses chopped off by the militants. In recent days, it appears that the army is putting immense pressure upon the border people not to cooperate with the militants. To counter this trend, the militants are exhibiting extreme cruelty to dissuade the people from succumbing to the pressure of the army. To this end they are concentrating on the headmen of the villages, and establishing control over them so that the rest of the public will follow. Any headman who disobeys them will be in danger, and if the militants cannot find him they do not mind killing his wife and children, which possibility is bound to act as a deterrent more effectively than any threat to the headman's own life.

about the time of our team's visit to the Rajouri-Poonch area, by killing more than 60 militants and smashing the infrastructure, it entailed untold hardship to the Gujjar-Bakherwal communities living on the Pir Panjal ranges. Suspecting these nomads of being the 'ears and eyes' of the militants, the army directed them to keep off the hills. That amounted to putting a ban on their principal livelihood resources. On the other hand, the militants this year have been very cruel towards those local people who did not cooperate with them. There have been incidents of wiping out of whole families, including small children, of persons believed to be cooperating with the Indian army. Most of the victims are Gujjars/Bakherwals. (See box: Perversely cruel) These incidents have not excited as much attention outside the State as the massacre of Pandits invariably does. That is no doubt because these victims are Muslims, and that too from voiceless nomadic communities.

### **The massacre of Pandits at Nadimarg:**

The hard fate of the Kashmir Pandits is the best known aspect of the 'Kashmir problem'. Mass killing of Pandits has evoked understandable



*The House in Nadimarg which lost the largest number of people*

indignation in the country. The most recent incident is the killing of 24 Pandits in the village of Nadimarg of Shopian tehsil, Pulwama district on the intervening night of 23-24 March 2003.

Nadimarg is a village located on the border of Pulwama district with Anantnag. It is said to be the only exclusively Pandit village in the entire Valley. Once upon a time there were 60 families in the village. They had valuable landed property. Gradually, as part of the exodus of Pandits from the Valley starting in 1989, many of them left the village. Eleven families however remained. It is these families that were targeted on the night of 23-24 March 2003.

Being an exclusively Pandit village, there was a general apprehension that some such attack may take place, and hence a police picket of strength nine was set up in the village. Only four policemen were present in the picket on that night, and their meek surrender to the assailants facilitated the massacre.

Two of the eleven families of Pandits were still there in Nadimarg when our team visited the village on 28 May. Now there is a whole Company of the CRPF protecting them. When we expressed surprise that these two families chose to stay back after the massacre, they emphatically said that if they too left, all the property of the Pandits would be despoiled or encroached by the people of the neighbouring villages, and in fact it is only to grab the property that the killing was organised. Their distrust of the Muslims of neighbouring villages is in sharp contrast to the visible sympathy expressed by the Muslim mourners from the neighbourhood on the morning after the massacre.

At about 11-00 pm in the night of 23 March, a group of armed men dressed in army uniform



*The survivors of  
Nadimarg*

came to the village. They disarmed the policemen in the police post and forced the numberdar of the village, Avtar Kishen, to accompany them and wake up people saying that a crack down was in progress. People unsuspectingly woke up and opened the doors. The armed men entered the houses and forcibly took

the keys of locked boxes/almirahs and took away money and jewellery. The men and women were then rounded up and made to stand under a Chinar tree in the middle of the village. Suspecting that these men were up to nothing good, some of the people managed to slip away in the dark. We met two of them, Somnath and his wife. The others – totally twenty four in number – were shot dead by the armed gang. Eleven of them were women and two were children. Somnath heard sounds of gunfire about one hour after he slipped away. After the sound of gunfire stopped, Somnath slowly came back. Finding one Chunilal in an injured condition, Somnath bandaged him. Ramesh Kumar, another resident who escaped, reported to the local police station at Zanapore, but the police came only at 4-00 am.

What is significant is that a few days prior to the massacre, the residents of Nadimarg had noticed some suspicious movements in the vicinity of the village and had complained to the authorities, As said above, Nadimarg is on the border of Pulwama and Anantnag districts. The suspicious movements they noticed were on the Anantnag side of the village. So they complained to the

D.C., Anantnag. Yet, neither was the nine member police picket in the village upgraded to some thing more effective, nor was any order issued ensuring that the picket would have at least the full strength of nine every day. On the fateful night, only four were on duty. All the four have been suspended, but what could just four men do against an armed group of twenty? The D.C., Anantnag, with whom we had a long discussion on the matter, says in effect that they should have fought and died, but he does not explain what action he took in response to the admittedly prior intimation the victims gave him. It appears that the State government has no intention of doing any thing more than that.

But there is a more serious issue involved. There are a number of instances in Kashmir where minorities – Hindus and Sikhs – or migrant labourers from North India have been massacred by unidentified armed gunmen. In Rajouri, Poonch and Doda districts along the Pir Panjal hills, whole families of local residents, mostly though not exclusively Muslims, have been similarly massacred. Wandhama (Jan 1997), Sangrampura (March 1997), Parankote (April 1998), Chapnan (June 1998), Chattisingpura (March 2000), Pahalgam (August 2000), Qazigund-Achabal (August 2000), Seshnag (July 2001), Rajivnagar (August 2002) are major incidents of the type, involving double digit killings. Many of these massacres have taken place at politically crucial junctures, and obviously carry some devious political purpose. Outside J & K, the militants are universally blamed for these gory killings, but in Kashmir there is a widespread suspicion that the hand of renegade or other outfits sponsored by India's intelligence agencies or the armed forces cannot be ruled out. It is significant that in not one of

these incidents has the investigation revealed the identity of the killers till now. Nor has any body owned up the killings. So the doubts persist. Will Nadimarg be any different? And if it isn't going to be, are not the doubts going to be legitimised?

### **Enforced Disappearances:**

People disappearing after being taken into custody by the armed forces or the police is one of the most disquieting forms of human rights violations in Jammu & Kashmir over the last 14 years. The Association of Parents of Disappeared Persons (APDP) has estimated that about 8000 persons have disappeared in the State till now. The State's administration, when it decides to speak the truth, does not seriously contest this number. Speaking in the Legislative Assembly on 25 February 2003, the State's Chief Minister Mufti Mohammed Sayeed said that 1553 persons

disappeared in the year 2000, 1586 in 2001 and 605 in 2002, making it a frightening total of 3744 in the three year period 2000-2002. So what is unbelievable about the figure of 8000 for the whole period starting 1989?

When Mufti Mohammed Sayeed made that confession, he probably thought that his regime has, or is going to have, a better record. Better or worse is a matter of comparison, but one can definitely say that quite a lot of men and youth have gone missing after Mufti's government came to power. The APDP has compiled a list of 44 persons who are missing 'after the installation of the new Government'. Twenty Four of them were taken into custody by the various wings of the counter-insurgency forces (See box: List of the 'Missing' in the New Regime). This list may not be exhaustive, because those reported in the Press as having been taken away by 'unidentified

### ***List of the 'missing' in the new regime***

The Association of Parents of Disappeared Persons has listed out a total of 44 persons who went 'missing' after being taken away by some armed persons. In 24 cases, the abductors were either the police or the central armed forces. In the other 20 cases the identity of the abductors is not known. It could be either some militant group, or some group of renegade militants, or plain clothes men of the police or the armed forces. We give below the two lists separately.

#### **'MISSING' PERSONS ABDUCTED BY POLICE/CENTRAL ARMED FORCES**

No.	Name	Village	Taken away on	Agency involved
1.	Md. Ishaq Lone s/o Ghulam Hassan Lone 10 <sup>th</sup> class student	Kulangam, Handwara tehsil Kupwara dt	13/11/2002	Border Security Force
2.	Md Yousuf Naik s/o Md Ramzan	Mohu Mangat, Banihal tehsil Doda dt	10/11/2002	2 Jat Regiment of the Army
3.	Abdul Aziz s/o	- do -	- do -	- do -

	Md Sultan Naik			
4.	Abdul Rashid Sheikh s/o Rehman Sheikh	- do -	- do -	- do -
5.	Ali Mohammed Sheikh s/o Subhan Sheikh	- do -	- do -	- do -
6.	Jameel Ahmed s/o not known	- do -	- do -	- do -
7.	Md Shafi Gujjar s/o Balial Gujjar	Krawa, Banihal tehsil Doda dt	15/12/2002	Army men
8.	Tariq Ahmed Lone s/o Ghulam Mohiud- deen Lone, aged 17	Tujjar Sharief Sopore tehsil Baramulla dt	21/12/2002	Border Security Force (Camp at Wadoora, Sopore)
9.	Md Maqbool Shah s/o Md Amin Shah	Dorosa, Lolab tehsil Kupwara dt	29/12/2002	19 Rashtriya Rifles
10.	Md Sultan Wani s/o Sanaullah Wani	- do -	- do -	- do -
11.	Akbar Wani s/o Md Shafi Wani	Allahpora, Handwara tehsil Kupwara dt	25/12/2002	Special Operations Group of J&K Police
12.	Ajaz Ahmed Wani s/o Akbar Wani	- do -	- do -	- do -
13.	Muzaffer Iqbal s/o Md Younus	GambhirMuglan, Jammu	16/2/2003	Police of Manjkote P.S., Jammu
14.	Qasim s/o Kala Gujjar	Tenka Trigam, Banihal tehsil Doda dt	15/3/2003	Punjab Police
15.	Ismail s/o Ismail Gujjar	- do -	- do -	- do -



16.	Qasma s/o Bashir Gujjar	- do -	- do -	- do -
17.	Alif Din s/o Kala Gujjar	- do -	- do -	- do -
18.	Atta Mohammed s/o Haleen Gujjar	- do -	- do -	- do -
19.	Reyaz Ahmed s/o Allam Gujjar	- do -	- do -	- do -
20.	Zahoor Ahmed, s/o not known, aged 18	Radio Colony, Ikhraj pora Jewharnagar	19/3/2003	Border Security Force
21.	Arshad Ahmed Sheikh s/o not known	- do -	- do -	- do -
22.	Md Ishaq Sheikh s/o Md Ramzan	Shangus, Kokernag tehsil Anantnag dt	April 2003 9 <sup>th</sup> BN at Zewan	J&K Armed Police
23.	Fayaz Ahmed Kantoo s/o Gul Mohammed Kantoo	Dinu Kandi, Handwara tehsil Kupwara dt	28/4/2003	Armed Forces (details of identity not known)
24.	Abdul Majeed Naik s/o Kaml Din Naik	- do -	- do -	- do -

**'MISSING' PERSONS ABDUCTED BY UNIDENTIFIED GUNMEN**

No.	Name	Village	Taken away on:
1	Bilal Ahmed s/o not known	Shahpur, Bahrote	4/1/2003
2.	Md Altaf Yattoo s/o Ghulam Md Yattoo	Aripanthan Beerwah tehsil Budgam dt	13/2/2003

3.	Bilal Ahmed s/o not known	- do -	- do -
4.	Abdul Rashid Shah s/o Ghulam Ahmed Shah	Moonchwada Shopian tehsil Pulwama dt	24/12/2002
5.	Ghulam Ahmad Wani s/o Abdul Samad Wani	Yachgosh Shopian tehsil Pulwama dt	Dec 2002
6.	Tariq Ahmed Lone s/o Abdul Wahab Lone aged 13	Gurez Chorwan	18/1/2003
7.	Shabir Ahmed Khan s/o Abdul Rashid Khan aged 13	Chak Arsala Bandipora tehsil Kupwara dt	
8.	Ghulam Hassan Malla s/o Md Ibrahim Malla	Ranbir, Kripalpora Bala-Pattan Baramulla dt	21/4/2003
9.	Md Afzal Malla s/o Md Ibrahim Malla	- do -	- do -
10.	Md Hussain Sheikh s/o Ghulam Md Sheikh, aged 16	Kadar, Kulgam tehsil Anantnag dt	3 <sup>rd</sup> week of April 2003
11.	Gulzar Ahmed s/o Md Ramzan aged 15	- do -	- do -
12.	Tariq Ahmad s/o Ghulam Ahmed Sheikh, aged 12	- do -	- do -
13.	Aijaz Ahmed Dar s/o Ghulam	Nowpora, Sopore,	1/5/2003

	Rasool	Baramulla dt	
14.	Afroz Iqbal Shah s/o Abdul Qayoom Shah	Noorbagh, Sopore, Baramulla dt	5/5/2003
15.	Abdul Majeed Guroo s/o Abdul Ahad Guroo	Handwara Kupwara dt	6/5/2003
16.	Khursheed Ahmed s/o Eid Md Akbar	Kunalkaz, Abad, Handwara Kupwara dt	7/5/2003
17.	Jehangir Wali Malla s/o Wali Mohammed, aged 15	Dalna, Baramulla dt	3/5/2003
18.	Farooq Ahmed Shah s/o Yousuf Din Shah	Kawal, Bandipora tehsil Baramulla dt	2 <sup>nd</sup> week of April 2003
19.	Javaid Ahmed Ganie s/o Abdul Gani Ganie, 12 <sup>th</sup> Class student	Krukshun, Sopore tehsil Baramulla dt	Last week of April 2003
20.	Waseem Ahmed s/o Manzoor Ahmed	Jogilanker, Rainawari Srinagar	11/5/2003

gunmen' may well have been taken into custody by forces working for the State; like the renegades, for instance. And there could be others whose disappearance is not reported at all.

The standard answer of all regimes that have ruled J&K to allegations of disappearance is that the missing person has crossed the border and joined militancy. When a person is last seen in the custody of the armed forces, this answer is both unacceptable in law and frivolous (See box:

Burden of Explaining Disappearance).

### **The resolution of the dispute:**

The proposed Indo-Pakistan effort at resolution of the 'Kashmir dispute' is very much in the thoughts of the people of J&K. Not that any body takes the effort at face value. There is little faith in the sincerity of India and Pakistan – India, in particular – in resolving the issue. *Hindustan* will not give up Kashmir even if it has to lose

the whole of the country; and Pakistan will not give up Kashmir because if it does, its leaders will lose their *kursi*': this is not a militant or extremist from the Valley speaking, but a displaced (Hindu) farmer from Pallanwala in the Jammu region. But it is understood that US pressure may make a difference.

More than a decade of daily torment has driven some to welcome any resolution, so long as it works. The people of J&K are aware of the real possibility that the two countries may decide to divide up J&K between themselves without regard for the wishes of the people of the State. This is greeted with a mixture of resentment and resignation.

It is elementary that the people of Jammu & Kashmir are the primary party to the 'Kashmir dispute'. It is their territory, and it is for them to decide its future. We have therefore no desire to declare a 'formula' for resolution of the dispute but only wish to insist that the people of J&K should be represented in any talks that may take place between India and Pakistan, and that the

resolution of the dispute should be to their satisfaction.

Unfortunately, the matter is being discussed in terms of various 'formulas' whose common point is that nobody is talking of putting them to the people for their approval. One 'formula' is regarded by many people of the educated classes in both the countries as the most sensible: namely, accept the LOC as the official boundary, forget the dispute and get on with the business of development. If it were mere territory that was involved in the matter, the solution would be unexceptionable, but what is involved is a population that has strong views of its own. Not necessarily unanimous views, but strong views nevertheless. Acceptance of the LOC as a permanent boundary would mean permanent division of a people who are culturally, linguistically and ethnically very close to each other. The Valley, the Rajouri-Poonch and Doda parts of J&K and the Muzaffarabad part of Azad Kashmir fit this description well. Nobody has a right to divide these people permanently without their consent. Equally hard hit would be the

## ***Burden of Explaining Disappearance***

It is a principle of the Law of Evidence that if a fact is within the exclusive knowledge of a person, then the burden of proving that fact is upon that person. Applying this principle to offences resulting from abduction, Justice K.T.Thomas of the Supreme Court laid down in *State of West Bengal vs Mir Mohammad Omar* (2000) and reiterated in *Sucha Singh vs State of Punjab* (2001) the principle that if it is established in evidence that a person has been kidnapped by another, then it is for that other to explain what happened to the kidnapped person, failing which the Law will presume that the abductor is responsible for whatever has happened to the abducted.

'The abductors alone could tell the Court as to what happened to the deceased after they were abducted. When the abductors withheld that information from the Court, there is every justification for drawing the inference, in the light of the preceding and succeeding circumstances adverted to above, that the abductors are the murderers of the deceased' (*Sucha Singh vs State of Punjab*, AIR 2001 SC 1436).

Gujjar-Bakherwal communities who live on the hills all along the LOC and on either side of that line.

Another formula has recently been aired by Sardar Sikander Hayyat Khan, the Prime Minister of Azad Kashmir. He has suggested accepting the Chenab river as the boundary between the two countries, with the right bank going to Pakistan and the left bank to India. The Chenab is no doubt a 'natural' boundary, but socially it is by no means the ideal dividing line. The territory to its right includes the almost hundred percent Hindu tehsil of Akhnoor, and on its left Bank are the Muslim majority areas of Kishtwar and Bhandarwah. It moreover gives the Kashmir Valley to Pakistan, whereas it is the unanimous view of all observers that in the Valley the majority opinion is in favour of independence from both India and Pakistan. In the Valley, the invariable answer to the question as to what is the resolution the people would like is that 'Hindustan must vacate the part it has occupied, and Pakistan must vacate the part it has occupied'

(and leave Kashmiris to live by themselves, by implication). The fact that the most militant of the separatist groups have no love for this 'third option' has never prevented the people from giving expression to this view.

A third proposal modifies the LOC formula. This is being referred to as the Clinton formula. It says that minus the Kashmir Valley the rest of J & K will be partitioned between India and Pakistan along the LOC, but the Valley will be given some kind of self-rule, supervised jointly by India and Pakistan. Why Kashmiris should suffer this imposition merely to satisfy the egotistical sensibilities of these two countries is beyond comprehension.

But what is important is not to weigh these various formulas on a scale to determine which is the best, but to let the people of the State express their choice. We should insist that both India and Pakistan should recognise that the people of the State are the primary party to the dispute, and that it should be resolved with their participation and to their satisfaction.



# KASHMIR

## AN ENQUIRY INTO THE HEALING TOUCH



How long will this vigil continue ?



*It is elementary that the people of Jammu & Kashmir are the primary party to the 'Kashmir dispute'. It is their territory and it is for them to decide its future. We have therefore no desire to declare a 'formula' for resolution of the dispute but only wish to insist that the people of J&K should be represented in any talks that may take place between India and Pakistan and that the resolution of the dispute should be to their satisfaction.*