

INDIA

CONTINUING REPRESSION IN KASHMIR

Abuses Rise as International Pressure on India Eases

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INTRODUCTION

As the conflict in Kashmir continues into its fifth year, the government of India appears to have stepped up its catch-and-kill campaign against Muslim insurgents. As a result, human rights abuses, particularly deaths in custody, have escalated since early 1994.

In 1993, in response to international publicity about human rights abuses in Kashmir, the government of India launched a campaign to counter the criticism. Despite the fact that the government had done little to end the abuses, India's donors and trading partners backed off from public censure. The Clinton administration, in particular, abandoned what had been a refreshing new candor about India's Kashmir policy, apparently in the hope of promoting better trade and security agreements with India.

But human rights conditions in Kashmir have continued to deteriorate, and despite India's promises of elections and the establishment of new political leadership in Kashmir,¹ the conflict there shows no signs of abating. Civilians continue to bear the brunt of the casualties, falling victim both to government forces and to the various factions, collectively known as "militants," fighting for a change in the political status of Kashmir.² A number of the groups have turned to common crime, leading to an increase in extortion and kidnapping while rape and murder continue to be widespread. These abuses in turn have led to popular disaffection with some groups, particularly the pro-Pakistani factions, which have also been accused of assassinating moderate leaders.

For their part, Indian troops continue to summarily execute detainees, kill civilians in reprisal attacks and burn down neighborhoods and villages as collective punishment for those suspected of supporting the militants.³ In this report, we document dozens of cases of extrajudicial executions committed by Indian paramilitary and military forces between December 1993 and June 1994. Torture also continues to be routine. Human rights groups have compiled a list of over fifty interrogation centers where detainees are kept in unacknowledged detention and tortured. The security forces routinely defy court orders to produce the detainees, and several thousand habeas corpus petitions filed in these cases remain pending without result, according to the Jammu and Kashmir Bar Association. All of these actions are in clear violation of the International Covenant on Civil and Political Rights, to which India is a party. Although the government claims to have punished security personnel for abuses, to Human Rights Watch/Asia's knowledge not a single soldier has been prosecuted for the murder or torture of a detainee.⁴

EXTRAJUDICIAL EXECUTIONS

The summary execution of detainees by the Indian army, the Border Security Force (BSF)⁵ and other

¹The All-Party Huriyat Conference was founded in late 1993. It is the first political body claiming to represent Kashmiri interests and grievances founded since the conflict broke out in 1989. While it has held discussions with central government officials, the Huriyat does not speak for all the armed militant groups fighting for independence.

²At least eleven major militant organizations, and perhaps dozens of smaller ones, operate in Kashmir. They are roughly divided between those who support independence and those who support accession to Pakistan. The oldest and most widely known militant organization, the Jammu and Kashmir Liberation Front (JKLF), has spearheaded the movement for an independent Kashmir. A large number of other militant organizations have emerged since 1989, some of which also support independence, others of which support Kashmir's accession to Pakistan. Although all groups are alleged to receive arms and training from Pakistan, the pro-Pakistani groups are reputed to be favored by Pakistan's military intelligence, the Directorate of Inter-Services Intelligence (ISI). The most powerful of these is the Hezb-ul-Mujahidin.

³All of these abuses have been widespread throughout the conflict. For more details, see Asia Watch, *Kashmir Under Siege* (New York: Human Rights Watch, 1991) and Human Rights Watch/Asia and Physicians for Human Rights, *The Human Rights Crisis in Kashmir: A Pattern of Impunity* (New York: Human Rights Watch, 1993), (hereafter *A Pattern of Impunity*).

⁴In a welcome departure from this pattern, the authorities have publicized a number of prosecutions of army and other security personnel for rape. For more on these prosecutions and the failure to prosecute in many other cases, see p.16.

⁵The Border Security Force is an internal security force created in 1965. It functions under the authority of the Home

security personnel⁶ has been a hallmark of counterinsurgency operations in Kashmir. There is no precise figure for the number of persons killed in custody since the conflict began in 1990, but records kept by human rights groups suggest that the numbers are at least in the hundreds, and perhaps higher.⁷ In the first half of 1994, human rights groups in Kashmir recorded 200 such deaths in custody. The Jammu and Kashmir Bar Association reported fifty summary executions between mid-May and mid-June alone.

The Indian government has never taken effective measures to end these extrajudicial killings. In May 1993, in an effort to revive the state's civil administration and win back influential Kashmiri civil servants who had resigned their positions, the Home Ministry agreed to transfer the head of the BSF, Ashok Patel, who was believed to be one of the architects behind the "catch and kill" policy.⁸ However, Patel's deputies remained in their positions. Moreover, not a single member of the security forces has been prosecuted for any of the murders.

In most cases, the victims of these killings are picked up during "crackdowns" -- cordon-and-search operations in which the security forces surround neighborhoods or villages and compel all male adults and teen-aged boys to assemble for identification. Hooded informants point out alleged militants or militant sympathizers. Those pointed out are detained; almost inevitably, a certain number are executed within hours of their arrest. These executions are not aberrations; they are not the occasional excesses of overzealous security officers. These killings are calculated and deliberate, and they are carried out as a matter of policy.

Killings in Bandipora

On May 9, 1994, Border Security Force (BSF) troops shot dead three teen-age boys -- Nisar Ahmad Mir, 13, Fayaz Ahmad Bhat, 16 and Irshad Ahmad Mir, 16 -- after arresting them a few hours earlier. A team from the human rights organization the People's Union for Civil Liberties (PUCL) visited Bandipora on May 14 and took the following testimonies from eye-witnesses.⁹

Nisar Ahmad Mir's uncle, a driver for the local fire brigade, told PUCL that his nephew had left the house around 7:30 P.M., apparently to smoke a cigarette on the roadside out of sight of his parents. A passing jeep carrying members of the BSF stopped and the troops forced him into the jeep.

The next day, I, along with Mohammad Rajab [Nisar's father] ... went to [the] police station and there we learnt about the death of my nephew along with two other youths, namely Fayaz Ahmad Bhat and Irshad Ahmad Mir. All of them were brutally killed near ITI (Industrial Training Institute) on the same night at about 10:30 P.M.

Habibullah Mir, the father of Irshad Mir, testified that on May 9 at about 7:30 P.M., the BSF conducted a raid at his home. Irshad was arrested, and the rest of the family was ordered to stay inside.

The next day we went to the *numberdar* [a village official] and then to the police station. In the meantime a rumour started floating that three dead bodies are lying near ITI. It was 7:30 A.M. The police personnel then informed the parents that three dead bodies are lying in Madar BSF DIG [deputy inspector general] headquarters. The bodies were collected at 12:30 P.M. by the police and handed over to relatives at different times.

Ministry (unlike the army, which is under the Defense Ministry). Although all of India's security forces have committed egregious abuses in Kashmir, the BSF has acquired a deserved reputation for brutality.

⁶The other main security force operating in Kashmir is the Central Reserve Police Force, (CRPF), a federal police force which also operates under the authority of the Home Ministry.

⁷See *A Pattern of Impunity*, p. 39.

⁸Patel's role was tacitly acknowledged by a Home Ministry official who told Human Rights Watch/Asia in June 1993 that with Patel's transfer, the principal problem behind deaths in custody had been removed.

⁹People's Union for Civil Liberties, *Report on Bandipora Killings*, (no date).

Ghulam Rasool Mir, the father of Fayaz Ahmad Mir, told PUCL that his son, a student in the tenth class at the Bandipora secondary school, was picked up just outside his home at about 7:30 P.M.

Our house has no compound and both sides are covered with roads where the patrolling vehicles of the security forces invariably used to ply. Fayaz was picked up by one of the patrolling gypsies [jeeps]. We waited for morning to do something. Next day we went to the Numberdar, where I saw Mr. Habibullah, father of Irshad Ahmad Mir and soon I learned about his son's arrest also. We filed a FIR¹⁰ in the police station and then rumours started that three bodies are lying in Madar which were shortly confirmed by the Dy.S.P. (deputy superintendent) of police. The Dy.S.P. collected the bodies at 12:30 P.M. from BSF (DIG) headquarters and handed over to parents.

The numberdar, Ghulam Qadir, testified that on May 10, a curfew was imposed on Sopore, Bandipora, Pattan and Baramulla. That morning, he went to the police station to file a FIR on behalf of the parents of Irshad Ahmad and Fayaz Ahmad Mir. When he was informed that they had been killed, he and a doctor went to collect the bodies from the BSF headquarters. Qadir told PUCL:

From the last two years, it is the first such incident which has taken place. There was no firing or no attack on security forces on ninth of May 1994 which could have provoked them to go amuck.

A watchman, Shabir Ahmad Bhat, stated that he was at his home, which is about forty feet from where the three bodies were found, when he heard gunfire for about fifteen minutes beginning about 10:30 P.M. The next day, he and a neighbor, Shamima, went to the site where they saw blood on the ground. A retired army officer reported that he also heard gunfire at that time, and recognized it as coming from the light machine guns (LMGs) carried by the BSF.

After the incident, Subinspector Charan Singh of the 173rd Battalion of the BSF filed an FIR stating that his patrol party was ambushed on May 10, and that they found a group of seven or eight persons moving

in suspicious circumstances after curfew hours. On being challenged, some of them fled away, leaving three persons who also did not stop. They were shot dead after they fired at the security forces and two grenades Chinese-made and radio sets (U.K. made) were recovered from their possession.

According to the report by PUCL, the killing of the three boys was believed to be in retaliation for an attack five days earlier, in which militants had hurled a grenade at a BSF patrol near the taxi stand in Bandipora.

All three boys were on the roadside or in houses bordering the road, in easy sight of the security patrol, when they were detained and taken to Dachigam road where they were killed. Afterwards, the BSF continued to fire their guns, apparently in order to claim that the three were killed in an "encounter."

Killing and Arson in Mawar

On April 2, Indian soldiers deliberately burned an injured man to death and set fires that gutted more than thirty-five buildings in Mawar Bala, Handwara in Kupwara district. Mawar is a small village located about one hundred kilometers from the Line of Control -- the cease-fire line with Pakistan -- and about the same distance from Srinagar. Most of the inhabitants are farmers.

On April 8, 1994, the PUCL published a report on its visit to Mawar Bala. On April 18, a team from the Kashmir Bar Association also sent a mission to Mawar. The two human rights groups separately published reports after recording the statements of a number of eye-witnesses.

Mohammad L., 45, the headman of Mawar Bala, together with other witnesses including Mohammad S. L., Abdul L., Lassa L. and Gulla L., told the Bar Association that on April 1, 1994 at about 9:00 P.M Indian Army soldiers belonging to the Jack Rifles unit, stationed at Watergam and Kalam Chakla, encircled the villages of Mawar Bala, Kutlari and Khuddi and ordered the residents to remain inside their houses. The next day, at 7:00 A.M., the

¹⁰A FIR or "first information report" is a complaint filed with the police. It is the starting point for any investigation of a crime.

soldiers conducted a search of the houses in the village. At about 9:00 A.M., they reached a *kuthar* (a storage shed where farmers store unmilled rice); suspecting rightly that it concealed militants, they set it alight.

According to the PUCL report, when the soldiers they became suspicious that militants might be hiding inside the shed, army officer Ashok Chatal ordered his men to pack grass around the *kuthar* and set it on fire. When the soldiers had done so, militants inside the shed opened fire. One soldier was reportedly injured.

Mohammad L. and other witnesses told the Bar Association that the army then opened fire killing four men: Mohammad Maqbool War, 18, the son of Ghulam Ahmad War, a resident of Shurhama Lachi; Irshad Ahmad Malik, 20, the son of Habib Malik, a resident of Drugon and Nazir Ahmad Mir, the son of Mohammad Mir, a resident of Odura Chak. A fifth man, Mohammad Yousf Wani, was wounded: he was subsequently killed when the soldiers threw him into one of the burning buildings. His charred body was later found in the debris of a storage shed.

At about the same time, other soldiers began throwing an incendiary powder locally referred to as "gunpowder" on houses, cow sheds, storage sheds and shops in the area around the village mosque, and setting the buildings on fire. The soldiers remained on guard outside the burning houses until the houses and other buildings were almost totally gutted. Most of the residents escaped through their back doors or by jumping out of windows. In the process, many of them were injured. According to the PUCL report, some houses were bolted from outside by the soldiers. Some residents were ordered to come out with their hands up and were not allowed to salvage any of their personal property. Mohammad L. told PUCL that his own house was set on fire by the army and as he and his family tried to come out, the soldiers blocked their way. He stated that the soldiers

start[ed] torching the village from different sides. I yelled to other villagers to jump out from their houses. My two sons ... Farooq Ahmad, 14, and Abdul Qayoom, 16, were beaten when they escape[d] ... They were accused of being militants. The fire brigades coming from Handwara and Sopore reached on spot at 12:30 p.m. but they were prevented by the armed personnels to extinguish the fire.

In a first information report, filed with the Handwara police station by army lieutenant M.S. Rathore on April 2, the army claimed that militants had started the fires. However, according to a report in the *Kashmir Times*, a defense ministry spokesman later stated that the fire was ignited by a smoke grenade thrown by the soldiers, and that the "fire spread to adjoining houses even as troops tried to put out the blaze." But according to the PUCL report, this was untrue; in any event the *kuthar* was at some distance from the houses.

It is totally impossible that the fire from [the] *kuthar* could have engulfed the other houses situated in different directions.¹¹

The *Kashmir Times* report cited local residents as claiming that soldiers had used gunpowder to start fires on the houses. Both PUCL and the Bar Association team corroborated this account.

The *Kashmir Times* also reported that local residents stated that the troops fired indiscriminately after they were attacked by militants. The report stated that two of the men killed, Mohammad Yusef Wani and another not previously identified, Farooq Ahmad, were members of Hezb-ul Mujahidin, the most powerful militant group supporting Kashmir's accession to Pakistan. Irshad Ahmed Malik, Mohammad Maqbool War and Nazir Ahmad Mir were reported to be civilians. A total of 35 houses and other buildings were destroyed in the blaze, leaving several hundred people homeless.¹²

Abdul R., 34, a resident of Mawar Bala, told the Bar Association that when the fire brigades reached the village at 12:00 P.M. on April 2, the soldiers did not allow them to enter the village until all the houses were gutted.

When the army revisited the village on April 3, they took the nozzles of the fire brigade into their hands and had themselves video-taped posing as saviors of the villagers.

¹¹PUCL, *Report on Bandipora Killings*, (no date).

¹²"10 Militants among 14 Killed, 35 Houses Gutted in Valley," *Kashmir Times*, April 4, 1994.

The army unit returned to Mawar on April 3, 1994, the evening before a delegation of officials from the civil administration and Jammu and Kashmir police¹³ were due to arrive to investigate the incident. According to witnesses, army officers ordered the villagers to assemble and warned them not to make any statement against the army in front of the government officials. The army took down statements of other villagers on forms printed in Hindi, which the villagers were unable to read. Witnesses also testified that the army compelled some villagers, including Abdul R., to make false statements in front of a video camera to the effect that the fire had taken place as a result of cross-fire between the militants and the army, and threatened the villagers that if they refused, they would be killed. Similar threats were issued to local police who came to investigate the incident.

Peer Gh., the imam of the mosque, told PUCL:

I was forced to face the video camera including some other villagers and give [a] statement contrary to facts. ... On the day of occurrence when the SDB (sub-district magistrate) and police party reached the spot they were forced to leave the spot or face "cross-firing."

Despite the threats, Gulla L., a resident of Mawar Bala, told the DSP (deputy superintendent) and SHO (station house officer) of the Handwara office of the Jammu and Kashmir police in the presence of army officers that army soldiers had set fire to the houses and other buildings and that they had killed innocent people. Gulla L. stated that the next day his brother, Abdul Ahad L., was arrested by an army unit stationed at Kalam Chakla during a routine check of travellers, and was released only after the residents of Kalam Chakla held a demonstration to protest the arrest.

According to the PUCL report, a first information report was lodged with the Handwara police station with the registration number no. 41/94 on April 3 charging the army unit with arson.

Other Deaths in Custody

Information on the following cases has been obtained from human rights groups in Kashmir, including the PUCL, the Jammu and Kashmir Bar Association, the People's Basic Rights Protection Committee and People's Commission of Enquiry, a human rights body headed by Justice Bahauddin Farooqi, and from Human Rights Watch/Asia's independent contacts. This list is illustrative; it does not represent a complete register of deaths in custody, but only those cases about which we were to obtain detailed information by early August 1994.

Bashir Ahmad Khatana, a resident of Wandipora Kokarnag, Anantnag, was arrested by the army during a crackdown in August 1993. His family reportedly approached the army officers, asking permission to see Khatana, but this was refused. On March 28, 1994, after the army unit had moved camp, a decomposed body was found in the area, which was later identified as Bashir Ahmad Khatana.

On December 12, 1993, **Abdul Gani Waza**, 45, a resident of Tawheed Gunj, Baramulla, was arrested by the 163rd battalion of the BSF from his tea stall and chicken shop near Tashkent Chowk in Baramulla. According to neighboring shopkeepers and other witnesses, the day before, on December 11, Waza had gotten into an argument with members of the battalion who had come to his shop to buy chicken. The BSF reportedly threatened Waza and left his shop without making any purchase. Waza was arrested by the same BSF battalion the next morning at about 11:00 A.M. On December 13, his body was handed over to the local police. The post mortem report concluded that Waza had been tortured. Police registered a case of murder has been registered against the battalion.¹⁴ To Human Rights Watch/Asia's knowledge, no action has been taken against the BSF battalion responsible.

¹³The Jammu and Kashmir police are not involved in counterinsurgency operations. Because they are local people they are suspected by the Indian army and other security forces of sympathizing with the militants. The main functions of the police are to collect bodies and return them to their families. Police also file reports into incidents of deaths in custody, torture and rape committed by the army and other security forces, but the incidents are rarely investigated. In May 1993, the death in army custody of a police constable prompted a police revolt.

¹⁴The case was reported by PUCL in the newsletter, *Kashmir Monitor*, a publication of human rights groups, April 1994, p. 5.

On March 17, 1994, security forces arrested a number of persons during crackdown operations in Montipora Dharn, Anantnag, including **Ghulam Nabi** and **Farooq Ahmad**. On March 25, the bodies of all three were handed over to the families through the local police. All of the bodies had bullet wounds.

Mohammad Abdullah Mir, a sixty-year-old resident of Rigipora in district Kupwara, was arrested by security forces along with his son Abdul Majid on March 22, 1994. He was found shot dead three days later. Local demonstrations were held against Mir's killing. It is not known what has become of his son.

Abdul Aziz Bhat, a resident of Lal Bazar in Srinagar was arrested by security forces during crackdown operations in Baghwanpora in the presence of a large number of people on March 25, 1994. His body was handed over to his family on the same day. The body bore bullet wounds. Demonstrations against the killing were held in the neighborhood.

Ghulam Nabi, a resident of Larkipora, was arrested by security forces on March 11, 1994. His body was recovered near a stream on March 26.

Abdul Rashid Bhat, a resident of Fatehpora, Baramulla, was arrested at about 6:30 A.M. on March 28, 1994, during a search operation by the 15th Punjab unit of the Indian army at Daradadapora, Baramulla. His body was handed over to local police at about 10:30 P.M. that night. He had been shot at close range.¹⁵

On March 28, 1994, **Mohammad Jamal Teli** and **Ghulam Ahmad Dar** were arrested by security forces during a crackdown at Batagund, Kupwara. Their bodies were handed over to their families on March 29, 1994.

Riyaz Ahmad, a resident of Rajbagh, Srinagar, was arrested by security forces during a crackdown on March 29, 1994, in the presence of assembled people from the neighborhood. The police handed over his body to his family on the same day. Protests were held against the killing.

On March 29, 1994, **Mohammad "Sultan" Abdullah**, a resident of Dradpora, Baramulla, was taken into custody by security forces in the presence of a number of people from the neighborhood who were assembled during a crackdown. According to a report by the Bar Association, he was shot dead in their presence.

Ghulam Mohammad Bhat, a seventy-year-old resident of Machawa, Badgam, was taken into custody by security forces during a crackdown on March 29, 1994. His body was later handed over to his family. Demonstrations were held against the killing.

Nawaz Ahmad Wani, a resident of Ray Kapran, Shopian, was arrested by security forces at Kapran during a crackdown on April 5, 1994. His body was handed over to his family on April 6.

Mohammad Ashraf Bhat, a resident of Mala Hangal, Baramulla, was arrested by security forces on April 8, 1994 during search operations. His body was handed over to his family later that day. It bore bullet wounds.

Fayaz Ahmad Magloo, 26, a resident of Gani Hamam, Baramulla, was arrested by the BSF at about 11:30 P.M on April 8, 1994, near Stadium Colony. Also arrested were Mohammad Ashraf Ganjee, Farooq Ahmad Gujree and Javed Ahmad Pandit -- three alleged members of the militant group Hezb-ul Mujahidin. The men had surrendered after the BSF surrounded Pandit's house and had threatened to blow it up unless the four turned themselves in. Magloo was killed in their custody in the early hours of April 9 and his body was handed over to his family that day.

After the arrest, Magloo was taken by the BSF to the home of Mohammad Shaban Nadroo, where he was told to point out an alleged arms cache. Witnesses reported that when he failed to do so, the BSF told him that he should be "ready to die."

¹⁵Ibid., p. 8.

Magloo's body was handed over to local police at about 4:00 P.M. on April 9. The post mortem indicated that he had been burned with heated objects and given electric shock to his genitals. He also had deep cuts in his thighs, chest and abdomen. The police registered a case against the BSF,¹⁶ but to Human Rights Watch/Asia's knowledge, no action has been taken against the BSF in this case.

After this the Baramulla Bar Association called for a strike to protest against the killing. People of the neighborhood observed a strike from April 9 until April 13.

Ghulam Mohammad Wani, a 65-year-old resident of Seel Rawat, Berwah, Badgam, was arrested during a crackdown operation. His body was handed over to his family on April 11, 1994.

Abdul Majid, a resident of Gadapora, Shopian and **Mumtaz Ahmad**, a resident of Watu, Baramulla, were taken into custody during search operations at Watu Noor-A-Bad on April 12 or 13, 1994. Later the same day, their bodies were handed over to their families.

Mustaq Ahmad Wani, a resident of Seer Sopore, was arrested during a crackdown by the 27th Rajput Rifles, an army unit, on April 14, 1994. His body was handed over to his family through the local police on April 16.

Mohammad Ashraf Tantray, a resident of Boniyar, Baramulla, was arrested during search operations on April 15, 1994. He was shot dead shortly after the arrest, and his body handed over to people of the neighborhood. Demonstrations were held and a strike observed to protest the killing.

Manzoor Ahmad Sheikh, a resident of Hewan, and **Ghulam Nabi** ("Naba Jony"), a resident of Sheeri Baramulla, were taken into custody during a crackdown on April 15, 1994. The arrest was witnessed by a number of people from the area who had been made to assemble for identification. After about four hours, the bodies of the two men were found near a stream in the same area. They had both been shot.

Khursheed Ahmad Magloo, a resident of Bata Muran, Ompora, was arrested on April 16, 1994, during a crackdown, and shot dead shortly afterwards. His body was handed over to his family on the same day. Demonstrations were held in the neighborhood to protest against the killing.

On April 16, 1994, **Mohammad Ayub Parray**, a resident of Gabarpora, **Mohammad Yousf Dar** (son of Abdul Gani) and **Mohammad Yousaf Dar** (son of Ghulam Mohammad), residents of Vesru, and **Ali Mohammad Khandy**, a resident of Mujapather Keller of Pulwama district, were arrested during a crackdown and shot dead on the same day. Demonstrations were held to protest the custodial killings.

Ghulam Qadir Lone, "Omar", a resident of Lagripora, Sopore, was taken into custody during a crackdown on April 16, 1994, and shot dead shortly after arrest. His body was handed over to the local police.

On April 17, 1994, the BSF launched a crackdown in the Batmaloo area of Srinagar. Men from the neighborhood were ordered to assemble at the old bus stand, where they were paraded before hooded informants.¹⁷ Among those arrested was **Rafiq Ahmad Pahloo**. The next day his body was handed over to the local police. It had deep cuts in the legs, and a bullet wound in the abdomen.¹⁸

Ghulam Rasool Chopan, a resident of Amar Garh, Sopore, was taken into custody by security forces on April 18, 1994, and shot dead almost immediately after arrest.

¹⁶Ibid.

¹⁷This is typically how a "crackdown" -- a cordon-and-search operation -- is carried out. Those identified as suspected militants or sympathizers are arrested.

¹⁸PUCL, *Kashmir Monitor*, p. 8.

Ghulam Mohiuddin, a resident of Shopian, was taken into custody during a crackdown at Chatroos on April 19, 1994. According to the Bar Association, he was shot and killed later that day.

Bashir Ahmad Lone, a resident of Natipora, Sopore, was taken into custody by security forces during a crackdown at Tujar Sharief on April 19, 1994. His body was returned to his family on April 20, 1994. The body bore bullet wounds.

On April 24, 1994, **Farooq Ahmad Reshi**, 20, **Ali Mohammad Bhat**, 19, **Fayaz Ahmad Dar**, 21, and **Javeed Ahmad Shah**, 20, all residents of Ashajee Pora, Anantnag, were taken into custody by security forces in the presence of a number of people assembled during a crackdown. The four men were shot dead shortly after their arrest. The bodies were handed over to their families by the local police.

Abdul Rashid Parray, a resident of Kawoosa, Badgam, was taken into custody by security forces during a crackdown on April 25, 1994. He was shot dead shortly after the arrest.

On April 26, 1994, **Mohammad Yousf Dar**, 28, a tractor driver and resident of Barsoo, Tral, was halted on the road by security forces at about 1:45 p.m. The troops then dragged Dar out of the vehicle, and the officer in charge shot at him at the close range, killing him instantly.

Mohammad "Parbat" Shafi, a resident of Wanapu, Anantnag, was taken into custody during a crackdown on April 27, 1994. Two hours later, his body was handed over to his family. The body bore bullet wounds.

Abdul Rashid Bhat, a resident of Khiter Cheek, Qazigund, Anantnag, was taken into custody on April 28, 1994 at Qazigund. His body, which bore bullet wounds and other injuries, was later found near Malik-A-Bad.

Farooq Ahmad Darzi, a resident of That Kandi, Kulgam, was taken into custody on April 28, 1994 during a crackdown at Devsar, Kulgam. he was shot dead shortly after arrest. His body was handed over to his family on the same day by the local police. Demonstrations were held against the killing.

Mohammad Iqbal, a thirty-four-year-old civil engineer, and **Bashir Ahmad**, both residents of Anantnag, were taken into custody by security forces during a crackdown on April 30, 1994. The Bar Association interviewed a young girl from the neighborhood who said the arrested men were taken before an officer of the rank of Major who ordered his forces to kill them. The security forces then shot both men dead.

On May 3, 1994, during a crackdown operation at Shashipora Budgam, the security forces arrested three men, **Khurshid Ahmad Wani**, **Mohammad Altaf Mir** and **Nissar Ahmad Hajam**, in the presence of local residents. All three were residents of Budgam district. On May 4, their bodies were handed over to their relations. All of the bodies bore bullet wounds.

On May 4, 1994, **Khurshid Ahmad Wani**, **Mohammad Altaf Mir** and **Nissar Ahmad Hajam**, all residents of district Budgam were arrested during a crackdown at Hassipora, Budgam. The next day the bodies of the three men were handed over to their families. All of the bodies bore bullet wounds.

On May 6, 1994, **Hamidullah**, a resident of Batmaran Shaheed Marg Gandibal of district Anantnag was taken into custody by security forces at Frisal. Later that day, his body was handed over to family by the local police. Protests were held against the custodial death.

Farooq Ahmad and **Ghulam Mohammad Mir**, residents of district Baramulla, were arrested during a crackdown at Wangam Rafiabab on May 9, 1994. Their bodies were handed over to their families later that day.

On May 9, 1994, **Farooq Ahmad** and **Ghulam Mohammad Mir** were arrested by security forces during a crackdown operation in Wangam Rafiabab, Sopore. The bodies were handed over to their families later that day.

The bodies bore bullet wounds. The killings prompted protests by people of the neighborhood.

On May 18, 1994, **Ali Mohammad Hajam**, a resident of Rawalpura, and **Ghulam Rasool Gazi**, a resident of Nadihal, Handwara, were arrested during a crackdown at Gandichabootra, Baramulla. Later that day, the bodies of the two men were handed over to their families by the local police.

Firdoos Ahmad Begh, a resident of Dangerpora, Baramulla, was arrested by the 26th Punjab Rifles, an army unit at Watlab Camp during a crackdown May 18, 1994. His body was handed over to his family on May 19. People of the neighborhood held demonstrations against the custodial death.

Ghulam Mohammad Wani, a resident of Chatergam, Shopian, was arrested on May 20, 1994. His body was handed over to his family on the same day.

Naseer Ahmad Khan, a fifteen-year-old resident of Gurgadi Mohalla, Srinagar, was taken into custody at Nawhatta on May 21, 1994, as he was coming out of a shop. Witnesses reported that the security forces took him to a nearby area called Malkah and shot him dead. Protests were held against the custodial killing.

Mohammad Afzal, a resident of Tarzova, Sopore, and "**Shah Baz**" (Mohammad Abdullah) were taken into custody by security forces during search operations on May 21, 1994 at Palhallan, Pattan. Both men were shot dead later that day.

On May 21, 1994, **Mohammad Afzal**, resident of Tarzova, Sopore, and **Shahbaz Ahmad** were detained by the security forces during search operations in Palhallan, Pattan. Their bodies were handed over to their families later that day.

Khurshed Ahmad, a resident of Phalgam, Anantnag, was taken into custody by security forces on May 22, 1994. He was found shot dead later that day.

Nazir Ahmad Bhat, a resident of Pampore of Pulwama was arrested by security forces on May 25, 1994 and shot dead on the same day. His body was found at Kakpora with bullet injuries to the face.

Riyaz Ahmad Sofi, a resident of Noor Bagh, Srinagar, was arrested by security forces during a crackdown on May 25, 1994. The arrest was witnessed by a number of people assembled in the area. Sofi was reported to be recovering from previous injuries at the time of the arrest. His body was handed over to his family later that day.

Mulvi Ghulam Hassan, a resident of Badgam district, was arrested by security forces on May 26, 1994, and shot dead on the same day. When his family received his body, people from the neighborhood protested against the killing and observed a strike on May 27.

Mohammad Abas, a resident of Zinapora of Pulwama, was arrested by security forces during a crackdown on May 26, 1994. He was reportedly beaten as he was being arrested. His body was handed over to his family on May 27.

Ali Asgar, a resident of Uri Gundanwari of Baramulla district, was arrested by the 11th grade Mohara army unit on May 19, 1994, from his residence at Gundanwari. On May 21, the army unit lodged a report with the local police, claiming that Asgar had escaped from custody. On May 26, Asgar's relatives discovered his body near a stream. The body bore multiple wounds.

On May 28, 1994, **Ali Mohammad Hajam**, resident of Rawalpura, and **Ghulam Rasool Gazi**, resident of Nadihel, Handwara, were arrested by security forces during a crackdown operation in Gundichabootra, Baramulla. Their bodies were handed over to their families on the same day. The bodies bore bullet wounds.

On May 28, 1994, during crackdown operations in Delina Janwari, Baramulla, **Ghulam Ahmad Lone**, a

resident of Palhalan, and **Farooq Ahmad Wani**, a resident of Chandipora, were taken into custody by the security forces. Both men were shot dead later that day, and their bodies handed over to their families.

On May 28, 1994, **Ghulam Ahmad Lone**, a resident of Palhalan Pattan, and **Farooq Ahmad Wani**, a resident of Chandipora of Baramulla district, were arrested by security forces during a crackdown at Adipora Delina. Their bodies were handed over to their families on May 28. Both men had been shot dead.

On May 31, 1994, **Gulzar Ahmad Dar** and **Abdul Qayoon Malik**, both residents of Sopore, were arrested by security forces during a crackdown operation in Nowpora, Sopore, and taken to some undisclosed place. Later that day, their bodies were recovered and handed over to their families.

Mohammad Sultan, a resident of Razan Sonamarg, Srinagar, was arrested by security forces during a crackdown on June 4, 1994. His body was handed over to his family later that day by the local police.

Mohammad Saleem, a resident of Mir Gund, Anantnag, was arrested by security forces on May 23, 1994. His body, which bore multiple injuries, was handed over to his family by the local police on June 4.

Syed Ali Asgar, a resident of Chandanwari, Baramulla, was arrested on May 9, 1994. His body was found in a river in the area on June 6, 1994. A FIR on the killing has been filed with the local police.

Abu Tariq and **Farooq Ahmad Shah**, both residents of Duru Shah-a-Bad of Shopian, were arrested by security forces during search operations on June 6, 1994. Their bodies were handed over to their families on June 7.

On June 11, 1994, **Showkat Ahmad Lone** and **Mohammad Ashraf** were arrested by security forces during a crackdown at Behrampora, Baramulla. The bodies of the two men were handed over to their families later that day.

Reprisal Killings

Indian security forces have continued to kill unarmed civilians in retaliation for militant attacks. In most cases, these incidents follow militant ambushes in which security forces are injured or killed. Civilians living in the area where the ambush took place are targeted for reprisal.

On March 18, 1994, at about 12:45 p.m. an army jeep belonging to the G-2 Rashtriya Rifles unit struck a land mine two kilometers away from the village of Mahand in the district of Bijbehara. The jeep was damaged and two soldiers reportedly injured. According to a report by PUCL, immediately following the mine blast, the soldiers stopped a bus that was traveling on the road toward Mahand, ordered all the passengers to disembark and then beat them. The incident was also investigated by retired Justice Bahauddin Farooqi of the human rights organization the People's Commission of Enquiry.

Later that night the soldiers returned to Mahand, cordoned off the village, and ignited gunpowder in three houses, two of which were vacant. The vacant houses belonged to Abdul Gaffar Bhat and Ghulam Mohiuddin Dar. The third house belonged to Ghulam Qadir Wani and his brother-in-law Abdul Rahman Naiku. Five members of his family, including three children, died in the explosion and fire. Wani's wife Azi and niece Jamila died later in the SMHS hospital in Srinagar. Abdul Rahman Naiku was injured in the fire.

Ghulam Qadir Wani told PUCL that on the night of March 18 he was sleeping on the second floor of the house.¹⁹ His wife, Azi, son Abdul Salam, 25, sister-in-law Mrs. Rathi, 35, her two children, Javid Ahmed and Jamila, and two other grandchildren, Shaista and Imtiaza, were sleeping on the ground floor.

At about 11:00 p.m. I heard voices in my compound. I got alarmed and got up and peeped through a window. I saw some army personnel numbering ten to twelve equipped with arms and knives. Frightened, I returned to bed. At 3:45 a.m. the army personnel, who had disappeared for some time,

¹⁹The house was divided into two parts. The eastern half was occupied by Ghulam Qadir Wani and his family; the western half was occupied by Wani's brother-in-law, Abdul Rahman Naiku. The fire was set around the eastern half of the house.

reappeared. They were shouting insults ("*Salo Bahar Ajao*" -- Come out you bastards). I came down but I could not open the door as it was bolted from outside. The moment I went back upstairs, a blast like a thunderbolt occurred. Instant flames surrounded our house, especially the ground floor in which our family members were sleeping. Somehow I managed to jump to the ground from the back of the house. I saw some military personnel running and whistling. It was about 4:30 a.m. I could see some neighbors coming for rescue. They brought some pumps and gradually controlled the fire.

Hari Krishan, 19, a member of the only Hindu family who remained in Mahand after the conflict broke out in 1990²⁰ told PUCL:

Towards the end of the night I heard three successive blasts. I immediately tried to get out of my house to see what had actually happened, but my family did not allow me. After some time I was able to convince my parents that it was our moral duty to share the grief and sorrow of our neighbors who have always rendered their help and cooperation to us. I rushed to the spot and found that two houses have been blasted and one set on fire, roasting the family members inside. I also found the cow shed and a stable on fire wherein three horses were also roasted alive.

Other witnesses told the People's Commission of Enquiry that they saw army soldiers running away after the explosions, and calling to each other to get away quickly.

At around noon on March 18, Ghulam Mohiuddin Sheikh was traveling by bus from Mahand to Bijbehara, when the bus was stopped by the army at the village of Satkipora, where the mine blast had taken place. He told PUCL that the soldiers attacked the passengers, beating them with rifle butts and smashing the bus windows. The soldiers threatened the passengers coming from Mahand that they would be "taught a lesson." He continued:

On that same night while I was in my house I heard three blasts and got up. I found the house of Ghulam Qadir Wani set on fire.

According to the People's Commission of Enquiry, the government issued a press statement about the incident on March 19 which stated that

an explosive substance was thrown by some unknown militants into the house of Abdul Rahmand Naiku at Mahand, Bijbehara, as a result of which the house-owner Mst. Azi wife of Ghulam Qadir Naiku [sic] and Mst. Hamida [sic] sustained injuries, who were hospitalised. The house also caught fire which engulfed another house in which five persons were burnt alive.²¹

Following reports in the local press which blamed the army for the incident, the government issued a second statement on March 20 denying the reports and reiterating the claim that militants were responsible for the fire.

The newspaper *Hind Samachar*, on the other hand, published a slightly different government version of the incident on March 30, suggesting the perpetrators had simply masqueraded as government troops. It quoted a Defense Ministry spokesman as saying that

militants in military uniform set on fire two houses at Bijbehara as a result of which five persons were burnt alive.²²

According to PUCL and the People's Commission of Enquiry, no government or army officials visited the village to

²⁰Following threats by militant groups, some 100,000 Hindus fled the valley in early 1990. According to some reports, some Hindus were encouraged to leave by government officials.

²¹People's Commission of Enquiry press release, citing government press release, May 4, 1994, p. 5.

²²Ibid.

investigate the incident.

Other Extrajudicial Executions

On March 21, 1994, **Taja Begum**, a resident of Sheeri, Anantnag, was assaulted by security forces during a neighborhood crackdown when she asked for the release of her son. The soldiers beat her with their rifle butts. According to the Jammu and Kashmir Bar Association, she died shortly thereafter as a result of injuries caused by the beatings. A procession and strike was organized in the neighborhood to protest against the killing.

Nazir Ahmed Rahi told human rights monitors about an incident when a Central Reserve Police Force (CRPF) unit deliberately fired at his wife and he as they lay prone on the ground. His wife was killed and he was injured.

On April 8, as we were on our way to visit my brother, a grenade exploded near the Rambagh bridge. It had been thrown by a militant at a passing truck, but missed. The CRPF (stationed near the fly-over bridge) opened fire, killing the militant. We were about five hundred meters away at the time. After that, we crossed the road to Barzalla, and came near the security forces. The CRPF ordered us to lie on the ground for our protection. The CRPF opened fire again, and I was shot in the arm and chest. My wife was killed. On the television news it was reported that we had been shot in "cross-fire."

DISAPPEARANCES

Disappearances have been on the rise in Kashmir. Disappearances are facilitated by the fact that the security forces routinely disregard laws requiring detainees to be produced in court. According to the Jammu and Kashmir Bar Association, of the one hundred or more persons arrested every day in Kashmir, none is produced before a magistrate within twenty-four hours, as required by law -- despite the fact that, in late 1993, Minister for Internal Security Rajesh Pilot issued a directive to all security forces in Kashmir, calling on them to obey the law. Disappearances are further facilitated by the fact that detainees are held in secret detention centers, without access to lawyers or family. According to the Bar Association, of the several thousand habeas corpus petitions pending in the High Court as of June 1994, the courts have responded to fewer than one percent.

The security forces frequently claim that detainees who have been reported as disappeared escaped from custody or were released. The security forces have also intimidated magistrates and judges to insure that investigations are not carried out. On April 19, 1994, Abdul Rashid Lone, a Judicial Magistrate in Sumbal Sonawari Baramulla, who had been appointed to investigate the death in custody of a Gujjar man from Wangath Kangan, was threatened by army officials who forced him to record the statement of a man, Mohammad Yousef Parray, who had been compelled to testify that the Gujjar man had been released. The police have registered a FIR against the army in the case, but no action has been taken.

On the night of May 7, 1994, **Mohammad Yousef Malik**, a revenue clerk and resident of the village of Kellar in Bijbehara, was arrested from his home by the Rashtriya Rifles unit of the army. An FIR has been filed at the Pahalgam police station, but no action has been taken.²³

On April 9, 1994, at about 8:30 A.M., **Mohammad Maqbool Das**, a resident of Waghama, was arrested at his home by the Rashtriya Rifles unit of the army. Das was about to leave for his job as a driver in the Government Forest Corporation at the time. Following the arrest, the Deputy Commissioner [a local government official] wrote to the army requesting that Das' family be permitted to visit him, but the army did not respond.²⁴

²³From a report by the Jammu and Kashmir People's Basic Rights (Protection) Committee, May 30, 1994.

²⁴Ibid.

On February 24, 1994, **Farooq Ahmad Rather**, a resident of Nowshera Tehsil, Bijbehara, was arrested by a patrol party of the army Rashtriya Rifles as he was walking to the village of Kute to visit a relative. The security forces have not disclosed his whereabouts. On April 6, 1994, the Bijbehara police registered FIR 40/94 against the army.²⁵

On October 15, 1993, **Nazir Ahmad Sofi**, a resident of Mahand, was arrested during a crackdown. The security forces have not disclosed his whereabouts.

Bashir Ahmad Sheikh, a resident of Bandipora, was arrested at Chati Bandipora in the third week of March 1994. The security forces have not disclosed his whereabouts.

Mushtaq Ahmad Genaie, resident of Sozan Dialgam, was arrested on March 3, 1994. His relatives have approached the authorities, but have not been told his whereabouts.

Mohammad Maqbool Sheikh, a resident of Nowgam Handwara, was arrested by the 108th battalion of the BSF on August 9, 1993, and was then reportedly handed over to the Army. His family approached the authorities but has been unable to obtain any information about his whereabouts. The police register dated August 12, 1993 notes that Sheikh was released in the presence of Constable Ali Mohammad and Constable Abdul Rehman. On December 8, 1993, in response to a petition from the bar association to the divisional magistrate, the superintendent of police directed the station house officer, in letter no. SR/93/24/10/87-88, to file a report about the arrest. The divisional magistrate then ordered the superintendent to conduct an inquiry. The report was filed on February 22, 1994, but when the police failed to carry out an investigation, Sheikh's family filed a writ in the High Court in Srinagar, no. 458/94, which was listed before Justice Rizvi on May 26, 1994. The state was given three weeks to respond. At the time this report went to print, the security forces had still not disclosed Sheikh's whereabouts nor produced him in court.

Abdul Rashid, an employee of Uri Civil Project [a development project] and a retired army soldier, was arrested by the 152nd battalion of the BSF on May 18, 1994. On May 20, the BSF reported to the local police that Rashid had "escaped from custody." Rashid has not been seen since then.

Shuqat Ahmad, a resident of Batawara, Srinagar, was arrested at his shop in the first week of May, 1994. His family members have reported that he was earlier threatened by one officer who had demanded that Ahmad allow him to take goods from the shop without paying for them. Ahmad's family has been unable to discover his whereabouts since his arrest.

Sonaullah, a fifty-year-old resident of Bijbehara, was arrested on May 12, 1994. Despite appeals from Sonaullah's family, the authorities have not disclosed his whereabouts. Neighbors have organized protests to demand his release.

Hemayun Azad, a resident of Raj Bagh, was arrested in the month of February 1993 by the 137th battalion of the BSF, while traveling in a car with the registration Number 4748/JKQ. Arrested with him were two other men, Bashir Ahmed and Basharat Bhat. Although the BSF filed a FIR stating that Azad had been arrested, but later "escaped," the state administration later denied the arrest had ever occurred. A number of habeas corpus petitions were filed on his behalf before the High Court,²⁶ which were listed for a hearing on June 3, 1994.

In the original FIR, the Commandant of the 137th battalion of the BSF, M.B. Suberwal, admitted that Azad had been arrested, but the arrest was denied by then Director General of Police (DGP) B.S. Bedi. Since then, the current DGP, M.N. Suberwal, has also filed an affidavit denying the arrest.

In his affidavit, Commandant M. B. Suberwal stated that Azad had been taken to Jammu where he claimed

²⁵Ibid.

²⁶The petitions were numbered 124/93,1778/93,499/93 and 73-74/94.

that the vehicles of the security forces had gotten stuck marshy land and Azad had escaped. He claimed that a report was filed in the local police station, and after that, all the police stations of Jammu were informed about the escape.

The court has called on the state administration and central government to resolve the contradictions in the DGP and BSF versions of the incident.

The two other men arrested with Azad, Bashir Ahmed and Basharat Bhat, remain in detention.

Jalla Banno told human rights monitors in Kashmir about the disappearance of her son, **Mustaq Ahmed Lala**, an eighteen-year-old carpet weaver who lived in Arm Masjid, Khanyar, Srinagar.

On September 16, 1993, the 22nd battalion of the BSF arrested my son along with three others at the residence of Mohamed Ayoub Kadri in Makhdoom Sahib, Kanhiar. I have made several requests to see my son. I have requested Mr. Zaki [advisor to Governor Rao], the Home Secretary, Mahmoud Rahman, Inspector General of Police (IGP) Suberwal, and Saklani [cabinet advisor to Governor Rao]. I have been told that my son was taken to the Badami military hospital after he was interrogated. Mr. Saklani told me I could see my son, and Mr. Palat from internal security also told me I could see him, but the authorities at the hospital refused to let me in. Then I filed a petition before the High Court. The High Court ordered that I be allowed to see him, but when I presented the paper to the hospital authorities, they again refused to allow me in.

On March 22, 1994, the Khamar police station received an application from the 22nd battalion of the BSF concerning Mustaq Lala (S.N./94/T-3/340-44), but refused to give the information to his family.

Two of the other men arrested with Mustaq have been released. One other man arrested was Younus Pindoo, who remained at the Rangrath interrogation center as of June 1994.

TORTURE

International human rights law prohibits torture and other cruel, inhuman or degrading treatment or punishment. Torture is widely practiced in Kashmir as a means of extracting information from detainees, coercing confessions, punishing persons believed sympathetic to the militants and creating a climate of political repression.²⁷ It is common in interrogation centers run by the army, BSF and CRPF throughout Kashmir. Virtually every one taken into custody is tortured. Methods include electric shock, burning with irons and other heated objects, crushing leg muscles with a heavy roller, severe beatings, suspension by the arms or by the legs, with the victim hanging upside down. Detainees have also been subjected to psychological torture, including isolation and threats that they or their families would be killed.

Every security force has its own interrogation centers in Kashmir, which include temporary detention centers at BSF, CRPF and army camps, hotels and other buildings that have been taken over by security forces. Detainees are first interrogated by the detaining security force for periods of time which may range from several hours to several weeks. During this time the detainee is not produced before a court or given access to anyone outside the interrogation center. Those suspected of being militants are then usually handed over to Counter-Intelligence Kashmir (CIK), and interrogated at Joint Interrogation Centres (JICs) at which each security force is represented. Detention at the JIC may last for months. Human rights groups in India and Kashmir have identified more than fifty interrogation centers where torture is practiced. For a list of these centers, see Appendix I.

The following cases are illustrative of the pattern of torture practiced in Kashmir.

Fayaz Ahmad, a resident of Koligam, Lolab Kupwara, told human rights activists that he was arrested during a raid in November 1992 at about 6:00 A.M. According to his account, he was taken to a nearby camp where informants pointed him out as an alleged militant. He was then taken to an interrogation center where he was

²⁷Torture is widely used by Indian police and other security forces, not only in areas of insurgency but throughout the country. It is used not only against political detainees, but also against petty criminals and persons who have committed no crime at all. Those most vulnerable are the poor, members of "scheduled" castes and tribes, "dalits" (untouchables), landless laborers and women. See Amnesty International, *India: Torture, Rape & Deaths in Custody*, (London: 1992). Article 3 of the Code of Conduct for Law Enforcement Officials states "In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons."

severely beaten, and then plunged into cold water and given electric shocks. As he was being tortured, the security forces demanded that he confess to being a militant. He was then shifted to another camp where his feet were burned on an iron stove, and he was given electric shocks to his hips. One soldier beat him with iron chains. He was stripped and hung upside down, and then made to lie outside in the snow. For the next twenty-four hours the beatings and interrogation continued.

Fayaz was kept at the Koligam Lolab BSF camp, where the 161st battalion of the BSF was stationed. After a month, he was later shifted to Kupwara where he was kept for five days at another interrogation center. There, his legs were burned with a hot iron and with scalding water.

Fayaz was then shifted to Drugmulla BSF Camp and kept there for six days and interrogated regularly. He was then shifted to the Badami Bagh cantonment area of Srinagar. He was ordered to confess everything and threatened that if he did not, he would be thrown into the boiling water tank. Fayaz said the security forces also cut him in the leg and poured petrol on him and lit it, giving him serious burns. They again ordered him to confess to being a militant. Sometime after, Fayaz was taken to the army camp hospital, where he was kept for a month.

Fayaz was brought to the Police Control Room on May 6, 1993 and then taken to the Soura Medical Institute where he was admitted in Trauma Ward No. 2 bed No. 12 bearing MRD. No. 105894. He was discharged on September 19, 1993.

Fayaz Ahmad's mother stated that after her son was arrested, she tried to approach the officer in charge, but he ordered her to leave and threatened to rape her if she did not.

Fayaz stated that during his detention at the 161st BSF camp at Koligam, Kupwara, one other detainee, Ghulam Hassan of Khurhama, was beaten to death.

Ali Mohammad, a resident of Bandipora, was arrested on May 8, 1994, as he was returning to Srinagar from a visit to his home village. As he got down from the bus at Batmalloo crossing, at about 4:45 P.M., he was picked up by the BSF stationed at Karanagar and forced into a BSF vehicle.

After hearing that Mohammad Ali had been detained, his employer attempted to discover where he had been taken and to secure his release. After providing a statement attesting to the fact that Mohammad Ali was not involved with the militants, the employer was told by a senior BSF officer that Mohammad Ali was not in their custody.

Mohammad Ali was released after several days. His employer, a doctor, stated that he was unable to walk, and had extensive bruises on his legs and sides. His legs had been pulled apart, and he stated that the BSF had told him he should confess to being an Afghan.

THE FAILURE TO PROSECUTE

Although the Indian government claims to have prosecuted security personnel for abuses, officials have never responded to queries from Human Right Watch/Asia as to the specifics regarding the nature of the abuses, the identity and rank of those responsible for abuses, and what punishments have been ordered in many cases. More important, in all but a few cases, the government has not made information about these punishments public, a measure absolutely critical if the people of Kashmir are to believe that justice has been done. Local human rights groups in Kashmir have also requested information about any measures taken against security personnel responsible for abuses, but have had no response. Moreover, by not communicating information about such punishments to police and security personnel, the authorities have also failed to insure that these measures function as a deterrent against future abuses.

According to the 1994 U.S. Department of State *Country Reports on Human Rights Practices for 1993*, although "deaths in police custody received increased public attention in 1993 ... there was little evidence that the responsible officials received appropriate punishment." The report notes that "extrajudicial executions in areas facing separatist insurgency were generally tolerated by state authorities," and that "there is no evidence that any member of the security forces has been punished for an incident of custodial death or custodial torture" in Kashmir. Three human rights monitors were killed between December 1992 and April 1993; government inquiries into the cases have gone nowhere, and no one has been brought to justice for their murders. There were 168 reported deaths in custody in just the first four months of 1993; no one has been prosecuted in any of these cases.

The notable exception to this pattern is with regard to cases of rape. Army authorities in Kashmir, in

particular, have made public a number of courts-martial of soldiers accused of rape. For example, on July 29, 1994, two soldiers were sentenced to 12 years in prison after being court-martialed for raping a village woman in Kashmir. However, the authorities have refused to prosecute many other documented cases of rape, including the October 10, 1992, rape of nine women in Shopian.²⁸ In early 1994, the national Human Rights Commission, a government-appointed body established with limited powers in 1993, recommended that fourteen BSF personnel be prosecuted for the killing of some forty unarmed civilian demonstrators at Bijbehara on October 22, 1993. It is not known whether proceedings against the BSF troops have begun.

One of the most striking aspects of the government of India's response to human rights reports has been the conspicuous omission of any attempt to counter the charge that the security forces in Kashmir have systematically tortured persons in their custody. In many cases of torture, the security forces themselves admit that they torture detainees on the orders of their officers. From these statements, and the irrefutable physical evidence of torture gathered by Human Rights Watch/Asia, it is clear that torture by security forces is condoned.

U.S. POLICY

The first visit by a senior State Department official to New Delhi under the Clinton Administration was marked by public criticism of India's human rights record. That statement, by then Interim Deputy Assistant Secretary for South Asia John Malott, called on India "to take steps to bring the behavior of its security forces into line with its constitutional commitment to human rights, especially in Kashmir." The statement was followed by other similar expressions of concern about India's Kashmir policy, most notably by Assistant Secretary of State for South Asia, Robin L. Raphel. The controversy stemmed not only from Secretary Raphel's criticism of India's human rights abuses, but also from her observation at an October 22, 1993, press briefing that, because Kashmir is a disputed territory, its accession to India was not necessarily final.

Reaction to what was portrayed by Indian leaders as a dramatic change in U.S. policy was swift. In a move apparently designed to persuade the Clinton Administration to back off its public stance, Indian officials condemned U.S. criticism as a "tilt" to Pakistan which would endanger Indo-U.S. relations. The Clinton administration quickly capitulated, and since early 1994 has blunted any further criticism of India's human rights record.

That human rights would be relegated to private discussion only was made clear by the new U.S. ambassador to India, Frank Wisner, in an interview published in the July 15, 1994, issue of the prominent Indian news magazine *India Today*. Ambassador Wisner stated that he believed human rights was an issue governments should discuss privately. In a letter to Human Rights Watch/Asia dated July 21, Assistant Secretary Raphel echoed this line, stating that the administration "believe[d] that at this time the most effective way for the U.S. government to influence the Indian government ... is through private, rather than public, diplomacy."

In addition, the State Department has repeatedly given India credit for measures the government has not even taken. At a hearing before the Senate Appropriations Subcommittee on April 19, Assistant Secretary of State for Human Rights John Shattuck claimed that the administration had "successfully pushed for unfettered access for international human rights and humanitarian organizations to Kashmir." On March 10, Assistant Secretary Robin Raphel dodged a question from the House Subcommittee on Asian and Pacific Affairs about access for human rights groups by noting the Human Rights Watch had "written reports" and that "diplomats ... are free to travel." She conceded that "control does come into play ... in issuing visas." In fact, no human rights groups have been permitted to conduct independent investigations in Kashmir. Twice in 1994, Human Rights Watch/Asia researchers were refused visas.

Assistant Secretary Raphel also praised the Indian government for new signs of openness but was unwilling to condemn a law permitting prolonged detention without charge or trial, saying only that she was "not judging whether it is good or bad." The law, the Terrorist and Disruptive Activities act (TADA), authorizes administrative detention for a year without charge or trial for any "act or speech, which *questions*, disrupts or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India." Because it permits the use of coerced confessions as evidence it also increases the likelihood of torture.

During the visit of Prime Minister Narasimha Rao to the U.S. in May, all mention of human rights was

²⁸For more on this case, see *A Pattern of Impunity*, p. 102.

avoided. At a lunch hosted by Vice-President Al Gore in honor of Prime Minister Rao's visit, human rights was dropped from the short list of problem areas between the two countries. The U.S. Congress bestowed a signal honor on the prime minister by permitting him to address a joint session. Several Members are reported to have raised human rights in meetings with the Prime Minister after the session.

At the meeting of the U.N. Commission on Human Rights in March, India went to extraordinary lengths, even enlisting the support of such dubious allies as Iran and China, to ensure that a resolution condemning abuses in Kashmir was withdrawn. The U.S. abstained. According to human rights groups in Kashmir, the current escalation in abuses dates from the Geneva meeting, and appears to be a consequence of India's success in silencing international criticism.

CONCLUSIONS AND RECOMMENDATIONS

As this report amply illustrates, the human rights situation in Kashmir is getting worse at a time when international pressure on the Indian government has all but ceased. Indeed, it could be argued that the increase in deaths in custody and other abuses over the last six months is not unrelated to the signals sent by India's one-time critics, notably the United States, that human rights would no longer feature prominently in bilateral discussions.

The apparent success of the Indian government's campaign to silence international criticism is all the more deplorable because that criticism produced some first steps, indicating that the Indian authorities felt the need to respond to their critics. Last year, pressure from the U.S. and other donor countries persuaded India to take a few steps toward accountability for its security forces. India established a Human Rights Commission and publicized one or two arrests of soldiers who had committed abuses. In March 1993, it permitted the International Committee of the Red Cross (ICRC) to conduct a survey of humanitarian needs in Kashmir. Maintaining steady pressure on human rights might have nurtured such developments and led to more substantive changes.

If there is to be any improvement in the protection of human rights in Kashmir, international pressure is vital. The international community, through bilateral and multilateral initiatives should press India to end the kind of practices documented in this report by allowing outside international investigations of human rights violations in Kashmir, permitting international humanitarian agencies direct access to prisoners, and prosecuting and punishing army and paramilitary forces responsible for murder and torture.

One crucial opportunity to raise human rights is through the United Nations. India should be urged to invite the specialized agencies of the U.N. Human Rights Commission (such as the Working on Disappearances, the Special Rapporteur on Torture and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions) to visit Kashmir and investigate abuses. When the Special Rapporteur on Extrajudicial Executions, Bacre Waly Ndiaye, raised the possibility of visiting India with Indian government officials in Geneva, he was told that it was preferable to let the new Indian Human Rights Commission handle charges of the government's violation of the right to life.²⁹

In general, the response of the Indian government to United Nations inquiries about human rights violations in Kashmir has been to stress the "ferocity of terrorism" that security forces face there, to claim that between the efforts of the press and the judiciary, individual rights are protected, and to assure the agency making the inquiry that allegations of torture, disappearances and executions were rigorously investigated and prosecuted. Such assurances have little basis in fact, but visits by the Working Groups and Special Rapporteurs would enable the latter to weigh the accuracy of charges and countercharges of human rights abuses in Kashmir. In addition, the United Nations Secretary General should appoint a personal envoy to assess the human rights situation in Kashmir and report back to him. The findings of the envoy should be made public.

The countries who aid and trade with India have a particular responsibility to ensure that India's potential as a market does not obscure its human rights problems. They should make human rights a top priority of the agenda of the annual donors' meeting on India and use that meeting to press India to extend invitations to the UN specialized

²⁹ United Nations Economic and Social Council, Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, with Particular Reference to Colonial and Other Dependent Countries and Territories: Extrajudicial, Summary or Arbitrary Executions, Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights Resolution 1933/71, E/CN.4/1994/7, December 7, 1993, p.80.

agencies mentioned above. They should ensure that bilateral trade and investment delegations are well-briefed on human rights problems and raise these with their Indian counterparts. And they should continue to press for concrete data on prosecutions and convictions of Indian security forces in specific cases of human rights offenses, to send the message that standard Indian government assurances that action is "invariably" taken against those responsible for abuses are no longer acceptable without details about who was punished, when, where and for how long.³⁰

³⁰ The Indian government told the Special Rapporteur on Torture that "complaints against security personnel are investigated and action is invariably taken against those found guilty. Even the various special laws that have been enacted to combat terrorism ensure that no provisions guarantee any form of impunity to the law enforcement and security forces against prosecution or other disciplinary proceedings for any acts committed in the exercise of powers conferred by those laws." In the experience of Human Rights Watch/Asia, that statement is patently false. The government continued, "In the State of Jammu and Kashmir alone, during the ongoing phase of terrorism and insurgency, action has been taken against 170 officers and men of the army and security forces, which includes rigorous imprisonment and confinement, dismissal from service, suspensions pending inquiry and other forms of departmental punishment, which could have long-term implications on the career prospects of the concerned personnel." United Nations Economic and Social Council, Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, in Particular, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32, E/CN.4/1994/31, January 6, 1994, p.63.

APPENDIX
LIST OF INTERROGATION CENTERS IN KASHMIR WHERE TORTURE IS PRACTICED³¹

In Srinagar district:

Sonwar Bagh Joint Interrogation Center (JIC)
Raja Bagh JIC
Pantta Chhok BSF camp
Government Degree College Bemina (now a CRPF camp)

Bagh-e Mehtab JIC
Badami Bagh Army camp
Old Airport Army camp

In Baramulla district:

Pattan Army camp
Doobgah CRPF camp
Wadoora College Sopore BSF camp
Government Degree College Sopore BSF camp
Sundarwani Bandipora BSF camp
Dawar Gurez BSF camp
Gulmarg (Baba Reshi) Army camp
Singh Pora Baramullah Army camp

In Budgam district:

Pir Bagh Intelligence Bureau Interrogation Centre
Kakao Rini Chrari Sharif BSF camp
Khan Sahib Army camp
Town Hall Budgam CRPF camp
HMT Zainakote CRPF camp
Ompura CRPF camp
Chana Pora BSF camp

In Anantnag district:

Doora Shahabad Army camp
Khanabal Police Lines
Baniball Army camp
Chattergul Brah BSF camp
Khundroo Army camp
Qazigund Army camp
Bijbehara Army camp
Frisal Army camp

In Pulwama district:

Kakapora CRPF camp
Balev Gund Army Camp
Shopian BSF camp
Police Lines Pulwama
Boonarta Army camp
Awantipora Army camp
Tral Army camp

In district Kupwara:

Zangli (Kalimitti) BSF camp
Trehgam Army camp
Karnah Army camp rest house
District Police Lines Kupwara
Battergam BSF camp
Chowkibal Army camp
Drugmullah Army camp

In Srinagar city:

Raj Bagh Police/CRPF camp
Seki-Dafar CRPF camp
Pampora (By-pass road) Police station
Bagh-e-Ali-Mardan Army/BSF/CRPF interrogation camp
Sakura Army/BSF/CRPF interrogation camp
Tail-Bal Army/BSF/CRPF interrogation camp
Shalimar Army/BSF/CRPF interrogation camp
Shah Cinema Army/BSF/CRPF interrogation camp
Neelam Cinema Army/BSF/CRPF interrogation camp
Hawal Cinema Army/BSF/CRPF interrogation camp
Hari Niwas Interrogation Center (CRPF)
Papa I (CRPF)
Papa II (BSF)
Red 16 (BSF)
Gogoland -- between the old and new airports (CRPF)
Bagi Ali Mardan (Nowshera) (BSF)
Lal Bazaar Police Station (BSF)
Hotel Mamta, Dal Gate (BSF)
Shiraz Cinema, Khenyar (BSF)

³¹Most of this list comes from a report by the Federation Internationale des Droits de l'Homme (FIDH), June 1993, as cited in Committee for Initiative on Kashmir, *Kashmir War, Proxy War* (Delhi, October 1993) pp. 21-23.

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