September 1994 Vol. 6, No. 10

INDIA
ARMS AND ABUSES IN INDIAN PUNJAB AND KASHMIR

I. INTRODUCTION

The northern Indian states of Punjab and Jammu and Kashmir[1] have been the sites of perhaps the most bitter and bloody armed struggles in that nation's post-independence history. Conflict erupted in Punjab in the early 1980s when armed Sikh opposition groups launched a violent campaign for a separate state. Armed activity has subsided considerably since a brutal crackdown by government forces which began in 1992. Kashmiri opposition groups took up arms on a wide-scale basis in 1989-90, fighting either for an independent state or accession to Pakistan.

In both Punjab and Kashmir, as arms flows and armed struggle increased, respect for human rights by all parties deteriorated.[2] In this report, the Human Rights Watch Arms Project focuses on the human rights impact of the diffusion of sophisticated light weapons and small arms to Sikh and Kashmiri insurgents, commonly referred to as as militants. It details violations of the laws of war committed by militants, and traces the sources of the weapons used by the militants in those abuses. The report also discusses abuses by Indian forces and weapons supplies to the Indian government. It concludes with a series of recommendations to the Sikh and Kashmiri militants, the Indian government, and the countries that directly or indirectly have supplied them with weapons, particularly Pakistan and the United States.

Summary

The massive proliferation of small arms and light weapons in South Asia is directly linked to the Soviet invasion of Afghanistan in 1979, and the subsequent creation by the United States of a system, commonly known as the Afghan pipeline, to funnel weapons covertly to the Afghan resistance. The Afghan pipeline enabled the transfer of tens of thousands of tons of weaponry to the *mujahidin*; the weapons were procured by the U.S. Central Intelligence Agency (CIA), and Pakistan's Inter-Services Intelligence (ISI) served as the conduit. The ISI received and stored weapons acquired by the U.S. and distributed them to Afghan party leaders who turned them over to field commanders. To conceal U.S. involvement, the CIA provided limited oversight over the workings of the pipeline and imposed virtually no effective controls. Even the total numbers of weapons that the CIA transferred may have been impossible, or too sensitive, to document; the former director of the Afghan bureau of the ISI maintains that the ISI kept no records.

The deliberate efforts to dodge accountability on the part of the U.S. and Pakistan allowed weapons to be siphoned off from the pipeline, apparently by the ISI and by Afghan mujahidin who, many claim, sold weapons to raise cash for field supplies or for personal gain. Massive quantities of siphoned-off pipeline weapons have been found in the arms bazaars in Pakistan's Northwest Frontier Province—available to any purchaser with sufficient capital.

Large numbers of pipeline weapons have made their way into the hands of Sikh and Kashmiri militants. Evidence suggests that the militants obtain the weapons in several ways: directly from members of Pakistan's intelligence and military establishment, particularly the ISI, from the arms bazaars in Pakistan's Northwest Frontier Province, and from former Afghan fighters. There is compelling evidence that elements of the Pakistani government

[1] Throughout this report, the term "Kashmir" is used to describe that part of the state of Jammu and Kashmir that lies in the valley of the Jhelum river and includes the towns and villages of Handwara, Baramulla and Sopore to the northwest, Anantnag to the southeast, and Srinagar in the center. This is the primary area of conflict.

[2] Human Rights Watch/Asia has issued various reports detailing serious human rights violations by both government forces and militant groups in Punjab and Kashmir: Human Rights Watch/Asia, "Continuing Repression in Kashmir: Abuses Rise as International Pressure on India Eases," *A Human Rights Watch Short Report*, vol. 6, no. 8, August 1994; Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence: The Legacy of Abuses in Punjab* (New York: Human Rights Watch, 1994); Asia Watch and Physicians for Human Rights, *The Human Rights Crisis in Kashmir: A Pattern of Impunity* (New York: Human Rights Watch, 1993); Asia Watch and Physicians for Human Rights, *Rape in Kashmir: A Crime of War* (New York: Human Rights Watch, 1993); Asia Watch and Physicians for Human Rights, *The Crackdown in Kashmir: Torture of Detainees and Assaults on the Medical Community* (New York: Human Rights Watch, 1993); Asia Watch, *Encounter in Pilibhit: Summary Executions of Sikhs* (New York: Human Rights Watch, 1991); Asia Watch, *Punjab in Crisis* (New York: Human Rights Watch, 1991); Asia Watch, *Kashmir Under Siege* (New York: Human Rights Watch, 1991); Asia Watch, *Prison Conditions in India* (New York: Human Rights Watch, 1991).

have sponsored a significant flow of arms to Kashmiri militants, as well as an extensive training program. There is also substantial evidence that Sikh militants in Indian Punjab have had ready access to Pakistan's arms stockpiles.

The human rights situations in Punjab and Kashmir have been acutely affected by the militants' acquisition of advanced small arms and light weapons diverted from the U.S.-supplied Afghan pipeline. In recent years, militants in both states have committed numerous, serious violations of humanitarian law, including direct attacks on unarmed civilians, indiscriminate attacks, summary executions, hostage-taking, rape, threats to commit bodily harm, and the use of religious sites for military purposes.[3]

Advanced weapons, many of them originally from the Afghan pipeline, were used frequently by Sikh militants directly in the perpetration of abuses, and allowed them, in violation of international norms, to instill terror deliberately in the general population. The influx of automatic rifles, in particular, made it easier for Sikh militants to kill greater numbers of civilians by opening fire on crowds of people. Kashmiri militants have also used advanced weapons in the course of attacks on civilians, though far less frequently than Sikh militants. It is also likely that the Kashmiri militant arsenal has contributed to their ability to instill terror in the civilian population, particularly local Hindus, tens of thousands of whom have fled the Kashmir valley.

The extreme gravity of the abuses committed by militant groups in Punjab and Kashmir is in part a direct consequence of the diffusion of advanced light weapons and small arms, and the evident failure of those assisting the militants to pressure them to respect human rights and abide by the rules of war. Pakistani support for the militants—direct support in the form of arms shipments and training, and indirect support in the form of a green light to purchase arms originally destined for Afghanistan—has greatly facilitated abuses. The deliberate efforts by the U.S. to evade accountability for the diffusion of arms, and the U.S.'s continuing silence regarding its responsibililty, has also been an element contributing to abuses.

The Arms Project believes that governments that provide arms and training to armed opposition groups should bear some responsibility for the willingness or failure of the recipients to abide by the minimum humane standards established in international humanitarian law. While the Arms Project takes no position on whether states should ever support insurgents in second countries, it believes that whenever assistance is provided, the supporting government must assume some responsibility for ensuring that the recipients act only within the limits of international standards regulating armed conflict. Governments should use their influence to this effect, and sever all support to those groups that persistently violate the standards of the laws of war.

[3] As explained in the Legal Appendix, while some of the laws of war may not be legally binding on militant organizations, the Arms Project believes that the laws of war provide standards to which insurgent groups should be held.

Although not the focus of this report, the human rights record of the Indian government in Punjab and Kashmir is appalling. Abuses in Kashmir are clearly on the rise.[4] Government security forces engage in systematic violations of human rights and humanitarian law, including attacks on entire villages in retaliation for insurgent military operations. Frequent instances of torture, extrajudicial killing, rape, and unprovoked firing on peaceful demonstrations are well-documented. At a time when its human rights record is deteriorating, India is accelerating its arms purchases from foreign sources. With the collapse of the Soviet Union, several countries, including the U.S., Israel, Russia, Germany and France, have begun to provide India with arms and other forms of military assistance, and others are negotiating to do so. It does not appear that human rights considerations figure highly, if at all, in these transactions, or that governments negotiating arms deals are prepared to monitor and to take responsibility for the misuse of such weaponry.

Key Recommendations

Militant organizations in Kashmir and Punjab, and Indian government forces, should abide by internationally recognized principles of human rights and humanitarian laws. The government of Pakistan should end all support for abusive militant organizations in Kashmir and Punjab. Countries that choose to provide weapons, ammunition, or other forms of military assistance to militants in Kashmir and Punjab, or to Indian government forces, should condition such transfers explicitly on the human rights performance of the recipient, and then monitor closely the recipient's human rights record. Supplier countries should terminate weapons transfers and all other military support immediately if the recipient fails to adhere to international humanitarian law and internationally recognized principles of human rights.

The government of Pakistan should investigate the involvement of the ISI and other governmental agencies in the sale or transfer of weapons, and the provision of training and other assistance, to militants in Punjab and Kashmir. The government should halt such practices pending imposition and implementation of explicit human rights conditions, formal central government authorization and strict controls. The Pakistani government, with the assistance and support of the international community, should formulate viable measures to help control the spread of weapons to and from the Northwest Frontier Province.

The governments of Pakistan and the United States should formally investigate allegations that members of the ISI siphoned off weapons without authorization from the Pakistani-controlled, U.S.-orchestrated pipeline. The results of these investigations should be made public, and the respective governments should take appropriate legal action. The United States should investigate allegations that stockpiles of pipeline weapons are currently maintained in Pakistan under the control of the ISI, and formulate effective measures for recovering or destroying any pipeline weapons. In all future arms transfers, whether covert or not, the United States should insist on strict accountability by the recipients and intermediaries, and strict adherence to international standards of humanitarian law.

II. SOURCES OF WEAPONS FOR MILITANTS IN PUNJAB AND KASHMIR

India has long accused the government of Pakistan of directly supplying weapons, as well as other forms of military support, to militants in Punjab and Kashmir. Most long-time observers of the region concur.[5] Both Sikh and Kashmiri militant leaders have acknowledged as much,[6] and many of the weapons used by militants in both states

[4] See, Human Rights Watch/Asia, "Continuing Repression in Kashmir," August 1994.

[5] See, for example, John Ward Anderson and Molly Moore, "After Cold War, U.S.-Pakistani Ties are Turning Sour; U.S. Threatens Sanctions, Alleging Support for Terrorism," *Washington Post*, April 21, 1993. This report notes that the U.S. State Department was considering formally naming Pakistan as a supporter of terrorism because of official assistance to Sikh and Kashmiri militants, and indicates that the CIA "long has had solid information that Pakistan has trained, funded and supplied such rebels."

[6] See, for example, Steve Coll, "India-Pakistan Wage Covert Proxy Wars," *Washington Post,* December 8, 1990; James P. Sterba, "Border Battle In Militaristic Pakistan, Struggle With India Bolsters Self-Identity," *Wall Street Journal*, December 28, 1990.

clearly were acquired in Pakistan. Nevertheless, there are many complexities and uncertainties about the arms supply relationship.

Available evidence suggests that most weapons obtained by Sikh and Kashmiri militants have come from two sources inside Pakistan: the arms bazaar in Pakistan's Northwest Frontier Province (NWFP)—a vast black market for weapons—and members of Pakistan's Inter-Services Intelligence (ISI), operating either on their own or with the tacit or explicit complicity of the central Pakistani government. Many of the weapons acquired from these sources were siphoned off from U.S. arms transfers to Afghan mujahidin fighting Soviet forces—the so-called "Afghan pipeline" in which the U.S. funneled vast supplies of arms through the ISI to the Afghan resistance.[7]

The Afghan Arms Pipeline Through Pakistan[8]

Origin of the Pipeline

The single most important factor in the introduction of small arms and light weapons into South Asia was the effort by the U.S. and Pakistan to arm the Afghan mujahidin resistance, by establishing a secret arms pipeline, in response to the Soviet invasion of Afghanistan in December 1979.

Soviet forces introduced tons of Soviet military material into Afghanistan, large quantities of which remained behind and have also been diffused throughout the region.[9] In the 1980s, U.S. intelligence services developed a counter-strategy which involved the provision of enormous amounts of arms and ammunition to mujahidin leaders and commanders in the field. Vast quantities of material purchased by the U.S. for use by the mujahidin were diverted illicitly or remained in the region after the end of the war.

While support for the mujahidin began during the Carter Administration, it was after Ronald Reagan's election to the U.S. presidency that Afghanistan and Pakistan became revitalized "forward defense areas" where the battle against the Kremlin's "evil empire" would be waged. Once the Reagan Administration made the decision to arm the mujahidin resistance, albeit covertly, Pakistan became the conduit for a massive military assistance program. The CIA then became its supplier, and the ISI the intermediary and distributor.

Weapons Supplied and the Non-Accountability Policy

The CIA, however, faced the problem of concealing its responsibility for its acts, since the U.S. did not want to be seen as providing direct military assistance for the mujahidin. Consequently, U.S. intelligence services set up bank accounts in Switzerland into which the U.S. and Saudi governments directed their contributions to the Afghan resistance, which were then used to pay for weapons from a variety of sources. Wealthy individual Saudis and the Iranian government also contributed to the mujahidin but through their own channels; they favored direct payments to Afghan leaders such as Abdur-Rabbur Rasul Sayaf, who received support from Saudi sources, and Sheikh Huhsini, Hojetoleslam Zahedi and Ali Zahedi, who were supported by Iran.

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[7] *Washington Post* also cited a former ISI official who claimed that Pakistani officials developed close ties to Indian Muslims who fought alongside the Mujahidin in Afghanistan, segregating them in special training camps, and later providing assistance through them to insurgencies in Kashmir, Punjab, and Assam. Anderson and Moore, "After Cold War...," *Washington Post*.

[8] Much of the material in this section is drawn from Chris Smith, "The Diffusion of Small Arms and Light Weapons in Pakistan and Northern India," (London: Brassey's/Centre for Defence Studies, 1993). Mr. Smith conducted much of his research as a consultant for the Arms Project. Other important sources on the Afghan pipeline include Muhammed Yousaf and Mark Adkin, *The Bear Trap: Afghanistan's Untold Story* (London: Leo Cooper, 1992), and Mark Urban, *War in Afghanistan*, (Basingstoke: MacMillan, 1990).

[9] See, for example, D. Isby, "Soviet Arms Deliveries and Aid to Afghanistan 1989-91," *Jane's Intelligence Review*, August 1991, p. 348. The Arms Project does not address this issue in this report for two reasons, the most obvious being that the Soviet Union no longer exists. Second, our information suggests that Soviet-made weapons have not been used by Sikh and Kashmiri militants to the extent that pipeline weapons have been.

In an attempt to conceal its support for the mujahidin, the U.S. initially purchased weapons from communist countries. In particular, the CIA purchased massive amounts of arms from the Chinese government—primarily the Type 56 assault rifle (derived from the Kalashnikov AK47).[10] The flood of Chinese assault rifles into the region was followed by other small arms and artillery from an array of sources, notably Egypt and Israel. In addition, the CIA scrambled to buy captured Soviet weapons and equipment, including the AK74, in part because the AK74 was more effective than the old AK47, and presumably also to cover up U.S. involvement in weapons supplies to the mujahidin.

The CIA reportedly purchased 60,000 rifles, 8,000 light machine guns and over one hundred million rounds of ammunition from Turkey, albeit from obsolete stocks and in poor condition. The CIA also procured, via Egypt, large quantities of Technovar antipersonnel landmines that were originally produced in Italy. Against the advice of the ISI, between forty and fifty Swiss-designed Oerlikon anti-aircraft guns were provided, despite the fact that the mujahidin lacked basic training in fire control and ammunition cost $50 a round for a gun capable of expending 1,000 rounds a minute. Mortars were purchased from Egypt and Blowpipe surface-to-air missiles from Britain. Ironically, Soviet weapons were obtained from Israel—those captured during Israel's invasion of Lebanon. Equally incongruously, 100,000 Enfield .303 rifles were purchased from India—an erstwhile ally of the Soviet Union. A principal ammunition supply—thirty million rounds—was facilitated by a Pakistani arms merchant and originated from Pakistan Ordnance Factory (POF) supplies. This massive procurement effort meant that in 1983, for example, some 10,000 tons of weaponry were transferred to Afghanistan via Pakistan, rising to 65,000 tons in 1987.[11]

The CIA's decision in 1986 to supply the mujahidin with the Stinger surface-to-air missile marked an important turning point. Not only did this missile help alter the conduct of the war in favor of the mujahidin (though perhaps not to the extent to which some observers have argued), but it also made impossible any assertion by the U.S. that it was uninvolved in the Afghan arms pipeline, a claim which had already worn thin by this time. Supply of the Stingers, however, was predicated on the condition that they would only be replaced when empty casings were surrendered. Although this constituted an effort toward greater accountability, it does not appear that the policy was followed with any real rigor; as discussed later in this chapter, hundreds of Stingers still remain unaccounted for. During the latter part of 1986, some one hundred Stingers—the first of many shipments—were turned over to the mujahidin; the majority went to Hekmatyar's Islamic Party, the long-term favorite of the ISI.

While the importance of these arms shipments for the war in Afghanistan was fundamental, the manner in which they were transferred had a profound effect upon south Asia in later years, flooding the region with sophisticated weapons that previously had been unavailable on such a large scale. Essentially, the policy adopted by the U.S. was based upon non-interference—once the wherewithal was delivered. Some government officials believed that the U.S. had failed in Vietnam because of excessive interference and micro-management. In Pakistan and Afghanistan the U.S. instituted exactly the reverse—macro-management and non-interference. Consequently, once arms reached either Rawalpindi or Karachi they were handed over to the ISI and ceased to be the charge of the CIA.

[10] There are many different types of assault rifles, produced by various manufacturers. See generally, Edward Ezell, *Small Arms Today* (Harrisburg: Stackpole Books, 1988). The terms AK47, assault rifle, automatic rifle and Kalashnikov are used interchangeably by informants in the field, journalists, and many other observers. Many of the weapons referred to in the region as AK47s, assault or automatic weapons, or Kalashnikovs, however, are in fact Chinese-origin Type 56, modelled on the AK47. Unless otherwise noted, we also use these terms interchangeably.

[11] The information in this paragraph comes from Yousef and Adkin, *The Bear Trap*, pp. 83-89, and Urban, *War in Afghanistan*, p. 187.

Muhammed Yousaf, director of the Afghan bureau of the ISI between 1983 and 1987, has said, "As soon as the arms arrived in Pakistan the CIA's responsibility ended. From then on it was our pipeline, our organization that moved, allocated and distributed every bullet that the CIA procured."[12] It is possible, of course, that the reality may have been a less complete severance of U.S. responsibility upon delivery, but the operating principle clearly was to delegate to others the work on the ground.

Consistent with U.S. insistence on secrecy and its own non-accountability, apparently extremely poor records were kept of how many weapons were transferred, where and to whom. If the U.S. government maintained effective tracing and accounting procedures, their paper trail has yet to surface. Moreover, the military regime in Pakistan saw fit to suspend ordinary accounting. At Karachi, for example, port authority accounts were settled in cash, invoices were merely labeled "defence stores" and customs officials were not involved. The failure of the U.S. and Pakistan to keep track of or impose controls on the pipeline has been cited as a reason why it was virtually impossible to calculate the amount of weaponry imported through the covert program.

Leaks in the Pipeline

The covert nature and lack of oversight of arms shipments to the mujahidin also allowed the pipeline to leak persistently. After the CIA made delivery to the ISI in Karachi or Islamabad, the ISI transported arms to the major storage depot at Ojhiri, outside Rawalpindi, or directly to Quetta and Peshawar. The arms then were turned over to Afghan party leaders, and transported as rapidly as possible into Afghanistan, both to maximize their impact against the Soviet forces and to avoid bottlenecks and capacity overload. According to a former ISI director, the ISI alone was permitted to decide which party would receive particular weapons. The real isolation of the CIA from operations at the Pakistan end could be less than represented by the ISI, but either way, the U.S. government bears responsibility for ultimate end-uses of the weaponry.

By the time the weapons reached the mujahidin commanders in the field, they had been loaded and off-loaded typically at least fifteen times over a distance of several thousand kilometers traveled by truck, ship, train, and pack animal. This allowed ample opportunity for arms to be removed. Apart from arms which went directly to Quetta from Karachi, the majority were handed over to the Afghan leadership at Peshawar before being sent through to the field commanders.[13] In all likelihood, arms were siphoned off at every point of the pipeline. The ISI leadership would have had first claim, followed by the Afghan party leaders. In addition, commanders in the field often sold weapons for a variety of reasons: to raise funds for transportation, ammunition, food, the evacuation of wounded guerrillas, and apparently for personal profit as well.

Yousaf has explained that despite efforts to get weapons out into the field as quickly as possible, delays often developed because of cash shortfalls which, he claims, prevented their transport into Afghanistan.[14] When this occurred, weapons would remain in mujahidin warehouses located inside Pakistan, in Peshawar and Quetta. According to Yousaf, these warehouses had "no proper storage or security arrangements as they were run in the most casual and unmilitary fashion."[15] This situation also presumably contributed to leaks from the pipeline.

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[12] Yousaf and Adkin, *The Bear Trap*, p. 97.

[13] According to Yousaf, "The pipeline was divided into three distinct parts. The first part belonged to the CIA, who bought the weapons and paid for their delivery to Pakistan; the second stretch was the ISI's responsibility, getting everything carried across Pakistan, allocated to and handed over to the parties at their headquarter offices near Peshawar and Quetta, the third and final leg of the journey belonged to them. The parties allocated the weapons to their Commanders and distributed them inside Afghanistan." Ibid., p. 97.

[14] Yousaf alleges that these cash shortfalls were due to the CIA's failure to provide adequate funds to the ISI for disbursement to the mujahidin. Ibid., p. 106.

[15] *Ibid*.

It is not known how many weapons were transferred out of the pipeline, but informed sources suggest massive amounts. Indeed, a former head of the ISI told an American journalist in 1993 that the ISI still had access to three million Kalashnikovs, packed and greased.[16] Allegedly, an immense fire at the arms depot at Ojhiri was deliberately set after the CIA had demanded a spot-check on stores.

It was virtually assured that the arms pipeline would spring leaks at every juncture and that a dynamic black market for arms and ammunition would emerge unless rigorous checks were introduced and stringently applied. In the absence of any semblance of control, by 1985-1986, weapons from the Afghan pipeline had begun to find their way into commercial channels.[17]

Pakistan's Northwest Frontier Province[18]

The NWFP is the most remote and insecure province in Pakistan, relatively cut off from the political control of the central government in Islamabad. Geographically, it separates the rest of Pakistan from Afghanistan, and also contains the key communication link between Central Asia and the Indian subcontinent, the Khyber Pass.

While guns have long been a routine part of everyday life in the NWFP, during the past decade advanced small arms and light weapons have become increasingly available throughout the region, especially in such frontier towns as Landi Kotal, Dara, and Miram Shah. Since the end of the Afghan War, the availability of arms on the commercial market has increased considerably, and in some cases prices have fallen, despite the fact that conflict in and around Kabul continues almost unabated.

The array of weaponry for sale in the arms bazaars is unparalleled in South Asia. In these open bazaars virtually any type of non-major weapon can be procured with little effort and a relatively modest amount of cash. The streets of Dara are full of Pakistanis from Sind and Punjab provinces in pursuit of rifles, mainly the Kalashnikov and Type 56. After payment, delivery can be made to anywhere in Pakistan and possibly beyond. It is also widely rumored that the arms bazaars deal in much more sophisticated weapons, such as surface-to-air missiles. Although these are never placed on show in the bazaars (unlike the ubiquitous displays of assault rifles), the right kind of money and connections apparently give access to this discreet market.[19]

The arms in the NWFP come from many sources. Currently, weapons for sale in the arms bazaars fall into four categories: weapons from the Afghan pipeline; Soviet stocks captured during the Afghan war; locally produced arms; and arms arriving through miscellaneous routes such as the Middle East or Southeast Asia.

Afghan Pipeline Weapons

The NWFP bazaars are full of weapons which leaked from the Afghan arms pipeline. Prominent among these is the Chinese Type 56 assault rifle, as well as an assortment of weapons from Israel and Egypt. In April 1993, the Type 56 sold for Rs.15,000 (c.US$576), the MP5 for Rs.70,000 (c.US$2,700) and the G3 for Rs.30,000 (c.US$1,150).

[16] Arms Project interview with Ed Gargon of *New York Times*.

[17] Arms Project interviews, Karachi, Pakistan, April 6, 1993.

[18] Information in this section is based on field research in the NWFP by Chris Smith, consultant to the Arms Project, during March and April 1993, including visits to Landi Kotal and Dara.

[19] Arms Project interviews, Northwest Frontier Province.

Following the Geneva accords of 1988, which effectively marked the beginning of the end of the Soviet occupation, U.S. arms supplies to the mujahidin actually increased. These included antitank missile systems, Egyptian and Chinese multiple rocket launcher systems and electronic communications technology.[20] These systems remained in the region, and many are available for sale.

Soviet Weapons Captured in Afghanistan

Stocks of Soviet weapons captured after the withdrawal are considerable. These include Soviet and Eastern bloc Kalashnikovs and, importantly, the advanced AK74 rifle, which was largely unknown outside the Soviet bloc until examples began to turn up in this region.[21] A range of models and versions are available, such as the Krinkov AK74, a model which would most likely have been captured from Soviet helicopter crews and which retails at Rs.20,000 (US$770). Other Soviet weaponry for sale in the arms bazaars include Soviet rocket propelled grenade launchers (RPGs) (Rs.10,000/US$384 plus Rs.100/US$3.80 per rocket). In addition, recoilless rifles and such sniper weapons as the SVD Dragunov have also become available.[22]

Locally Manufactured Weapons

A third category of weapons are those manufactured by small-scale producers within the region. The most important of these are forgeries of the Soviet AK47, complete down to the reproduction of serial numbers, used many times over. These have been produced by the "factories" of Dara for many years with little more than hand tools. The quantities available are not large, however, and because the quality is inferior they retail at about Rs.6,000 (US$230). Purchasers are often uncertain whether an AK47 is of Soviet origin or a frontier copy, and frequently prefer to buy a Chinese model which they know will be authentic (because of difficulties in duplicating Chinese lettering of the serial numbers), thus lowering demand for Soviet AK47s.[23] Also, Chinese Type 56s are more readily available than their Soviet counterparts.

In addition, the Frontier Arms Company and the GMB factory of Peshawar turn out arms modeled on standard rifles and revolvers such as the Kalashnikov variants and the .32 caliber Webley.[24]

Miscellaneous Sources of Weapons

Finally, the arms bazaars of the NWFP are full of miscellaneous weapons which probably arrived in the region through extremely circuitous and unpredictable routes--from Vietnam, for example, or the Middle East. These include unused copies of the M-16A2 rifle[25]; the 9mm Calico carbine; the Winchester pump action shotgun (Rs.20,000/US$770); the long-barreled Uzi carbine; the German MP5 submachine gun; and G3s produced by the Pakistan Ordnance Factories. G3s from Iran have also appeared in the region, probably because after the fall of the Shah control of the border between Iran and Pakistan was relaxed. One G3 seen by the Arms Project, priced at Rs.30,000 (US$1,150), bore the markings of the Kingdom of Saudi Arabia, which co-produces the rifle.

Stinger Missiles

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[20] Urban, p.244.

[21] Arms Project interview. As noted earlier, the CIA also bought up Soviet-made AK74s for use in its covert assistance program to Afghan mujahidin. It may be difficult to distinguish AK74s captured from the Soviets from AK74s procured by the CIA for the pipeline.

[22] I.K. Malik, "Small Arms and the Police in Pakistan," *Small Arms World Report*, Institute for Research on Small Arms and International Security, Vol. 1, No. 3 (May 1991).

[23] Traditionally, the difference between the Soviet and the frontier produced AK47 was most obvious from the color of the steel --the latter tended to be more blue-gray, the former black. Frontier producers have to some extent overcome this obvious difference by spray-painting.

[24] "Pakistani Production," *American Rifleman*, No. 4, (1991), pp. 66-67.

[25] The serial number of one located by the Arms Project at Dara was 042733; so far we have been unable to trace it.

Inevitably, there has been a considerable amount of attention directed towards the fate of the unused Stingers, especially given their capability for downing civil or military aircraft. There is little reliable evidence of how many Stingers survived after the Soviet withdrawal because, as time passed, the accounting system, such as it was, relaxed considerably; an unknown number are therefore missing. In 1989, for example, the Pentagon could only guess that between 200 and 500 Stingers were in mujahidin hands.[26]

Since the end of the war, the U.S. government has tried in vain to recover the missiles, offering substantial sums of money for their return. One report noted that the CIA is spending $65 million trying to buy them back.[27] It is possible that the missiles are gradually finding their way across borders, especially since they have only a limited role in the battles now being fought in and around Kabul.

There is some evidence of cross-border transit. In September 1987 a captured Iranian gunboat revealed sixteen Stingers whose serial numbers matched with those handed over to the mujahidin.[28] According to a 1990 *Washington Post* account, U.S. officials believe that Kashmiri militants have obtained U.S.-made Stingers originally supplied to Afghan mujahidin through the pipeline, although none of them seem to have been used.[29] A 1988 article suggested that Sikh militants may have acquired Stingers.[30]

Lack of Control Over NWFP Arms Markets

The development of the NWFP as a major source of weapons and ammunition is understandable when seen in the context of both Afghanistan's and Pakistan's political histories and contemporary situations. First, the situation in Afghanistan remains chaotic and close to anarchy. Although weapons are still required given the persistent fighting, stockpiles are also considerable and the opportunity for profit continues.

Second, the Pakistan government has exercised little control over the border. Moreover, it has only limited jurisdiction over the interior of the NWFP; its practical authority barely extends further than the roadways. The roadways are patrolled by Pakistani Rangers, a paramilitary force whose training and discipline is minimal and who report directly to the local tribal officials. The Pakistan Army and police forces play only a minimal role in this region. Consequently, the transportation and marketing of guns and ammunition is easier here than anywhere else in South Asia.

[26] Tim Weiner, "Blowback," *New York Times Magazine*, March 13, 1994; *Jane's Defence Weekly*, March 25, 1989, p. 271.

[27] Weiner, "Blowback," *New York Times Magazine*.

[28] Urban, *War in Afghanistan*, p. 225.

[29] Coll, "India, Pakistan Wage Covert `Proxy Wars'," *Washington Post*.

[30] "Sikhs Reportedly Given Stinger Anti-air Missiles," *Washington Post*, April 11, 1988.

Third, the NWFP region and Pakistan as a whole are gaining in importance as a central area for drug production and smuggling. As a general rule, wherever drug production is prevalent, the proliferation of illegal weapons also proceeds apace.[31] The Pakistani government has consistently failed to make serious progress against drug production or trafficking. Senior law enforcement personnel are poorly paid and susceptible to bribes. In fact, at least three national parliamentarians are reportedly involved in drug trafficking.[32]

Arming Sikh Militants in Punjab

Indian authorities maintain that most of the weapons found in the possession of Sikh militants enter from Pakistan, and that the majority are facilitated or even shipped directly by the ISI.[33] However, Pakistani support for Sikh militants is likely at a lower level than for militants in Kashmir, in large part because Pakistan has a far smaller political stake in Punjab. In 1985, two long-time observers of Indian politics asserted that over the years:

> [a]rms were regularly smuggled across the border, and it is more than likely that President Zia [of Pakistan] turned a blinder eye than usual. It is certain that he did not object to Bhindranwale's terrorists crossing the border to seek temporary refuge from the police....[34]

They maintained, however, that "Zia adopted a very cautious attitude to the Punjab crisis."[35] This perspective was shared by another observer who in 1990 asserted that, while

> Sikh separatists continue to wreak havoc with weapons obtained in Pakistan, the level of assistance to the guerrillas from Pakistan's government appears to be lower than in Kashmir...some guerrillas say that they conduct their own training and only cross into Pakistan to purchase weapons.[36]

Certainly, many of the weapons used by Sikh militants bear a very close resemblance to those that came through the ISI-administered Afghan arms pipeline, especially the Chinese Type 56 which was a central feature. What is less clear, however, is to what extent the weapons have been deliberately sold or otherwise transferred to Sikh militants by the ISI, and to what extent they have been obtained without government assistance through purchases from arms bazaar merchants and other private actors. In either case, it appears that Sikh militants have moved freely across the border into Pakistan and have secured arms without hindrance by Pakistan authorities.

Weapons Seizures

[31] See, for example, R.T. Naylor, "Covert Commerce and Underground Finance in the Modern Arms Black Market," Presentation at the American Academy of Arts and Sciences Conference, International Trade in Light Weapons, Cambridge, Mass., Feb. 24-25, 1994.

[32] International Narcotics Control Strategy Report, U.S. Department of State, Bureau of International Narcotics Matters, Washington, D.C., April 1993, p. 6. *See also* M.W. Brauchli, "Drug Trade Blooms in Lawless Reaches of Pakistani Frontier," *Wall Street Journal Europe*, June 9, 1993.

[33] In 1993, the U.S. threatened to put Pakistan on a list of countries that support terrorism in part because of ISI assistance to Sikh and Kashmiri militants. *See, e.g.*, Anderson and Moore, "After Cold War...," *Washington Post.*

[34] Mark Tully and Satish Jacob, *Amritsar: Mrs. Gandhi's Last Battle* (London: Jonathan Cape Ltd. 1985), p. 212.

[35] Ibid.

[36] Coll, "India and Pakistan Wage Covert `Proxy Wars,'" *Washington Post.*

The Punjab police claim that between 1987 and mid-1993 they seized more than 2,000 Kalashnikov-type rifles from Sikh militants, all of which they claim came from Pakistan.[37] The overwhelming majority of Kalashnikov-type weapons reportedly seized from militants have been of Chinese origin—Types 56, 56-1 and 56-2.[38] The Type 56 was purchased in large quantities by the CIA and transferred to the ISI for use by the Afghan mujahidin. Of all the AK47s reportedly seized in Punjab, fewer than ten have been found to be of Soviet origin. A very small number (four or five) of the more advanced AK74—thought to be produced only in the former Soviet Union and former East Germany—have been seized. In addition, 160 Kalashnikovs have been captured that bear no markings or serial numbers, suggesting that they are local frontier-produced weapons.[39] Indian intelligence sources in late 1992 claimed that Sikh militants were still in possession of 1,543 AK47s, 106 rocket launchers and 112 general purpose machine guns and light machine guns.[40]

In addition to small arms and ammunition, Chinese stick grenades and landmines have also been recovered from Sikh militants. These include antitank mines and Claymore-type antipersonnel landmines. They also have estimated holdings of 1,500 kilograms of RDX and PETN explosives capable of being set off by remote control. In addition, authorities claim to have seized some 20,000 other weapons and fifty quintals (one quintal equals one hundred pounds) of explosives.[41] One published account noted that in the last five months of 1992, counterinsurgency forces in Punjab, seeking to eliminate the Sikh militancy, seized twenty-five tons of explosives, and 550 assault rifles.[42] Sources also told the Arms Project that in 1989, militants had gained access to Toyomoro FM transceivers, which permit the monitoring of telephone calls and radio messages.

Other miscellaneous weapons which have turned up in militant hands are manufactured in a variety of countries. According to one source, for example, authorities have seized Chinese submachine guns and general purpose machine guns, U.S.-made M16 rifles, and Israeli Uzis.[43]

Security Fence

In 1988, the Indian government built a double fence on the Indian side of the border between Indian Punjab and Pakistan, which includes lighting and electrification. The fence, however, may be less of a deterrence than the Indian authorities claim, as lighting and electrification does not extend for the entire length.[44] A government intelligence report prepared in late-1992 stated, for example, that 150 AK47s, sixty revolvers and eight quintals of explosives had recently been smuggled across the Punjab border.[45]

[37] Arms Project interview with K.P.S. Gill, Chandigargh, March 26, 1993.

[38] Ibid. The Type 56 is a standard Chinese Kalashnikov, the Type 56-1 has a folding stock, the Type 56-2 is a copy of the Soviet SKS carbine with a folding bayonet.

[39] Arms Project interview.

[40] Kumar, D., "Punjab terrorists regroup on the quiet." *Times of India*, November 24, 1992.

[41] Arms Project interviews with members of the Punjab CID.

[42] *Jane's Defence Weekly*, January 23, 1993, p. 32.

[43] Arms Project interview.

[44] Arms Project interview.

[45] Kumar, *Times of India*, November 24, 1992.

Nonetheless, the fence has had some effect upon the flow of arms. Since its construction, new supply lines have opened up, across the Thar desert (Pakistani Punjab to Rajasthan) and across the Jammu and Kashmir border, the latter route possibly used by both Sikh and Kashmiri militants.[46] Some believe that the ISI and the Pakistan Rangers pass on arms to narcotics smugglers in the Rahimyar Khan region during the sandstorms which occur in April and May for transportation across the border to Jaisalmer from the staging posts of Bijnot, Islamgarh and Salansar, just inside the Pakistan border, south of the town of Bahawalpur.[47]

Indian Security Force Involvement

Sikh militants also have received help directly from members of the Indian security forces. In November 1992, for example, two consignments of weapons were smuggled through the Ajnala sector of the Punjab, to the north of Amritsar, with the help of Border Security Force personnel. Five members of the BSF were later suspended, one of whom is due to stand trial for "waging a war against the nation."[48]

Another observer has noted that:

> A lone Indian border guard looks the other way if properly bribed. So do Pakistani rangers on the other side, who also provide occasional covering fire for such groups as the Bhindranwale Tiger Force of Khalistan slipping across the frontier for another night of mayhem.[49]

Arming Kashmiri Militants

For strategic and historical reasons, Pakistan has a far more active interest in Kashmir than in Punjab or anywhere else in India. It appears that, over the years, Pakistan has established a program of military training, weapons supplies, and political support to assist Kashmiri militants. It is widely accepted by western and non-western experts that the ISI is the main body facilitating movement of weapons across the border to Kashmiri militants.[50]

Pakistan's ISI

The Arms Project concurs in the consensus of expert opinion that ISI operatives transfer weapons to Kashmiri militants. Still, the extent to which the ISI actively assists and directs the flow of weapons from Pakistan to India remains unclear, as does the level of sanctioning authority within the ISI and the Pakistani government.

An important article in the *Washington Post* on May 16, 1994 cited Pakistani military sources—including two serving and two recently retired army officials familiar with the internal functioning of the ISI—as claiming that Pakistan had temporarily ceased direct support for Kashmiri insurgents in 1993 after the U.S. threatened to add it to the list of countries sponsoring terrorism, which would trigger a severing of economic ties. According to the article, the government's efforts to curb the ISI's covert assistance program for Kashmiri militants included firing ISI head Javed Nasir and all of his top assistants. It quotes one former minister involved in the program as stating, "At one point just before Gen. Nasir was sent packing, the ISI was spending 100 million rupees per month (about $3.3 million) on the

[46] Arms Project interview.

[47] "Pak likely to smuggle in more arms," *Indian Express*, April 19, 1993.

[48] "Over-the-counter trade in illegal weapons." *Times of India*, April 10, 1993.

[49] James Clad, "Terrorism's Toll," *Far Eastern Economic Review,* October 11, 1990, p. 34.

[50] *See, e.g.*, John Ward Anderson, "Pakistan Aiding Rebels in Kashmir," *Washington Post*, May 16, 1994; "The Covert Arms Trade," *The Economist*, February 12, 1994, p. 23; *Jane's Defence Weekly*, Jan. 15, 1994, p. 19; Sumit Ganguly, "The Prospects of War and Peace in Kashmir," in Rajuk G.C. Thomas, ed. *Perspectives on Kashmir: The Roots of Conflict in South Asia*, (Boulder: Westview Press, 1992), p. 359; Sumit Ganguly, "Avoiding War in Kashmir," *Foreign Affairs*, Winter 1990, p. 37; Selig S. Harrison, "Showdown in Kashmir," *Peace and Security*, Vol. 5, No. 3, Autumn 1990, pp. 8-9.

Kashmiri operation alone." The article also notes that during this period, Pakistan funneled support through "private organizations," frequently operated by former army and ISI officials.[51]

[51] John Ward Anderson, "Pakistan Aiding Rebels...," *Washington Post.*

Moreover, the article asserted that, according to Pakistan military sources, in early 1994 Pakistan began again to arm, train, and provide logistical support to Kashmiri militants, although at a much lower level than before, and that the ISI and the Field Intelligence Unit were coordinating arms transfers from Pakistan's Azad Kashmir to Kashmiri militants in India. These Pakistani military sources reportedly stated that at a meeting of top army generals in early 1994, a decision was made to resume active support for Kashmiri militants under "a more secretive and professionally managed program."[52]

Ostensibly private organizations have continued to supply arms to the militants, in operations overseen by the Pakistani army. Jamaat-i-Islami, the major Islamist political party in Pakistan, allegedly claimed in April 1994 that it collected 25 million rupees (almost one million dollars) in a nationwide fundraising campaign to support the militant cause in Kashmir. And, at times, the transfer of arms to Kashmiri militants may be carried out by members of the ISI without explicit authorization.[53]

In addition to weapons supplies from the ISI and other official or quasi-official sources, it also appears that significant quantities of weapons are purchased through commercial channels, in particular through the arms bazaars in the NWFP.[54] It is not known, however, how numbers of weapons purchased on the open market compare to the numbers acquired with the assistance of the ISI.

Kashmiri militants do not deny that they receive support from inside Pakistan. Indeed, at the end of 1990, one observer wrote:

> Moslem guerrillas fighting the Indian government in Kashmir acknowledge that they are receiving arms and training from Pakistan, as well as advice from Pakistan's Inter-Service Intelligence agency (ISI). The level of Pakistani assistance has been substantial and steady since earlier this year, according to the guerrillas.[55]

Amanullah Khan, the chairman of the JKLF, has acknowledged that weapons are smuggled across the Pakistani border to his forces in Indian Kashmir, although he has maintained that the weapons are bought in "tribal areas of northern Pakistan."[56]

High-ranking Pakistani government officials have announced full moral and political support for the Kashmiri militants.[57] Other Pakistani government officials have acknowledged the existence of training camps (presumably unauthorized) inside Pakistan for Kashmiri guerrillas. The Pakistani government has, however, consistently denied arming or training the Kashmiri militants that are operating in India.

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[52] Ibid.

[53] Arms Project interviews. *See also* Anderson, "Pakistan Aiding Rebels...," *Washington Post*.

[54] Arms Project interviews. *See also*, R.A. Davis, "Kashmir in the Balance," *International Defense Review*, April 1991; Christopher Thomas, "Indian Border Forces Masses as Kashmir 'War Season' Looms," *The Times*, June 24, 1990.

[55] Coll, "India, Pakistan Wage Covert `Proxy Wars'," *Washington Post.*

[56] James P. Sterba, "Border Battle: In Militaristic Pakistan, Struggle with India Bolsters Self-Identity," *Wall Street Journal*, December 28, 1990; Christopher Thomas, "Indian Border Force Masses as Kashmir 'War Season' Looms," *Times*, June 24, 1990.

[57] *See, e.g.*, "Pakistan to Back J-K Ultras: Sharif," *Times of India*, December 25, 1990.

These denials notwithstanding, Asia Watch has noted that the Pakistan army's field intelligence unit reportedly helped organize the JKLF in the Indian-held Kashmir valley as early as 1964. By 1988, Pakistan's ISI had begun to establish training camps in Pakistani-controlled Azad Kashmir manned by Pakistan army officers brought out of retirement.[58] According to Indian and American intelligence sources cited in the international press, sixty-three Pakistan-operated camps have been functioning at different times over the past two years, half in Azad Kashmir and half elsewhere in Pakistan. At least eleven of these camps have apparently operated continuously. In addition, Pakistan has reportedly trained hundreds of militant leaders and has smuggled hundreds of weapons into the Kashmir valley, including rocket launchers and Kalashnikov rifles from U.S.-supplied Afghan aid stockpiles.[59] In early 1990, a free-lance photographer and a Western television crew were shown militant recruits receiving arms instruction in the Azad Kashmir section of Pakistan.[60]

The importance of the training bases in Azad Kashmir and elsewhere cannot be overestimated in assisting arms transport to Indian Kashmir. Moreover, even though the details of this extensive training provided by Pakistan have yet to be documented, such training cannot be divorced from the abusive tactics employed by Kashmiri militants.

The majority of the weapons in the possession of Kashmiri militants point to the Afghan pipeline, either from the arms bazaars of the NWFP or stocks still controlled by the ISI. One expert notes with regard to weapons used by Kashmir's militants that:

> virtually the entire arsenal points to sources close to the Afghan war....[A] high volume of weaponry, most of it Chinese—notably Type 56-1 folding stock assault rifles, pistols, stick grenades and Type-69 rocket-propelled grenades—suggests the diversion of bulk consignments intended for the Afghan conflict...[61]

The fact that an AK47 sells for the equivalent of U.S.$870 in Kashmir—somewhat lower than the going price in Dara in the NWFP[62]—suggests that commercial gain is minimal or non-existent, which points both to the number of weapons which must have reached the region and the likely involvement of the ISI. The massive stockpiles of weapons available to the ISI can facilitate a very high level of support for insurgencies at very low dollar cost to the Pakistani government, although the political cost, including the impact on human rights, may be much higher than envisioned.

Weapons Seizures

[58] Asia Watch, *Kashmir Under Siege*, p. 22.

[59] Selig S. Harrison, "Sparks of War in Kashmir," *Washington Post*, April 23, 1990.

[60] Malcolm Davidson, "Kashmir Militants Shown Training in Pakistan," *Reuters*, May 2, 1990.

[61] R.A. Davis, "Kashmir in the Balance," *International Defense Review*, April 1991, p. 301. Certainly, the geographic proximity of Kashmir to Islamabad (along with Karachi, the first destination in Pakistan of CIA weapons shipments bound for the Afghan mujahidin) and Rawalpindi (the location of major ISI storage sites for pipeline weapons) would facilitate the transfer of pipeline weapons from Pakistan across the border to Kashmiri militants.

[62] Arms Project interviews.

Hard, reliable figures are, for obvious reasons, hard to come by. Sources told the Arms Project that 7,000 AK47s were seized from Kashmiri militants between early-1990 and the end of the 1992, as well as 150 machine guns, 500 rocket launchers, 1,500 rocket grenades, and several tons of explosives.[63] State authorities claim that between 1988 and mid-1993 almost 8,000 AK series assault rifles, 455 rocket launchers, and 8,030 grenades were recovered.[64] One May 1994 report maintained that since 1990 Indian security forces have captured more than 10,000 AK47s, 465 machine guns and hundreds of mines and explosives.[65]

With regard to the numbers of weapons seized entering from Pakistan, Union Minister of State Rajesh Pilot provided the Rajya Sabha (Upper House) with the following figures for arms the security forces claimed to have recovered at the border between Kashmir and Pakistan between 1990 and mid-1993: 150 rocket launchers, 1,926 AK type assault rifles, 710 pistols, thirty-four guns, 366 rockets, 5,248 grenades and bombs, 643 mines and forty-four walkie-talkie sets.[66] A recent report noted that in a major anti-arms smuggling operation mounted on April 17-18, 1994, Indian government forces claimed to have thwarted attempts to bring small arms and explosives across the border from Pakistan to militants in Kashmir. Pakistani sources claimed that Indian security forces killed as many as twenty people during the operation.[67]

To a certain extent, whether Kashmiri militants acquire weaponry through commercial routes or through ISI transfers may depend increasingly on the ideology of a particular militant group. Asia Watch noted in 1991, for example, that "the ideological bent of other groups, including the Hezb-ul Mujahidin, has reportedly attracted the support of Pakistan's military intelligence, the Directorate of Inter-Services Intelligence (ISI), which reportedly provides arms and training for some of these organizations."[68]

Similarly, Asia Watch suggested in 1991 that Pakistan's assistance to the JKLF, which favors independence for Kashmir, has reportedly been declining in favor of the pro-Pakistan Hezb-ul Mujahidin.[69]

In addition, the ranks of the JKLF are drawn mostly from the urban Muslim middle classes, boat owners and carpet makers who can afford to buy their own weapons, which means that they are not forced to rely upon the largesse of the ISI. One press report quoted a member of the JKSLF, the student wing of the JKLF, as stating that the JKSLF bought its arms from smugglers in Pakistan, Afghanistan, and India itself.[70]

There is also evidence that Kashmiri militants are obtaining weapons directly from Muslim groups based in Afghanistan.[71] These groups, of course, received enormous quantities of weapons through the pipeline. According to one account:

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[63] Arms Project interviews, Delhi, March 1993.

[64] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, p. 29.

[65] Rahul Bedi, "On the Kashmir beat," *Jane's Defence Weekly*, May 21, 1994.

[66] "Over-the-counter trade in illegal weapons," *Times of India*, April 10, 1993.

[67] *Jane's Defence Weekly*, April 30, 1994, p. 21.

[68] Asia Watch, *Kashmir Under Siege*, p. 20. *See also*, Raymond Whitaker, "Militants of Kashmir Show Their Hand," *Independent*, June 8, 1990.

[69] Asia Watch, *Pattern of Impunity*, p. 29.

[70] "Militants of Kashmir Show Their Hand," *Independent*, June 8, 1990.

[71] *See, e.g.*, Ibid; Davis, "Indian border force masses...," *Times*; *Jane's Defence Weekly*, January 15, 1994, p. 19.

> There is evidence at least some of the rebel factions have established ties with the mujahidin of Afghanistan, who now have ... a huge arsenal of American and Pakistan-supplied weapons.[72]

Reports also have suggested that Kashmiri militants have received training in guerrilla warfare from Afghan guerrillas at Zawar, Afghanistan, ninety minutes drive into Afghanistan from Pakistan.[73]

One long-time observer writes that the ISI may be aiding these efforts:

> Pakistan's Inter-Service Intelligence agency has promoted the interests of Hezb-i-Islami, a fundamentalist group in Afghanistan led by Gulbuddian Hekmatyar. Hekmatyar's links to other local fundamentalist groups, as well as his stated disenchantment with India's Afghan policy, suggest that he may well be, with ISI's acquiescence, providing aid and comfort to the insurgency.[74]

Indian Security Force Involvement

As in Punjab, there have been instances of the security forces in Kashmir becoming involved in the weapons trade to militant organizations. For example, in 1991, a top militant leader, Master Innayat, was killed in an encounter with the security forces, allegedly while transporting sixty-seven rifles from Baramulla (some sixty kilometers west of Srinagar) to Srinagar. Later that day the security forces reported seizing only twenty-nine rifles and the rest were allegedly sold back to the militants within twelve hours.[75]

Supply Routes

Most of the weapons acquired by Kashmiri militants enter from the western side of the state, probably through the Haji Pir Pass and the Tosha Pass, the arc around the main road which leads from the border through Baramula to Srinagar.[76] The *Times of India* reported in 1991 that Indian authorities claimed to have identified seventy-two routes used by militant forces crossing the line of control from Pakistan.[77]

One source explained to the Arms Project that in Srinagar weapons are often disbursed through a network of interconnected swampy lakes. Because the lakes are overgrown with vegetation and linked by numerous small channels, it is relatively easy for arms smugglers to remain undetected by Indian security forces, most of whom are not native to the city and are therefore unfamiliar with the lake system.

Conclusion

Militants in Punjab and Kashmir obtain many of their weapons from sources in Pakistan. The Arms Project concurs with the widespread expert opinion that ISI operatives are directly involved at least in some of the weapons transfers to Kashmiri militants. The extent to which the central government in Pakistan actively orchestrates or facilitates these transfers to militants in Punjab or Kashmir, however, is thus far impossible to confirm, and in any case, may fluctuate.

Between 1983 and 1987, the head of the ISI, General Akhtar, was the second most powerful person in Pakistan, enjoying daily access to then-President Zia. The relationship between the ISI and the highest level of central government, at least during that period, was obviously close. Therefore, it can be reasonably assumed that Zia was well

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[72] Anthony Spaeth, "No Peace in the Valley," *Harpers*, April 1993, p. 82.

[73] Mansoor Khan, "Kashmiris Get Training in Afghanistan from Guerrilla Experts," *Reuters*, April 22, 1990.

[74] Sumit Ganguly, *Foreign Affairs*. *See also*, Anderson and Moore, "After Cold War...," *Washington Post*.

[75] "Over-the-Counter Trade..." *Times of India*.

[76] Arms Project interviews.

[77] Asia Watch, *A Pattern of Impunity*, p. 152; W.P.S. Sidhu, "The Challenge in the Mountains," *India Today*, June 30, 1991.

aware of the actions of the ISI high command. Since then, although relations between the ISI and the central government—to which it is accountable—have varied, given the tensions between Pakistan and India over Kashmir and public statements by senior government officials supporting the goals of the Kashmiri opposition, it is virtually certain that the central government at a minimum tacitly condones weapons transfers to militants seeking independence from India.

Similarly, the extensive evidence of long-standing programs to train Kashmiri militants suggests support from the central government of Pakistan. With the support in arms supply, training, and related assistance goes a degree of responsibility for the observance of humanitarian law by the militant forces.

Although it cannot be irrefutably established that ISI chiefs were directly responsible for leaks from the Afghan pipeline, the nearly total control of the ISI over the pipeline makes it a virtual certainty that the ISI leadership bears responsibility for what could be seen as the "directed" leakage to favored insurgents. Moreover, even if it were shown that lower level ISI operatives have always been responsible and the high command never had full knowledge of illicit transfers, whether for profit or with political intent, the Arms Project regards the ISI and the central government as responsible because of their failure to account for arms shipments intended for the mujahidin. By refusing to impose verifiable controls, the ISI high command and the central government made possible weapons transfers from the pipeline to new recipients, who had no obligation to account for their actions.

Furthermore, the government bears responsibility for its failure to regulate closely the involvement of the ISI in the transfer of weapons and provision of training to militants, and to investigate allegations of any such activities of which it was not already aware. The government must also be held accountable for its failure to impose explicit human rights conditions upon the recipients of Pakistani assistance.

With regard to the U.S., wider geopolitical concerns were clearly the primary focus when the decision was made to open the pipeline, namely securing the Soviet withdrawal from Afghanistan. Yet, American policy makers were not sufficiently concerned about the broader impact—and in particular the human rights consequences—of the pipeline upon South Asia. Any knowledgeable analysis of the ISI or the relationship between the NWFP and the central administration in Islamabad would have concluded that the unmanageable proliferation of weapons was inevitable. The U.S. should have foreseen the implications of a failure to fence off the Afghan pipeline from other theatres of conflict in the region, particularly those in which Pakistan has had a historical commitment. The cost can be measured by the erosion of respect for human rights throughout the region.[78]

The failure of both the United States and Pakistan to exert controls over the operation of the pipeline contributed significantly to the massive proliferation of weapons throughout South Asia and the human rights consequences thereof. The rupture of the pipeline meant that by the mid-1980s weapons intended for Afghan insurgents were both making their way into commercial channels and being transferred directly to Kashmiri militants and, most likely, to Sikh militants.

The mass diffusion of officially unaccounted-for weaponry into the region from the pipeline in the mid-1980s facilitated the arming of militants in Punjab and Kashmir and, as demonstrated in Chapters 3 and 4, gave them increasingly lethal means with which to commit violations of the laws of war.

III. ARMS AND ABUSES IN PUNJAB

Although violent Sikh activity virtually ended in 1993 in the wake of a ruthless campaign by the government to crush separatist efforts, during the last decade Sikh militants regularly engaged in widespread armed violence, including attacks on civilians. This chapter, after summarizing the history of the conflict in Punjab and the egregious abuses of human rights and humanitarian law carried out by the Indian government, focuses on violations committed by Punjab-

[78] Of course, the people in Punjab and Kashmir have not been the only victims of the Afghan pipeline. In fact, the principal victims of attacks by groups using this weaponry have been Afghans who have died by the thousands even since 1992 from indiscriminate shelling and attacks.

based Sikh militants: cases in which militants, in contravention of international norms, opened fire in crowded public areas, attacked passengers on public buses and trains, murdered Hindu laborers, assassinated political and religious figures and government employees, committed election-related violence, engaged in extortion, killed the families of policemen, and used religious sites for military purposes. The chapter concludes with an examination of the role of weapons in the commission of these abuses. Militant forces used such weapons as automatic rifles, grenades, rockets, and bombs in committing many of these acts. Increased access to more sophisticated weaponry, particularly automatic rifles, contributed to and facilitated increased violations of international humanitarian law by the militants.

Historical Background[79]

The state of Punjab is located in India's fertile northwest "breadbasket", bordering Pakistan on the west, and the Indian states of Haryana and Rajasthan in the south, Uttar Pradesh in the east, and Jammu and Kashmir in the north. Followers of a religion begun almost 500 years ago, Sikhs make up about 2 percent of India's total population, whereas in Punjab, they constitute approximately 60 percent of the population.

For more than a decade, Punjab has been the site of one of the bloodiest conflicts in India's post-independence history. The conflict had its origins in a power struggle between Sikh political leaders and the Indian government, both of which were eager to maintain control over the resources of one of the country's most prosperous states.

While the causes of the conflict are complex, a key factor was the desire on the part of many Punjab Sikhs for greater autonomy and the Indian government's refusal to relinquish control. In the early 1980s, after years of protracted negotiation between Sikh political leaders and the central government, a number of Sikhs—mainly followers of Sant Bhindranwale, a fundamentalist Sikh preacher—began to adopt more violent tactics.[80] A crucial precipitating factor was Indira Gandhi's dismissal in 1980 of Punjab's elected state legislature, which for the first time had been under control of a leading Sikh political party, Akali Dal. When state elections were held in May of that year, Gandhi's Congress Party gained power by a small majority.

Extremist Sikhs subsequently grew bolder in confronting the government. In September 1981, a leading Hindu journalist and publisher was assassinated in Punjab, and the followers of Bhindranwale were suspected. Bhindranwale surrendered to police, but he was released less than a month later.

These events were followed by a marked increase in random attacks by Sikhs on civilians in markets and other public places. Following Bhindranwale's arrest in 1981 and until June 1984 when the Indian army launched its assault on the sacred Sikh Golden Temple in Amritsar, the Indira Gandhi government and the Sikh Akali Dal leadership continued to negotiate over the political future of Punjab. Akali Dal sought more state autonomy, a long-promised transfer to Punjab of the city of Chandigarh and other Punjabi-speaking areas, and changes in Indian law that would give greater legal recognition to Sikhism as a distinct religious affiliation. The demands also included a more equitable share of the water from local rivers—a demand vehemently opposed by the neighboring state of Haryana, which has a majority Hindu population.

Negotiations ended in stalemate, and in May 1982 the government broke off talks with Akali Dal and banned several militant Sikh organizations. Members of these organizations retreated to the Golden Temple complex in Amritsar—a small walled city and Sikhdom's holiest shrine. This became Bhindranwale's headquarters, housing thousands of his armed followers and an arsenal of weapons. The rest of the year saw resumed negotiations, another

[79] This material is drawn from a lengthier analysis by Asia Watch in *Punjab in Crisis*. Readers are referred to Chapter 2 of that report for a more detailed historical account.

[80] Most of the militant groups in Punjab trace their origins to Bhindranwale, who rose to prominence in the mid-1970s as a fiery orator and rigid fundamentalist. By 1978, he had gained the backing of Congress (I) political leaders who saw in him an opportunity to discredit the Akali Dal-Janata Dal coalition government then in power in Punjab. As he became more powerful, the Akali Dal also courted him, causing rival Akali factions to support other militant groups. Bhindranwale was killed when the Indian army stormed the Golden Temple in 1984. After his death, the number of militant groups proliferated, as did the divisions among them.

stalemate, and the failure of ongoing Sikh civil disobedience campaigns to achieve a political breakthrough. This prompted some previously moderate Sikh politicians to align themselves with the militants, and to support the resort to violence.

By 1984, increasing militant violence had prompted the central government to impose President's rule (direct rule) on Punjab.[81] The imposition of direct rule brought with it a dramatic increase in human rights abuses against the Sikh population by Indian authorities, including arbitrary arrests, extrajudicial executions, and torture.

On June 3, 1984, Sikh leaders called for a new campaign of civil disobedience. In response, Prime Minister Gandhi ordered the Indian army to Punjab, imposed a state-wide curfew, suspended train service, deported foreign journalists, and prohibited domestic press from reporting on army action.

The army and the Central Reserve Police Force (CRPF), then surrounded the Golden Temple complex. A full assault on the complex, code-named Operation Bluestar, took place between June 4 and 6, 1984. Because June 3 was a Sikh holy day, thousands of pilgrims were housed along with temple employees within the complex. The army did not offer those inside the opportunity to surrender. Hundreds of civilians were killed in the assault, including Bhindranwale, and a number of men captured by the army were summarily executed. Over 6,000 persons were detained following the assault, and during the next two months, the army conducted large-scale operations throughout Punjab, resulting in thousands more arrests. The overall effect of Operation Bluestar was to harden the resolve of the Sikh militants.

The level of violence and repression in Punjab rose dramatically after the assault on the Golden Temple. Outraged by the attack and continuing violations by Indian authorities, some separatist Sikhs began to demand an independent state of Khalistan. On October 31 of the same year, Sikh bodyguards assassinated Prime Minister Indira Gandhi. In response, Hindu mobs slaughtered thousands of Sikhs in New Delhi and other cities throughout northern India. The complicity of local officials in the massacres and the failure of the authorities to prosecute the killers alienated many ordinary Sikhs who had not previously supported the militant cause.[82]

The Sikh conflict was sparked by the government's political intransigence and escalated following the assault on the Golden Temple and subsequent police repression. However, the frequency and severity of militant Sikh attacks, and the ability of militants to induce widespread fear in the civilian population were clearly enhanced by the increasing availability of sophisticated weaponry in the region during the same time period.

Sikh militarism began to decline significantly in 1992, mainly due to a ruthless campaign by the Indian security forces, orchestrated by the current Director General of Police in Punjab, K.P.S. Gill. Gill's efforts, which have resulted in sustained and extreme violations of human rights and humanitarian law, led to the capture or killing of militant leaders, and a fragmenting of rebel organizations. Although the militant movement is now quiet, it is not yet clear whether this fragile peace—imposed at tremendous cost to the civilian population—will last. If the militant forces should re-emerge, the ease with which sophisticated weapons are now obtained throughout South Asia should make it relatively easy for groups to re-arm.

[81] Punjab was under direct rule from Delhi between 1984 and 1986, and again between 1988 and 1992.

[82] According to one militant leader: 'It was the Delhi riots, even more than Operation Bluestar, which made me an active Khalistani. After the riots, I felt not only could we no longer trust the Government, we also couldn't trust the Hindus as a community', quoted in Mira, C., 'Confessions of an ex-terrorist', *Hindustan Times*, August 22, 1992.

Abuses by Indian Government Forces[83]

Indian authorities engaged in a pattern and practice of gross violations of human rights and humanitarian laws in Punjab. These abuses included arbitrary arrests, torture, prolonged detention without trial, disappearances, and summary killings of Sikh civilians and suspected militants. Attacks by government forces against civilians often were carried out in revenge for the activities of armed opposition groups. Numerous incidents involving the shooting of civilians in reprisal for acts by militants have been documented by Human Rights Watch/Asia and reported in the press.

Summary executions and deaths in custody were regularly covered up by the practice of filing reports claiming that individuals were killed in "encounters" with the security forces. In addition, the security forces were issued shoot-to-kill orders, and were permitted by several changes in law to conduct mass round-ups and warrantless house-to-house searches in Sikh areas, as well as to detain people without approval of the courts. Government personnel were virtually immune from prosecution for human rights violations.

The use of various forms of torture was widespread.[84] Torture was practiced against alleged militants, and also against relatives and those believed to be close associates of suspected militants. Human Rights Watch/Asia has contended that "virtually everyone detained in Punjab is tortured."[85] Torture also was used as a form of reprisal. For example, in August 1990, some 200 residents of five villages near Kathunangal were reportedly rounded up and beaten by members of the CRPF. Some were taken to a police station and tortured. These incidents occurred the day after an explosion damaged a patrol jeep nearby, and were reportedly carried out in retaliation.[86] Despite the considerable amount of available information and testimony concerning the violation of human rights by the security forces, the only consequence was that a few security personnel involved in the incident were suspended.[87]

[83] What follows is a brief summary of abuses by Indian security forces, drawn mainly from more detailed descriptions in *Punjab in Crisis* (Asia Watch, 1991), and *Dead Silence: The Legacy of Abuses in Punjab* (Human Rights Watch/Asia and Physicians for Human Rights, 1994).

[84] In *Punjab in Crisis*, a 1991 report, Asia Watch devotes thirty-eight pages to torture by government forces, much of it consisting of accounts by torture victims themselves. Similarly, in the recently published *Dead Silence: The Legacy of Abuses in Punjab*, thirty pages are devoted to torture at the hands of Indian authorities.

[85] Asia Watch, *Punjab in Crisis*, p. 110.

[86] *India: Torture, Rape & Deaths in Custody*, (Amnesty International, London, March 1992), p.30.

[87] Ibid.

Forced disappearances of suspected militants were also common; it is estimated that the number of disappearances in Punjab may be as high as several thousand. Police typically either deny that the detainee was in custody or claim that the victim escaped. Thus, the families and friends of the disappeared never learn with certainty the real fate of the victim. Most of the disappeared are believed to have been killed and their bodies disposed of in secret.[88]

In their zeal to suppress the militant Sikh movement, Indian government forces, under the leadership of Punjab Director General of Police K.P.S. Gill, have continued to commit serious violations of human rights and humanitarian law. Gill's stated goal is to eliminate entirely the militant Sikh leadership. Accordingly, as documented in *Dead Silence: The Legacy of Abuses in Punjab*, "the deliberate use of torture and execution as counterinsurgency tactics is not merely tolerated but actively encouraged by Indian government officials,"[89] and supported by laws which provide protection from prosecution for abuses committed in the line of duty.[90] Gill, in fact, has expanded a bounty system of rewards for police who kill known militants, a practice which, not surprisingly, has encouraged extrajudicial executions and disappearances.[91]

Abuses by Militants[92]

Between 1981 and 1992, at least seven major Sikh militant organizations and approximately a dozen smaller groups, often acting independently of one another and sometimes at cross-purposes, waged frequent bloody attacks against unarmed civilians, engaging in both random acts of violence, as well as violence targeting particular individuals or groups. Some of the groups were organized into forces with identifiable command structures, although with constantly shifting political alliances, the structures tended not always to be obvious. Others operated more as criminal gangs who found in the political crisis a lucrative business in extortion and arms smuggling. By 1990, the seven major groups were all, at least nominally, under the authority of one of several Panthic Committees, which functioned as decision-making and command bodies.[93] Although members of Sikh militant organizations were relatively few in number compared to the total Sikh population, and in recent years had increasingly equivocal support from the local Sikh population, the militants reportedly had little difficulty raising money from Sikhs living abroad to finance their activities.[94]

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[88] Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence*, p. 38.

[89] Ibid., p. 1.

[90] Ibid., p. 13.

[91] Ibid., p. 2.

[92] The Arms Project did not conduct fieldwork directly documenting individual human rights violations by militants. The examples given in this section are drawn from studies done by Asia Watch in the 1991 report *Punjab in Crisis*, and by Human Rights Watch/Asia and Physicians for Human Rights in the 1994 report *Dead Silence*, and from an Arms Project review of hundreds of press accounts of human rights violations reportedly committed by Sikh militants since 1980. With regard to the use of press reports, every effort was made to include only those types of abuses that are consistent with other reliable accounts or are reported with frequency and specificity. The Arms Project recognizes the obvious point, however, that press reports may be biased or based on biased sources.

[93] Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence*, p. 13. The Khalistan Commando Force (Panjwar), Babbar Khalsa, Khalistan Liberation Force (Budhisingwala) and the Bhindranwale Tiger Force of Khalistan (Sangha) were affiliated with the historically most powerful Panthic Committee headed by Dr. Sohan Singh, who was captured in November 1993. The Bhindranwale Tiger Force (Manochahal) and the Khalistan Commando Force (Rajasthani Group) supported the Panthic Committee led by Gurbachan Singh Manochahal. The Zaffarwal Panthic Committee was supported by the Khalistan Commando Force (Zaffarwal).

[94] Arms Project interviews.

Beginning in 1981, however, Sikh militants regularly engaged in a pattern of serious violations of humanitarian law.[95] Most of these violations involved deliberate attacks on unarmed civilians. These took a variety of forms: random assaults on civilians; targeted killings of Hindu civilians and Sikh civilians suspected of collaboration with the Indian government; and assassinations of political figures and Hindu religious leaders. Although most militant Sikh attacks on civilians took place in Punjab, they were also undertaken in other regions of India, particularly in the neighboring state of Haryana, and in Delhi and Bombay.

Militants frequently opened fire in public areas such as marketplaces, crowded streets, and residential neighborhoods; targeted Hindu laborers for murder; attacked public buses and trains; assassinated political and religious figures and government employees; engaged in election-related violence; threatened the lives of journalists; extorted money from local businessmen through threats and kidnapping; killed the families of policemen; and used religious sites frequented by civilians for military purposes. In almost all instances, they used light weapons such as automatic rifles, grenades, rockets, and bombs.

Random Attacks on Civilians in Public Places

Militant groups deliberately directed attacks against civilians in public areas, shooting randomly, for example, through crowded marketplaces, in residential districts, and on congested streets. These attacks apparently were designed to cause extensive civilian casualties, and induce general terror among the civilian population, in clear violation of all international norms.

Automatic weapons made it easier for militants to carry out these kinds of attacks. Assault rifles, for example, permitted militants to shoot large numbers of people while riding by in a car or on a motorscooter. Such weapons also increased the number of casualties and helped the attackers to avoid capture by permitting them to flee under cover of rapid fire. The accounts below are typical of attacks that appeared to be deliberately carried out by Sikh militants against randomly chosen, unarmed civilians in public places using deadly automatic weaponry.

- In October 1992, suspected Sikh militants gunned down five civilians and a law enforcement officer in a heavily wooded area in Uttar Pradesh that has become a refuge for Sikh separatists fleeing a crackdown by Indian authorities in Punjab. The attack followed a massacre two months earlier of twenty-nine villagers in the same area. In that incident, villagers collecting wood in the forest were captured by suspected militants, bound, and killed by automatic gunfire.[96]

- In March 1992, four Sikh separatists armed with AK47 assault rifles went on a shooting spree in the industrial city of Ludhiana killing twenty civilians and injuring others. The armed gunmen drove a car first through the city's Vishwakarma residential district, mowing down ten people at a neighborhood market. The gunmen then drove on, shooting people at random along a two-mile route, killing eight more. They ended the rampage at a public square by shooting to death two more civilians, and then escaped.[97]

[95] See Appendix I for an analysis of the applicable legal standards. The Arms Project believes that when a group is engaged in organized armed conflict, it should be held to internationally recognized principles of human rights and standards of humanitarian law required of governments.

[96] "Suspected Sikh gunmen kill 6 in Wooded area," *United Press International*, October 21, 1992.

[97] "Punjab on Red Alert After Another Massacre," *Agence France Presse*, March 15, 1992. The article also noted that most of the victims of this attack were Hindu, and that earlier in the week Sikh separatists had killed 15 engineers and executives at a textile factory in Sangrur district.

- In May 1988, a total of sixty-five people were reported killed by Sikh extremists in hit-and-run attacks in a thirty-six-hour period.[98]

- In Kuban village in October 1986, five gunmen sprayed a crowded marketplace with bullets on a Saturday killing eight people and injuring four. Police sources said the attack appeared to be in revenge for the police killing of militants in the area earlier the same month. It was the worst single attack since fourteen bus passengers were shot near Mukhtsar town three months earlier.[99]

- On May 21, 1986, Sikh gunmen killed nine Hindus and two Sikhs in a shooting spree in an Amritsar market. The attacks came during a twelve-week period of separatist violence during which more than 230 people were killed, many of them Hindu civilians.[100]

Targeting the Hindu population

It is sometimes difficult to tell whether particular attacks on civilians in public areas are completely random—to induce terror generally—or are directed specifically against Hindu civilians to force them to leave. Other instances are more clear. Quite apart from selective attacks on Hindu political and religious leaders, militants carried out a campaign of terror against Hindu civilians simply because of their religious and cultural affiliation. This was in keeping with the stated aim of the Sikh separatist movement to create an independent state, a task considered easier if the Hindu population fled. Militants also attacked Hindu civilians in retaliation for crackdowns by the Indian government.

Attacks often occurred in neighborhoods known to be home to large Hindu populations. On November 20, 1990, for example, Sikh militants rampaged through Islamabad, a predominantly Hindu neighborhood in Amritsar, shooting into shops along the street. Twelve civilians were killed.[101] Asia Watch representatives spoke to a number of witnesses who described the attack. They explained that at about 7:30 P.M., four men wearing shawls over the faces, armed with AK47 rifles, began to shoot on the main street of Islamabad's busy commercial center. They moved down the street, firing into shops, killing merchants, customers, and passersby. When Asia Watch visited Islamabad in early December 1990, bullet holes were visible in the walls and floor boards inside the shops and in the outside walls. According to a local journalist, the Khalistan Commando Force claimed responsibility for the killings.[102]

[98] "India: Security Forces Step up Attacks on Temple Fortifications", *Inter Press Service*, May 17, 1988.

[99] "Sikhs and Hindus Clash during Punjab Strike Against Killings," *Reuters*, October 27, 1986.

[100] "Crowds Go on Rampage during Punjab Protest Strike," *Reuters*, May 23, 1986.

[101] Asia Watch, *Punjab in Crisis*, p. 178. Asia Watch was informed that although both Sikhs and Hindus live in Islamabad, much of the Hindu population in Amritsar resides in that neighborhood. According to local residents, Hindus make up more than 90 percent of Islamabad's population. Although Asia Watch was not able to confirm this figure, it is clear that an attack such as the one described would likely kill a greater number of Hindus.

[102] Ibid., pp. 178-179. See also "Attack by Punjab Gunmen Kills 13 and Wounds 15 at a Market," *New York Times*, November 21, 1990.

Militants sometimes claim that particular attacks against the Hindu population are carried out in revenge for security force crackdowns on militant activity. In the villages of Bhikhiwind and Patti in Amritsar district, for example, militants undertook a series of kidnappings and murders in late 1990, apparently in retaliation for the killing of a large number of militants by the security forces in the area over the previous month, as well as to terrorize local Hindus into leaving and to extort ransom payments from wealthy families. Shortly before the attacks, the Khalistan Commando Force had issued an order to all Hindus to leave the area within three days. The attacks, which also occurred in several neighboring villages, caused many Hindus to flee to Amritsar and New Delhi.[103] At least some of the attacks were carried out with automatic rifles, including AK47s.

More recently, on March 25, 1993, Sikh separatists armed with automatic weapons opened fire on Hindus in a market in Jagraon, killing seven Hindu civilians and seriously wounding two more. Indian officials claimed that the attack was part of a continued campaign by militants to force Hindus out of Punjab.[104]

Reports of attacks near Hindu temples, in conjunction with Hindu festivals, and even on Hindus praying at religious sites were also common; such attacks often involved use of deadly automatic weapons.

- On July 14, 1992, four militants riding motorscooters opened fire at a busy shopping district in Bhatinda town in Punjab, killing seven civilians and injuring five more seriously. The incident took place outside a Hindu temple, and may have been in retaliation for a security operation aimed at flushing out militants in the area.[105]

- In April 1990, thirty-five people were killed when a bomb exploded during a Hindu religious procession; Sikh separatists were suspected. The bombing set off dozens of Hindu-Sikh clashes throughout the state, resulting in another sixteen deaths.[106]

- In October 1987, gunmen on a motorscooter killed at least eight people in the Indian capital, spraying submachine gun bullets in a residential neighborhood and at fairs heralding the Hindu New Year. The gunmen then abandoned their scooter and boarded a public bus which was halted at a police roadblock about six miles from the shootings. The gunmen opened fire, wounding a sub-inspector and a passenger.[107]

- In May 1986, Sikh extremists reportedly opened fire with automatic weapons on Hindus praying outside a small-town shrine in Punjab state, killing two and wounding seven. The shooting occurred as the Hindus were reading from the Hindu epic Ramayana in what was to have been a night-long prayer vigil. It was the second major attack in a month in Jandiala Gur, a town fifteen miles east of Amritsar.[108]

[103] Asia Watch, *Punjab in Crisis*, pp. 179-181.

[104] "Sikh extremists massacre 7 Hindu civilians," *United Press International*, March 25, 1993.

[105] "Seven people die in Sikh militant raid, five wounded," *Agence France Presse*, July 14, 1992.

[106] "Sikh Separatist Violence in Punjab," *Facts on File World News Digest*, April 20, 1990.

[107] "Gunmen Attack Hindu New Year Fairs, Nine Dead in Delhi", *Reuter Library Report*, October 21, 1987; "250 Arrested Near Sikh Shrine", *Chicago Tribune*, October 22, 1987.

[108] "Sikh Spray Kill Two at Prayer Meeting," *Associated Press*, May 30, 1986.

Hindu farm laborers were frequent targets.[109] Some observers have speculated that militants were seeking to destroy the state's economy by driving away farm labor. Others believed that the militants wanted only Sikhs to work in the state. The following incidents were typical:

- In May 1988, six Sikhs armed with automatic rifles opened fire on sleeping workers in the village of Gujarpura, about eighteen miles northwest of Amritsar. Nine workers were killed, and three wounded. Two days earlier, at a labor camp in Amritsar, Sikh militants ordered Hindu migrants to line up against a wall and then shot five to death. Two days before that, thirty workers were slain as they slept at a Hindu migrant workers camp near Chandigarh. The attacks prompted an exodus of hundreds of Hindu laborers who traditionally migrate from the northern states of Bihar and Orissa to work on farms in Punjab.[110]

Some attacks on Hindu civilians were thought to be aimed at instigating violence between Hindus and Sikhs to help revive waning support among Sikh moderates for the militant cause. In June 1988, for example, more than sixty people, mainly Hindu civilians, were killed and at least one hundred injured in bombings that took place over three days. The attacks were carried out in shopping centers, cinemas, markets, and temples. The bombings came in the wake of the Sikh surrender to Indian security forces during the May 1988 siege of the Golden Temple shrine. Many Sikhs were angered, claiming that the militants should have fought to the death or not have begun the fight at all. In addition, a number of Sikhs had recently turned against militants who had waged a campaign of extortion and blackmail of rich Sikh farmers, reportedly conducted by leaders inside the temple. Commentators speculated that the attacks on Hindu civilians were probably part of an attempt to provoke a Hindu backlash against Sikhs, which in turn could help recoup support for the separatist platform.[111] One of the results of sustained violence and threats of violence by militants against the Hindu population—and arguably an intentional result—was the creation of a large internally displaced Hindu population.[112]

Bus and Train Attacks

Sikh militants frequently attacked civilian passengers on public buses and trains in Punjab and neighboring states. While the majority of these attacks did not seem to target particular individuals, many of them were apparently directed against Hindus; frequently, Hindu passengers were singled out for execution, and in some cases, militants stopped vehicles likely to being carrying Hindus—buses traveling to Hindu religious sites, for example.

The basic pattern of assaults on buses and trains was that militants forced a vehicle to a halt, removed Hindu passengers, and shot them to death, usually with automatic rifles. On occasion, the militants firebombed the vehicle, apparently intending to kill all on board.

The Arms Project identified dozens of reports of attacks on buses and trains carried out by militants. The following accounts are representative examples:

[109] *See, e.g.*, "Sikhs Slaughter Nine Sleeping Farm Laborers in Latest Attacks," *Associated Press*, May 21, 1988; Susanne Rudolph, "Why India's Militant Sikhs Keep Fighting," *Christian Science Monitor*, March 8, 1989; "Militants Kill 45 Civilians on Anniversary of Indira's Death," *United Press International*, October 31, 1992; Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence*, p. 91.

[110] "Sikhs Slaughter Nine...," *Associated Press*.

[111] "India's Sikh Extremists Scramble to Recoup Mainstream Support," *Christian Science Monitor*, June 23, 1988.

[112] *See* Asia Watch, *Punjab in Crisis*, pp. 179-189 for a detailed description of this situation and excerpts of interviews with Hindu refugees.

- In December 1992, a state-run bus traveling to Chandigarh was ambushed by six militants, believed to be members of the Khalistan Liberation Front, who ordered Hindu passengers to stand apart from the Sikhs. The gunmen reportedly then raked the Hindus with hundreds of rounds of AK47 rifle fire, killing sixteen and wounding nine. Five weeks earlier, twenty-five Hindu migrant laborers were killed in a similar bus attack.[113]

- On November 4, 1992, militants placed road blocks and stopped vehicles on the Gurdaspur-Tibri road near Amritsar. Seventeen persons identified as Hindu were shot. According to a report published in the Punjab English daily, *Tribune*, the police claimed to have recovered a note on Bhindranwale Tiger Force (BTF) letterhead stating that the killings were in retaliation for the killing of a BTF leader.[114]

- In an October 1992 attack marking the fourth anniversary of the assassination of former Prime Minister Indira Gandhi, Sikh gunmen bombed an intercity bus near the border between Punjab and Kashmir, killing eighteen civilians and seriously injuring twenty-eight. The attack, along with two separate attacks against Hindu laborers, triggered anti-Sikh rioting.[115]

- At about 9:30 P.M. on June 15, 1991, gunmen opened fire inside two passenger trains stopped outside Ludhiana, killing at least 75 passengers. The attacks reportedly were coordinated, as both trains were stopped about a mile from the station by having their emergency cords pulled. Survivors stated that on one of the trains, Hindu passengers were identified before being shot. On the second train, the firing was indiscriminate, and many Sikhs as well as Hindus were killed. Although no group claimed responsibility for the attacks, they were believed to have been carried out by groups opposed to the elections scheduled for June 22.[116]

- On July 7, 1987, Sikh separatists attacked two buses in northern Haryana state, killing thirty-four. Most of the victims were Hindu. The militants used a car and a jeep to create a roadblock. On one bus, they singled out particular passengers, dragged them off, and shot them to death. Militants then boarded the second bus and opened fire, killing all the passengers. Chinese-made AK47s were used in both attacks. The incidents occurred the day after militants opened fire on a bus in Punjab, killing forty passengers, and wounding twenty-seven. The victims were all Hindus bound for a pilgrimage center in Uttar Pradesh.[117]

- In June 1987, militants hauled seventy-two Hindus off two rural buses and shot them dead.[118]

Election-Related Violence

[113] "Sikhs kill 16 Hindus in Bus Ambush", *Guardian*, December 2, 1992; "Sikh gunmen kill 16 Hindus as police order final assault," *Agence France Presse*, December 1, 1992.

[114] Asia Watch, *Punjab in Crisis*, pp. 194-195; "Massacre Leaves Trail of Misery," *Tribune* (India), November 6, 1990.

[115] "Militants Kill 45 Civilians...," *United Press International*, October 31, 1992.

[116] Asia Watch, *Punjab in Crisis*, p. 194; "Police in India Put Toll in Train Attacks Between 76 and 126," *New York Times*, June 17, 1991; "Sikh Gunmen Kill 110 Aboard 2 Punjab Trains," *Washington Post*, June 16, 1991.

[117] Surinder Khullar, "Two more bus attacks bring death toll to 67 in 24 hours," *United Press International*, July 7, 1987.

[118] "`Holy Wars': The Ominous Side of Religion in Politics," *Christian Science Monitor*, November 12, 1987.

Militants reportedly used violence and threats of violence to undermine elections in Punjab in 1991 and 1992. In 1991, the Indian government called for state legislative elections which would effectively end five years of direct rule by New Delhi. Militants ordered an election boycott, claiming that a vote would validate Indian rule and undercut Sikh efforts to achieve a separate nation. A widespread campaign of violence, in which twenty-four candidates were assassinated, apparently prompted the Indian government to cancel the 1991 elections.[119]

New elections were scheduled the following year on February 19, 1992. Sikh militants called for another boycott, which they again promised to enforce with violence. Some political parties also boycotted the polls. About a quarter of the normal number of candidates ran, and those that did feared for their lives. As one journalist noted: "More bodyguards than supporters surround candidate Kanwaljit Singh as he sets out on the campaign trail every morning in the violence-wracked northern state of Punjab."[120]

Campaign rallies were poorly attended, as residents feared attack by the militants and by members of rival political parties. Shop owners in towns where candidates made appearances often left stores unattended rather than risk having a candidate enter and strike up a conversation.[121] At one campaign gathering in southern Punjab gunmen opened fire killing five people in what appeared to be a grim warning to prospective voters.[122] Militants also vowed to kill the first five voters at each of the state's 14,659 polling stations.[123] A press account described the following:

> Devinder Singh, 22, and unemployed, sentenced himself to death Wednesday. He voted. Himself a Sikh, when asked if he was afraid, he responded, "People get killed here traveling in buses. People get killed in marketplaces everyday. People get killed just walking outside. So I'll get killed voting."[124]

[119] *See* Asia Watch, *Punjab in Crisis*, pp. 199-202; Mark Fineman, "Few Defy Sikhs to Vote in Punjab; India: the 25% Turnout Clouds New Delhi's Hopes of Ending the Anarchy and Restoring the Elected Government," *Los Angeles Times*, February 20, 1992; Krishnan Guruswamy, "Fear in Punjab, 5 Killed on Election Eve," *Associated Press*, February 18, 1992; Monimoy Dasgupta, "Candidate Elimination Plan in Punjab," *Telegraph*, May 15, 1991; Steve Coll, "New Delhi Postpones Vote in Punjab State; Violence by Sikh militants Cited as Reason," *Washington Post*, June 22, 1991; Mahesh Uniyal, "India: Elections in Punjab Under the Shadow of the Gun," *Inter Press Service*, January 25, 1992.

[120] Harbaksh Singh Nanda, "Fear Stalks Voters, Candidates in Punjab," *Associated Press*, February 14, 1992; Mark Fineman, "Few Defy Sikhs to Vote in Punjab; India: the 25% Turnout Clouds New Delhi's Hopes of Ending the Anarchy and Restoring the Elected Government," *Los Angeles Times*, February 20, 1992; Krishnan Guruswamy, "Fear in Punjab, 5 Killed on Election Eve," *Associated Press*, February 18, 1992; Mahesh Uniyal, "India: Elections in Punjab Under the Shadow of the Gun," *Inter Press Service*, January 25, 1992.

[121] Ibid.

[122] Guruswamy, *Associated Press*, February 18, 1992.

[123] Fineman, "Few Defy Sikhs To Vote...," *Los Angeles Times*.

[124] Ibid.

According to one press account, in villages where the militants were strongest, not a single person voted. Only a handful of civilians were actually killed on election day, and a few dozen wounded, in bombings and shootings at polling places. However, revenge killings came later. Police reports showed that in a period of less than two weeks after the elections, there were almost one hundred murders in Punjab. Some of those killed were villagers who defied the boycott and voted.[125] In one incident a week after the election, militants shot five Harijans[126] in Sangrur, and five more in Ludhiana district; large numbers of Harijans voted for a candidate strongly opposed by the militants.[127]

Attacks on Public Figures, Government Officials, and Religious Leaders

Political and religious leaders, including heads of villages and members of rival Sikh organizations, were frequently attacked, typically shot dead by militants using automatic weapons. Government officials such as judges and state ministers were also common targets. Asia Watch detailed numerous killings of this type in its 1991 report on Punjab. The report highlighted, for example, the 1990 assassination of a former finance minister, Balwant Singh, who had helped broker an accord between Sikh groups and the Gandhi government. Singh and two bodyguards were killed by gunmen who opened fire on his car with automatic rifles. Militant groups aligned with the Sohan Singh Panthic Committee claimed responsibility for the murders.[128]

The following accounts, excerpted from press reports, also illustrate the pattern of such attacks:

- In September 1993, a car bomb attack using RDX explosives against Sikh moderate politician Maninder Singh Bitta killed eight people. Bitta himself escaped with minor injuries. Three Sikh separatist organizations claimed joint responsibility.[129]

- In May 1992, Sikh separatists riding scooters shot at the car of Excise and Tax Commissioner A.K. Mishra at Bradara Gardens in Patialia City. Mishra and his guards were killed, and the driver of the car was injured.[130]

- In November 1988, Jagdev Singh Talwandi, a Sikh leader who had initiated moves to unite the main Sikh political party, was shot and critically injured. Two of his bodyguards were killed. Militant Sikhs opposing the unification were believed responsible for the attack.[131]

- In January 1987, Sikh extremists armed with automatic rifles assassinated Joginder Pal Pandey, a leading Hindu politician and his bodyguard. Six other people were also killed by militants in a surge of attacks in Punjab.[132]

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[125] "Killing Rages Unabated in Punjab after Polls," *Reuter Library Report*, March 1, 1992.

[126] These are persons from the lowest "outcaste" level of Hindu society. Formerly called "untouchables," they were renamed Harijans (Children of God) by Mohandas Gandhi. Many now prefer the term Dalit (oppressed).

[127] "Indian Troopers Claim Killing of Top Sikh Assassin," *Agence France Presse*, February 26, 1992.

[128] Asia Watch, *Punjab in Crisis*, p. 197. *See also* "Sikh Who Promoted Truce is Shot Dead," *New York Times*, July 11, 1990.

[129] "New Delhi car bomb blast sparks concerns over Sikh militancy," *Agence France Presse*, September 13, 1992.

[130] "Sikh militants kill civil servant", *Agence France Presse*, May 6, 1992.

[131] "Sikh leader critically injured after trying to unite political party", *Associated Press*, November 30, 1988.

[132] "Sikhs Kill Hindu Official, 7 Others in Punjab", *Chicago Tribune*, Jan. 20, 1987; "Sikh Extremists Kill Eight in New Attacks, Police Say", *Associated Press*, Jan. 19, 1987.

- In September 1986, officials in Chandigarh said Additional District and Sessions Judge R.P. Gaind was shot four times by two Sikh gunmen in a store in Jullundur as his wife and daughter stood outside. The two assassins, armed with 9mm semi-automatic pistols, escaped on a motorscooter. Gaind had received death threats from Sikh militants after presiding three years ago over a dispute between Sikhs and Hindus involving a Hindu temple in Jullundur. He also tried cases involving Sikh separatists in the city of Hoshiarpur.[133]

Attacks on Journalists

Journalists were particularly targeted by Sikh militants. In particular, Human Rights Watch/Asia noted that the *Hind Samochar* group of newspapers was a favorite target; between 1981 and February 1991, militants assassinated sixty people associated with the chain.[134]

On November 22, 1990, the Sikh Panthic Committee issued a "code of conduct" for the press which required all journalists to refer to Sikh separatists as "militants," "freedom fighters," or "mujahidin," rather than "terrorists" or "extremists," and to refer to Punjab as Khalistan. They threatened that non-compliance would result in "memorable punishment."[135] In February 1991, the Zaffarwal Panthic Committee issued an additional code of conduct ordering all journalists to boycott government-sponsored events, and to refuse to publish government material or any "objectionable, derogatory and misleading" news about the militants. The statement warned that the committee "may award the death penalty" to those who did not obey the code.[136] The Sohan Singh Panthic Committee published a similar directive, which threatened "strict punishment" to journalists as well as government employees and university faculty members who used English typewriters and engaged in undefined activities of which the group did not approve. [137]

Attacks on Families of Police

While a variety of police, paramilitary and military units operated in Punjab, the Punjab police were the principal government force combatting Sikh militants throughout the conflict.[138] Police performing military functions are not "protected" from attack under international humanitarian law as they are considered to be taking an active part in hostilities.

However, the families of police also became militant targets, particularly in 1992. For example, in August 1992, following the death of a founder of the Sikh militant groups, militants launched a vengeance campaign against families of police, killing scores of people, including children. The vendetta additionally was intended to demoralize the predominantly Sikh police force and deflate a sense of victory over the recent crackdown on militants.[139] Attacking the civilian family members of police—whether the police are engaged in combat duty or not—is a gross violation of international law.

Use of Religious Sites As Military Strongholds

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[133] "Sikhs assassinate judge in Punjab", *United Press International*, September 1, 1986.

[134] Asia Watch, *Punjab in Crisis*, pp. 192-193; Deepak Sharma, *Associated Press*, February 8, 1991.

[135] "Panthic Panel's Code for Scribes," *Indian Express*, November 23, 1990 cited in Asia Watch, *Punjab in Crisis*, pp. 189-190.

[136] Asia Watch, *Punjab in Crisis*, p. 191.

[137] Ibid., p. 192.

[138] Forces deployed in the Punjab included the Punjab Police, the Punjab Armed Police, members of India's principal paramilitary forces—the Central Reserve Police Force (CRPF) and the Border Security Force (BSF)—other security detachments such as the Railway Police Force, and regular Indian army units.

[139] *See* Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence*, p. 87; "Sikh militants step up vendetta against policemen's families", *Agence France Presse*, Aug. 27, 1992; "Sikh Militants Kill 16 Relatives of Cops in Punjab", *Associated Press*, Aug. 11, 1992.

On several occasions, Sikh militants used Amritsar's Golden Temple complex as a military stronghold. This contravened humanitarian law forbidding the use of places of worship in support of military efforts, as well as laws which require combatants to take measures to protect civilians from attack and to avoid locating military objectives in densely populated areas.[140]

The Golden Temple is the holiest shrine of Sikhism, frequented by numerous worshippers. After negotiations broke down in 1982 between the central government and the Sikh's main political party in Punjab, the Akali Dal, Sikh leader Bhindrawale and his followers retreated to the Golden Temple complex. There they built up a sizeable cache of weapons. On June 4, the Indian army attacked the Golden Temple, killing hundreds of civilians, including worshippers. Indian government forces were guilty of outrageous violations of fundamental human rights—deliberately attacking the temple at a time they knew thousands of religious pilgrims were inside, not offering an opportunity for surrender, and summarily executing those it captured. Bhindrawale and his supporters also violated humanitarian law by using the Golden Temple as a military stronghold.

In May 1988, heavily-armed militants again holed up in the Golden Temple, and engaged in gun battles with Indian troops over the course of a week. According to police, militants opened fire from at least sixteen different sites in the complex, mainly with Chinese-made AK47 rifles. They also claimed that militants had large ammunition supplies in the basement of the main temple building. Several civilians were killed before militants surrendered. Numerous civilians were in the complex hile militants and troops exchanged gunfire, including approximately 800 pilgrims who eventually were evacuated.[141]

Role of Weapons in Abuses by Militants

The evidence shows that from the early 1980s until the ruthless crackdown by Indian government forces in 1992-93, Sikh militants engaged in a sustained pattern and practice of violations of humanitarian law. Militants frequently used such weapons as automatic rifles, grenades, and rockets in deliberate attacks on unarmed civilians.

Prior to the 1980s, militant groups mainly had access to relatively unsophisticated weaponry. The militants possessed little more than country-made weapons, 12-gauge shotguns, Enfield .303 rifles and, at best, a small number of Sten guns.[142] As detailed in Chapter 2, the large-scale introduction of more sophisticated weapons into South Asia began in 1979 with the Soviet invasion of Afghanistan and the establishment by the U.S. of covert arms pipeline in which massive amounts of weaponry were funneled through the Pakistani ISI to mujahidin leaders and fighters in the field. Large quantities of this U.S.-supplied, ISI-controlled weaponry were illicitly siphoned off and diffused throughout the region, with some of it acquired by militant Sikhs.

While many factors contributed to the growing strength and resolve of Sikh fighters during the mid-1980s through the early 1990s, increased access to vast quantities of more advanced weapons allowed them to consolidate power through force. At the same time, the acquisition of large numbers of these weapons contributed to a dramatic increase in both the frequency and severity of abuses inflicted on the unarmed civilian population.

[140] The 1977 Additional Protocols to the Geneva Convention of 1949 are most relevant. See Legal Appendix for a more detailed analysis.

[141] "Fatal shootout at Golden Temple", *Associated Press*, May 9, 1988; "Police Sharpshooters Kill 5 Sikh Militants in Golden Temple", *Los Angeles Times*, May 14, 1988; "Indian Sikhs refuse to undertake to keep Golden Temple free of Arms", *Xinhua General News Service*, May 20, 1988; "India: Security Forces step up attacks on Temple Fortifications", *Inter Press Service*, May 17, 1988.

[142] Arms Project interviews, March 1993.

The human rights record of the Sikh militants might have deteriorated anyway, but the influx of automatic weapons, in particular, facilitated the commission of greater numbers of serious violations. Automatic weapons allowed the killing of more people. They permit extremely rapid fire, which is more likely to cause both death and collateral damage.[143] If militant Sikhs had continued to have access only to handguns or knives, it would have been difficult in practical terms to carry out the kinds of large-scale civilian killings described in this chapter. Typical means of militant attack—drive-by shootings, shooting sprees in public places, and opening fire on passengers on buses and trains—would not likely have resulted in such high numbers of casualties had automatic rifles not been used.

Access to large numbers of automatic weapons also allowed militants deliberately to instill terror in the civilian population at a level probably higher than would have been otherwise possible. This contributed both to the flight of many Hindus and Sikhs from Punjab, and to the reluctance on the part of many residents to oppose the militants politically. This latter point was strikingly evident in the militants' ability to enforce election boycotts in 1991 and 1992 through threats of violence and selective shootings at campaign gatherings.

It is apparent from Arms Project interviews and a careful review of hundreds of press accounts of violations reportedly committed by Sikh militants since 1981, that there is a strong correlation between the number of civilians killed and the use of automatic rifles; as the use of Kalashnikovs increased, so did the number of civilian killings.

Information compiled by the Punjab Police on weapons seizures, weapons use, militant attacks and civilian casualties also reflects this correlation. Increased availability and use of Kalashnikovs corresponded to increased attacks and civilian killings. For example, from 1989 to 1990, Indian authorities claim that both the number of militant attacks, and the number of civilian killings by militants, more than doubled. Meanwhile, Indian authorities also claim that the number of incidents in which Kalashnikovs were used, and the number of Kalashnikovs allegedly seized, both nearly doubled.[144]

In sum, greater access by Sikh militants to more advanced weaponry during the last decade directly exacerbated the human rights situation in Punjab. It allowed militants to increase the frequency and severity of their attacks on the unarmed population, resulting in a greater number of civilian casualties, and permitted them to sustain a higher level of terror and control over the general population. The governments of Pakistan and the United States bear considerable responsibility for the arming of Sikh militants and the atrocities they have committed.

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[143] According to one account, the first time an AK47 was used by a Sikh militant in Delhi, thirteen people were killed in the space of one hour. "The Hit Men," *Sunday Times of India*, November 1, 1992.

[144] The following information was provided to the Arms Project by the Director General of Police in Punjab in March 1993. The Arms Project was not able to undertake independent verification of these statistics. Some observers believe that they may be inflated.

Year	AK47/56/74 Seizures	Civilian Killings	Militant Attacks	Kalashnikovs Used	
1986	-		526	-	-
1987	-		910	-	-
1988	328		1,949	-	-
1989	314		1,168	846	660
1990	553		2,474	2,116	1,302
1991	525		2,591	2,107	1,228
1992	565		1,518	979	973
1993*	99+		-	-	-

*through March 1993

Although the Indian government's crackdown in Punjab has largely crushed militant activity for the time being, arms are still widely dispersed among the populace. This weaponry could facilitate and fuel future conflict and abuses of human rights.[145]

IV. ARMS AND ABUSES IN KASHMIR

Since the late 1980s, Kashmiri militants have engaged in widespread violations of international human rights and humanitarian norms. The link between more sophisticated arms—including those procured from Pakistan—and the commission of abuses by Kashmiri militants against civilians is not as pronounced as in the case of Punjab. In Punjab, militants regularly used such weapons to attack civilians. In Kashmir, militants have used such weapons more frequently against military targets.[146] Although Kashmir militants have not characteristically carried out the kinds of drive-by shootings and other large scale attacks typical of Sikh militant operations against civilians, they have killed hundreds of civilians in targeted attacks, and have used more sophisticated weapons in some instances. It is also likely that the acquisition of large numbers of more advanced weapons contributes to the militants' efforts to instill fear in the civilian Hindu population and among Muslim civilians who do not support the militants' aims; militant threats and attacks on Hindus living in the Kashmir valley caused some 100,000 to flee to refugee camps in 1990.[147]

Human Rights Watch/Asia and Physicians for Human Rights reported in *The Human Rights Crisis in Kashmir: A Pattern of Impunity*:

> Militant organizations operating in Kashmir have committed grave violations of international human rights and humanitarian law. Many of the violent attacks committed by these groups have deliberately targeted civilians. Among the worst abuses have been the assassinations of hundreds of civilians, including members of the Hindu community, civil servants and political figures, particularly Muslim political leaders associated with the National Conference party and other political groups opposed by the militants.[148]

The Arms Project contends that arms and military assistance should not be provided to governments or opposition groups that violate principles of human rights and humanitarian law. Accordingly, arms supplies and other forms of military assistance to Kashmiri militants should be conditioned on the cessation of such abuses, even if the abuses do not always directly involve sophisticated weapons.[149]

This chapter outlines the history of the conflict in Kashmir and the pattern and practice of serious violations of human rights and humanitarian law carried out by Indian government forces in Kashmir and by Kashmiri militants. In the course of committing some of these violations militants have used weapons such as automatic rifles, grenades, rockets, and explosives. The chapter concludes with a discussion of the impact on the human rights situation in Kashmir of increased access by militant organizations to more advanced weaponry.

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[145] Arms Project interviews. *See also*, A. Bharadwaj, "Hidden Arms Pose Problem in Punjab," *Times of India*, March 21, 1993.

[146] Human Rights Watch takes no position on attacks against legitimate military targets provided that international norms of human rights and humanitarian law are observed.

[147] The government role in encouraging the exodus is a matter of considerable controversy in Kashmir and among the displaced Hindus in Jammu and New Delhi. Some reports suggest that while many Hindus left the valley out of fear of militant violence, some may have been encouraged to leave by authorities who hoped to undermine support for the militant movement.

[148] Asia Watch and Physicians for Human Rights, *A Pattern of Impunity*, p. 147.

[149] In Chapter 5, the Arms Project also argues that arms supplies and other forms of military assistance to the Indian government must be linked to the cessation of abuses by the security and military forces.

Historical Background[150]

Jammu and Kashmir ("Kashmir"), India's northernmost state, lies south of one of the highest ranges of the Himalayan mountains, and borders Pakistan, Afghanistan, Tibet, and China. The state comprises the areas of Jammu, on the plains below the Pir Panjal mountain range, and the Kashmir valley, located between the Pir Panjal and Pangi ranges south of the highest peaks of the Karakoram mountains. It also includes Ladakh, which borders Tibet.

Jammu and Kashmir is the only Indian state in which Muslims constitute a majority. Muslims make up about 12 percent of India's total population, while in Jammu and Kashmir, they represent roughly two-thirds of the population, and predominate in the Kashmir valley.

The state's political status as part of India is a matter of long-standing controversy. Kashmir has been the site of three border wars since the partition of British India into India and Pakistan in 1947, and, since 1989, of an insurgency by militant Muslim groups seeking independence from India.

At the time of partition, hundreds of nominally independent "princely" states were absorbed into the two new nations. However, Kashmir's ruler, Maharaji Hari Singh, refused to accede to either nation, apparently in the hope that the state might be permitted to remain independent. An invasion by Pakistani tribesmen[151] in August and September 1947 and an uprising among Kashmiri Muslims in the state's western regions ultimately compelled the maharaja to seek the assistance of Prime Minister Nehru of India, who agreed to send troops only if Kashmir formally acceded to India. On October 27, 1947, the maharaja agreed, on the condition that Kashmir be permitted to retain its own constitution. Indian troops drove Pakistani forces back to the western third of the state, which then acceded to Pakistan as "Azad" (free) Kashmir. United Nations intervention achieved a cease-fire on January 1, 1949.

The validity of the rest of Kashmir's union with India is disputed by Pakistan and by militant and political groups in Kashmir. Because of Kashmir's key strategic, economic, and symbolic importance, however, the Indian government has resisted negotiations since 1948.

The U.N. agreement under which Kashmir became part of India promised Kashmir autonomy in local affairs, with only foreign relations, defense, and communications left to the central government. Kashmir also was to be allowed to adopt its own constitution.

Despite the agreement and subsequent U.N. resolutions endorsing a plebiscite on Kashmir's future, neither the plebiscite nor the promised autonomy materialized. India claimed first that Pakistan must vacate the parts of Kashmir it held. Pakistan refused to do so unless India also withdrew its troops. Subsequently, India argued that Kashmiris had effectively ratified accession by voting in Indian elections. The Indian government ignored constitutional provisions protecting Kashmir's separate status and enacted legislation bringing the state increasingly under the authority of the center. Kashmiris who insisted on real autonomy and protested New Delhi's interference in local issues were jailed on charges of sedition. Frustrated over the inability to achieve gains politically, the first militant organization, the Jammu and Kashmir Liberation Front (JKLF), was founded in 1964, and began a campaign for Kashmiri independence.

The turning point came with the 1987 state elections, widely believed to have been rigged by the ruling Congress I party to prevent a victory by a popular opposition party, the Muslim United Front (MUF). Widespread irregularities in the vote count and mass arrests of MUF candidates fueled popular disillusionment with the ruling party. Amid protests, the National Conference party, in coalition with the Congress Party, again took power.

Popular resentment against the state government continued. Support for the militants, who had not been seen as posing much of a threat before 1987, also grew. Beginning in the latter half of 1988 and continuing through 1989,

[150] This section is drawn from the historical discussion contained in Asia Watch, *Kashmir Under Siege: Human Rights in India*, New York: Human Rights Watch, May 1991. Readers are referred to Chapter 2 of that report for a more detailed analysis.

[151] Many observers believe that the tribesmen included Pakistani army soldiers and irregulars in civilian dress.

JKLF militants claimed responsibility for a series of explosions in Kashmir which damaged government buildings, buses, and the houses of state government officials. In response, New Delhi sent in paramilitary reinforcements.

A campaign of intimidation by militant groups led to a state-wide boycott of the November 1989 national parliamentary elections. In December 1989, JKLF militants kidnapped the daughter of Home Minister Mufti Mohammad Sayeed, then freed her when the government acquiesced to demands for the release of five detained JKLF members. This result, seen as a major political victory for the militants, encouraged other, newly emergent armed organizations—many of which openly supported union with Pakistan—to step up their attacks on government troops.

Increased militant activity, together with a surge in popular protest against the central government, led to the imposition of direct rule in January 1990, and triggered a massive crackdown by government authorities. In subsequent months, government forces arrested hundreds of young men and opened fire on unarmed demonstrators, killing scores of civilians. This repression only furthered popular protest; in one demonstration in late February 1990, nearly 400,000 Kashmiris marched through Srinagar to the office of the United Nations Military Observer Group to hand over petitions demanding independence. Growing opposition to the central government provoked greater repression by the security forces. Round-the-clock curfews were imposed for days a time, paramilitary troops conducted large-scale searches and arrests, peaceful protests often were met with gunfire, and summary executions of detainees became increasingly common. In an ever-escalating spiral of violence, Kashmiri militants stepped up armed attacks against civilians, as well as military and paramilitary targets.

The estimated numbers of casualties since the end of 1989, while varying depending on the source, reflect the increased level of violence. In their July 1993 report on Kashmir, Asia Watch and Physicians for Human Rights estimated that at least 6,000, and possibly twice that number, had been killed by all parties.[152] Recent press reports, citing hospital and police sources, have claimed that the death toll now numbers some 16-17,000 people.[153]

While it was not a causal factor in Kashmir's armed insurgency, the massive influx of more sophisticated weaponry into the region during the 1980s was a contributing factor to the rising levels of violence and increased violations of humanitarian law.

[152] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 1-2. *See also* "Figures for Kashmir fighting toll," *British Broadcasting Corp.*, November 25, 1993; "Hazratbal siege enters second month, *Agence France Presse*, November 15, 1993; "Indians Reported stepping up firing in Kashmir," September 27, 1993. "At least 26 killed in strife-torn Kashmir," *Reuters, Ltd.*, September 20, 1993; Molly Moore and John Ward Anderson, "Kashmir's Brutal and Unpublicized War," *Washington Post*, June 7, 1993.

[153] See, for example, "Kashmiris Stop Work, Mourn Murdered Cleric's Death," *Reuters*, June 21, 1994; "Moslem Politician Shot Dead in Kashmir," *Reuters*, June 20, 1994.

Abuses by Indian Government Forces[154]

Throughout the conflict, Indian security forces—particularly the Army, the Central Reserve Police Force (CRPF) and the Border Security Force (BSF)—have committed regular and deliberate violations of human rights and humanitarian laws in Kashmir. It is clear that in recent months, the level of abuses by Indian government forces has risen significantly, with large numbers of summary executions of suspected militants and increased killings of civilians in reprisal attacks.

In addition to summary executions and reprisal killings of civilians, abuses by Indian forces include disappearances, unprovoked shootings of unarmed noncombatants, rape, and other attacks on civilians and captured combatants. Legislation authorizing the security forces to shoot to kill and protecting them from prosecution has facilitated such abuses. The security forces have also engaged in wanton destruction and looting of civilian property, and have burned down residential neighborhoods in retaliation for militant attacks.

Government forces have also systematically violated international law by using lethal force against peaceful demonstrators, and engaging in widespread and arbitrary arrests of persons suspected of sympathizing with the militants, and detaining them for extended periods without charge or trial. Torture of detainees is widespread, and includes methods such as prolonged beatings, electric shock, and sexual abuse.

The incidence of rape is also high. Women are often raped in the course of house searches by the security forces, and in retaliation for militant attacks on government patrols.

In complete violation of international law, Indian forces often go on rampages in civilian areas after militant attacks. These rampages commonly include arbitrary beatings and shootings of civilians, sacking of their houses, rape, and arson. In a January 1993 incident, Indian police admitted that paramilitary security forces killed at least forty-three civilians, wounded more than a dozen others, and torched scores of buildings in Sopore in revenge for an attack by armed members of Hezb-ul Mujahidin.[155] The severity of these attacks and their regularity have not only traumatized the local population, but have also alienated the local police forces. The torture and death in custody of a constable sparked a local police revolt in May 1993.

The government's efforts to justify these abuses as legitimate responses to militant action completely fly in the face of international law.

Abuses by Militants

[154] This section is drawn largely from Asia Watch, *Kashmir Under Siege* and Asia Watch and Physicians for Human Rights, *Pattern of Impunity*. Since this report focuses on the impact on human rights of the flow of weapons to militants, it includes only a very abbreviated account of government abuses. However, most observers agree that violations by government forces are far more widespread than those committed by the militants.

[155] "Forces Went Amok in Kashmir," *Los Angeles Times*, January 8, 1993; "Indian forces killed 53", *Newsday*, January 8, 1993; Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 70-72.

Members of militant organizations have committed grave violations of humanitarian laws. Several major militant groups operate in Kashmir, and perhaps dozens of smaller ones, some supporting independence and others accession to Pakistan.[156] The most prominent are the JKLF, a pro-independence group which is the oldest and reportedly one of the most popular organizations, and the Hezb-ul Mujahidin, which supports confederation with Pakistan, and is reportedly the best armed. Another insurgent group which supports independence is the Jammu and Kashmir Student Liberation Front. Numerous new militant organizations have emerged in recent years, many of which support accession to Pakistan. In addition to Hezb-ul-Mujahadin, pro-Pakistani groups include the Islami-Jamiat-Tulba and the Muslim Students Federation, all of which are affiliated with the Jamaat-e-Islami political party. Other pro-Pakistan militant organizations include the Hezb-e Ullah, the Hezb-e-Islami, the Muslim Janabaz Force, the Al Umar Mujahidin, Operation Balakote, the Tehreik-e-Jehadi-Islami, the Islamic Tehrik-e-Tulba, the Allah Tigers, the Zia Tiger Force, the Islamic Students' League, and the Jammu and Kashmir People's League, Al-Jehad, Al-Barq, Hizbollah, Ikhwan-ul-Muslimin, Jamait-ul Mujahidin, Al-Umar Mujahidin, Tekriqu-ul Mujahidin, Allah Tigers, Ul-Umar Commandos, and the Harakatul Ansar.

Although all the militant groups are violent in their drive for independence from India, and some periodically work in coalition,[157] most of the groups do not necessarily coordinate actions or support one another's tactics. None of the groups, individually or collectively, control territory in Kashmir, although certain areas in the Kashmir valley are reputed to be strongholds of particular groups, especially certain towns along the border with Pakistan, some of which are along supply routes for weapons brought in from Pakistan.

Militant military operations are generally characterized by ambushes of government forces and hit-and-run attacks for which they rely on weapons such as AK47s, grenades, landmines, rockets, and other light weapons and small arms. Acquisition of unprecedented levels of firepower has not only helped militants achieve greater military successes, but has also contributed to the proliferation of lethal attacks by militants on civilians since 1989.

Violations of humanitarian law committed by militants include: execution-style killings of civil servants, notably Muslim political leaders associated with the National Conference party, which is allied with New Delhi, prominent Hindus, and civilians suspected of being government informers; attacks in which militants fail to distinguish between military targets and civilians; rape; threatening and attacking members of the minority Hindu community; violations of medical neutrality; and the use of religious sites for military purposes.

Targeted Killings of Civilians

Militant organizations operating in Kashmir have repeatedly violated international prohibitions against the murder of individuals taking no part in armed hostilities.[158] They have killed prominent members of the National Conference party, leading members of the Hindu community and persons suspected of collaborating with the Indian government.

The following accounts typify the kinds of targeted murders of civilians carried out by militants in Kashmir.

[156] The information on the composition of the various militant organizations is drawn largely from Asia Watch, *Kashmir under Siege* and Asia Watch and Physicians for Human Rights, *Pattern of Impunity*.

[157] Asia Watch noted in 1991 that many of the pro-Pakistan groups were part of a loose coordinating body known as the United Jehad Council. In its 1993 report with Physicians for Human Rights, it further explained that as of mid-1993, a coordination committee comprising representatives of the leaders from the JKLF, Hezb-ul Mujahidin, Iqwan Muslim, Harkat-ul-Majaheedin, Jamait-ul-Mujaheedin, Tahreek-ul-Mujaheedin, Hizbollah, and Muslim Mujahidin had formed to provide oversight for the various groups.

[158] See Appendix I.

- On March 2, 1993, Ghulam Nabi Baba, a retired assistant commissioner, was shot dead after being abducted by militants on February 28. Ghulam Nabi Baba was a relative of the state Congress-I party leader, Ghulam Rasul Kar. On March 1, Ghulam Rasul Kar's brother-in-law, Habibullah Mirshah, was also killed by militants.[159]

[159] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, p. 154; "Kashmir Militants Kill Abducted Ex-Official," *All-India Radio*, March 2, 1993, cited in *FBIS, (NES-93-040)*, March 3, 1993, p. 32.

- On November 7, 1992, militants hurled a grenade into Shaheedi Chowk, Srinagar, killing a shopkeeper, Rajesh Jain, and causing minor injuries to Hamidullah Khan, an advisor to the state governor. Khan was believed to have been the target of the attack.[160]

- On December 13, 1990, Hezb-e Ullah militants gunned down Maulana Mohammad Sayeed Masoodi, the former general secretary of the National Conference party and a leading moderate politician in Kashmir. According to a public statement issued by Hezb-e Ullah, Masoodi was killed for his involvement with the National Conference and for supporting Kashmir's union with India.[161]

- After being threatened with death on several occasions if he did not leave the Kashmir valley, Gopi Nath Raina, the co-director of the textiles department of the Jammu and Kashmir government, was shot dead by members of the JKSLF using automatic rifles on June 26, 1990.[162]

- In April 1990, JKSLF militants murdered Mushir-ul Haq, the vice chancellor of Kashmir University in Srinagar, and his personal secretary Abdul Ghani. Haq was apparently well-known as a proponent of progressive Muslim views. The two were kidnapped by armed agents of the JKLF and Hezb-ul Mujahidin immediately prior to a scheduled meeting between Haq and the state Governor Jagmohan, who had been appointed by the central Indian government. Militants demanded a three-hour relaxation of the curfew which had been in force around-the-clock, and the release of three detainees in government custody. Haq and Ghani were found shot to death several days later.[163]

- Lassa Koul, the director of the state-run television station for Jammu and Kashmir, was shot dead by JKLF gunmen on February 13, 1990, apparently as part of an attempt to obtain programming more favorable to the militants. Koul received numerous threats prior to his death from both the JKLF and Hezb-ul Mujahidin, as well as from other militant groups. His murder prompted other newscasters to begin accommodating their programs to the militants' demands out of fear of similar attacks.[164]

Extrajudicial Punishment

Militant organizations have ordered summary punishment, including execution, of individuals believed to be government operatives and informers. The following two accounts are typical:

[160] "Grenade attack on Saxena's Aide," *Times of India*, November 8, 1992.

[161] "32 Die in Clashes After Secessionist Arrested," *Agence France Presse*, December 13, 1990.

[162] Asia Watch, *Kashmir Under Siege*, p. 136.

[163] The JKLF issued a statement in which it assumed joint responsibility with Hezb-ul Mujahidin for the kidnapping, but stated that it had agreed to the plan only after Hezb-ul Mujahidin leaders and an official of the Pakistani Inter-Service Intelligence Agency threatened a cut-off of ISI aid, unless they did so. The JKLF further claimed that they gave their support on the condition that no harm would come to the hostages, and condemned Hezb-ul Mujahidin for killing Haq and Ghani. Asia Watch, *Kashmir Under Siege*, pp. 131-135. *See also*, "Violence in Kashmir Intensifying," *New York Times*, April 12, 1990, and "Militants Show Their Hands," *Independent*, June 8, 1990.

[164] Ibid.

- In March 1990, the Hezb-ul Mujahidin militant group shot to death two Muslim religious leaders near Shopian, south of Srinagar, reportedly claiming that they had been tried and executed under Islamic law for spying for an intelligence agency.[165]

- A group of armed militants belonging to the Hezb-ul Mujahidin kidnapped Mir Ghulam Mustafa, a former member of the dissolved Kashmir state legislative assembly, who had helped arrange the release of the kidnapped daughter of Home Minister Mufti Mohammed Sayeed in December 1989. He was hung after Hezb-ul Mujahidin pronounced him guilty of "indulging in anti-Islamic activities and spying for Indian government intelligence."[166] Militants have also executed captured government security force personnel. In 1993, a spokesman for the groups claimed that this policy was adopted because the Indian government summarily executed captured militants.[167]

Attacks on Civilian Government Targets

While militants in Kashmir tend to avoid the kind of random shootings at crowds of civilians or passenger vehicles that have characterized Sikh militant tactics, they have engaged in attacks on government targets that are not military in nature. In particular, militants have launched bomb and grenade attacks on government buildings and transport vehicles. Such attacks violate humanitarian law if the buildings and vehicles are not being used in ways that contribute significantly to the war effort.[168] The following accounts are representative:

- Hezb-ul Mujahadin claimed responsibility for a May 11, 1993 attack on the government secretariat, which houses the offices of the civil administration in Srinagar. Rocket-propelled grenade launchers were used. One employee reportedly was killed and three injured during the attack.[169]

- On October 17, 1992, a car bomb planted by militants of the Hezb-ul Mujahidin exploded outside the State Bank of India on Residency Road in Srinagar, a popular shopping and business district. Asia Watch interviewed witnesses who reported that at least two civilians were killed and others injured; several members of the Indo-Tibetan Police, on guard outside the bank, were also injured.[170]

- Al Jihad Mujahidin took responsibility for the December 8, 1990 explosions in the office of the chief of agricultural reforms of the state government, which caused extensive damage. Offices of the state civil administration have been a frequent target of attack.[171]

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[165] Asia Watch, *Kashmir Under Siege*, p. 141, citing Yusuf Jameel, "Priests Killed in Jammu and Kashmir," *Telegraph*, March 13, 1990.

[166] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, p. 157; "Kidnapped Kashmir Politician Found Dead," *Reuters*, March 25, 1990.

[167] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, p. 159; "JKLF Executes Two Army men taken Hostage," *Times of India*, September 18, 1992.

[168] See, e.g., Additional Protocol I, Article 52. Civilian government buildings are legitimate military targets *if and when* they are used in ways that contribute significantly to the war effort. Human Rights Watch believes that there should be a presumption of illegitimacy of attack, but if facts show that a particular government building does in fact participate significantly in the military effort, the presumption is overridden.

[169] "Attack Sparks Four Day Boycott," *Agence France Presse*, May 11, 1993.

[170] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, p. 109.

[171] Asia Watch, *Kashmir Under Siege*, p. 144, citing *Srinagar Times*, December 9, 1990.

- On November 16, 1989, at least twenty-four persons were injured when a bomb planted inside a government passenger bus exploded south of Srinagar. The JKLF claimed responsibility for the incident. The same afternoon, the JKLF set off a bomb which caused extensive damage to a building in Srinagar which housed the office of a division of the public works department. The local press reported that a caller explained that the explosions were designed to reinforce the militants' call to boycott the fall 1989 elections to the lower house of the Indian Parliament.[172]

Rape[173]

Rape by members of militant organizations was rare in the conflict's early years, although threats and attacks against women by groups seeking to enforce their interpretation of Islamic culture were not uncommon. Since 1991, however, rape has been committed with increasing frequency by members of certain militant organizations.

In some cases, women have been raped and then killed after being kidnapped by rival militant groups and held as hostages. In other cases, members of armed militant groups have abducted women after threatening to shoot the rest of the family unless the woman was handed over to a particular militant leader. Some incidents of rape by militants appear to have been intended as punishment because the victims or their families were believed to be government informers, opposed to the militants, or supporters of rival groups.

Asia Watch and Physicians for Human Rights reported that one of the earliest rape cases involved a staff nurse kidnapped from the Saura Medical Institute on April 14, 1990. Her body was found with a note nearby stating that the JKLF took responsibility for the killing and accused the victim of informing the security forces about the presence of a number of wounded militants in the hospital. A post-mortem report concluded that she had been raped before being shot dead.[174]

Kidnapping

The December 1989 kidnapping by the JKLF of Dr. Rubia Mufti, the daughter of the Union home minister Mufti Mohammed Sayeed, is often seen as marking the beginning of increased militant activity in Kashmir. In exchange for her freedom, the JKLF demanded the release of five of their colleagues from detention. She was freed several days after the abduction, following the government's compliance with the JKLF demand. Since then, members of various militant organizations have engaged in kidnapping as a way to pressure the government to release militant detainees or make other changes. The following are examples of kidnappings:

- On March 31, 1991, the Moslem Janbaz Force abducted two Swedish engineers employed at a hydroelectric project in Kashmir, and threatened to kill them if the government did not permit Amnesty International and the United Nations to investigate human rights abuses in Kashmir. They managed to escape after several months.[175]

[172] Asia Watch, *Kashmir Under Siege*, p. 144, citing "Militants Gun Down One in Srinagar," *Kashmir Times*, November 17, 1989.

[173] See Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 160-162; and Asia Watch and Physicians for Human Rights, *Rape in Kashmir: A Crime of War* (New York: Human Rights Watch, 1993), p. 16.

[174] Asia Watch and Physicians for Human Rights, *Rape in Kashmir*, p. 16.

[175] Barbara Crossette, "Kashmiri Militants Say They May Kill 2 Swedes," *New York Times*, April 13, 1991; "Kashmir Governor Refuses Amnesty Visit," *Associated Press*, April 13, 1991.

- On June 8, 1993, militants kidnapped Sharifuddin Shariq, a well-known National Conference leader and former member of the state assembly. Shariq reportedly was considered to have close ties with former Chief Minister Farooq Abdullah.[176]

- On June 6, 1994, the Harakatul Ansar militant group kidnapped two British tourists, aged 16 and 36, who were on holiday near Pahalgam. Motive for the kidnapping was unclear. An initial Ansar statement indicated the hostages would be released in exchange for three jailed militants, a subsequent statement said they were being held only to highlight human rights abuse in Kashmir by Indian troops, while a third said they strayed too near a militant camp. The two were released unharmed on June 23, 1994.[177]

Inducing Terror in the Civilian Population

International law prohibits not only acts, but also "threats of violence, the primary purpose of which is to spread terror among the civilian population."[178] In contravention of this rule, some militant groups have employed threats to compel suspected opponents, government informers, and others to leave the Kashmir valley, or to conform their behavior to desired Islamic standards. A JKLF statement in June 1990, for example, claimed responsibility for bombings in the town of Pulwama, and warned that "all Indian agents and spies" should recant or risk being killed. In November 1989, a number of militant groups issued threats against liquor store owners that those who did not shut down their businesses would have to "face the consequences."[179] A March 26, 1991 statement issued by Hezb-ul Mujahidin warned that action would be taken against women who failed to cover their faces and bodies.[180]

[176] "Militants Abduct Farooq Aide," *Times of India*, June 9, 1993; *A Pattern of Impunity*, p. 163.

[177] "Britons To Be Freed Within a Day, Militants Say," *Reuters*, June 22, 1994; "Britons Held By Kashmir Militants Set Free," *Financial Times*, June 24, 1994.

[178] Additional Protocol II, Art. 13; Additional Protocol I, Art. 51(2). See discussion in Legal Appendix.

[179] Asia Watch, *Kashmir Under Siege*, pp. 151-152.

[180] "Kashmiri Militants Warn Women on Muslim Dress" *Agence France Presse*, March 26, 1991; Asia Watch, *Kashmir Under Siege*, p. 153.

Many Hindus have also been made the targets of militant threats, especially in 1989-1990, and these threats combined with acts of violence and harassment by militants against the Hindu population, caused many to flee.[181] For example, in March 1990, the JKSLF issued a statement warning all non-Kashmiri traders and officials living in the valley "after acquiring citizenship rights through false declaration" to leave by the end of the month. The statement also announced that those who did not leave would be targeted for attack. Hezb-ul Mujahidin issued a directive the same month in Srinagar, ordering non-Kashmiris working as civil servants for various branches of the Indian government to leave by month's end, or face death.[182] A 1992 press report noted that, when one militant group, the Ikhwan-ul Muslimin, broadcast an appeal urging Hindus to return, Al-Umar and Al-Jehad issued press releases warning them not to come back.[183]

Militant groups have also issued threats to journalists whom they believe publish reports biased against the militant cause. They have imposed bans on particular newspapers and enforce those bans through the abduction of distributors and other attacks.[184]

Violations of Medical Neutrality

Doctors in Kashmir claim that militants abduct medical workers to force them to provide treatment to injured militants. Militants have also reportedly abducted patients from hospitals. Asia Watch and Physicians for Human Rights interviewed a doctor in October 1992 who described the sense of fear pervading the hospital where he worked: "I can't even ask the floor sweeper to do his job because you never know who's carrying a gun or who someone may be."[185]

Use of Religious Sites as Military Strongholds

Press accounts described the October 1993 occupation of the Hazratbal Mosque on the shore of Dal Lake in Srinagar. The mosque is held sacred by Kashmir's Muslim population because it enshrines a hair of the Prophet Mohammed. According to a number of reports, the mosque was taken over by militants armed with sophisticated weapons. Religious pilgrims were said to be inside at the time of the take-over, but none were killed.[186] These reports suggest that militants violated the international proscription against the use of religious sites as military strongholds. [187]

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[181] *See*, *e.g.,* Asia Watch, *Kashmir Under Siege*, pp. 147-153, and Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 168-171; Gill Tudor, "Kashmir Hindus Want Haven from Ethnic Cleansing," *Reuters*, July 10, 1993. According to *Kashmir Under Siege*, as many as 90,000 Hindus left the valley in 1989-90. There is, however, evidence that some Hindus decided to leave not directly or solely as a result of threats by militants, but were encouraged to do so by government officials. *Ibid*, pp. 147-148.

[182] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 170-171; "Quit Notice to IAS", *Telegraph*, March 21, 1990.

[183] Marinder Baweja, "Living on the Edge," *India Today*, July 15, 1992.

[184] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, p. 167.

[185] Ibid., pp. 172-173.

[186] Civilians were killed at another location by Indian security forces who opened fire on Muslim demonstrators protesting government action against militants inside the mosque. "Kashmir's Conflict Explodes Again; At least 29 Killed as Indian Troops battle Muslim Separatists," *Washington Post*, October 23, 1993; "Militant Palestinians Denounce Indian Attacks in Kashmir", *Agence France Presse*, October 25, 1993; "Jammu and Kashmir Government Orders inquiry Into Bijbiara Shootings;" *British Broadcasting Corporation*; October 25, 1993; "India: Stalemate in Kashmir, Militants Threaten Mosque", *Inter Press Service*, October 18, 1993.

[187] *See* Legal Appendix.

Role of Weapons in Abuses by Militants

Militant forces in Kashmir have engaged in the commission of serious abuses of humanitarian law since at least 1989. Easy access by militants to large caches of more advanced weapons—made possible by the proliferation of small arms and light weapons throughout the region during the 1980s—has contributed to the deterioration of the human rights situation in Kashmir.

More sophisticated weapons such as automatic rifles, rockets, and grenades have been used in direct attacks on civilians and civilian property, although they have not been used by Kashmiri militants to commit human rights abuses with the same frequency that they were used by Sikh militants in Punjab. These weapons have also enhanced the ability of the militants to induce fear in the civilian population; threats of force backed up by a vast arsenal of weapons have contributed to the flight of many civilians from Kashmir.

In light of this record of abuse, the Arms Project believes that any future supplies of weapons to Kashmiri militants should be tied to respect for humanitarian law and human rights.[188]

V. ARMING THE INDIAN GOVERNMENT

For decades, the Soviet Union was the Indian government's main outside supplier of arms and military assistance. Since the Soviet Union's collapse, other countries, including the U.S., Russia, Germany, France, and Israel, have begun in earnest to sell India arms and provide military assistance, or are negotiating to do so. At the same, India is seeking to make its defense industry far more self-sufficient,[189] in part by relying on technology transfers from a variety of countries. India also plans to privatize its defense industry by expanding the ownership of some of its key defense outfits, and opening them up to foreign partnerships.[190] Despite serious fiscal constraints, India's defense budget of 230 billion rupees ($7.41 billion) for 1994-95 reportedly represents an increase of approximately 8 percent in real terms after adjusting for inflation and an expected rise in prices.[191]

This chapter briefly reviews several of these recent developments. The discussion, however, is by no means be an exhaustive analysis of all arms transfers to India. Rather, the information is presented in the hope that countries which provide arms and assistance to India, and those which are considering it, will condition supply on significant, concrete improvements in the government's human rights record.[192] Close scrutiny should be given by potential suppliers to the government's human rights performance in Kashmir and Punjab, since it is in these states that Indian security forces have committed some of the worst and most regular abuses. Given the eagerness of India to acquire weapons and military technology from new suppliers, this is an important moment when nations may be able to put pressure on India to improve its human rights record. Sources in India also assert that the purchase of new military

[188] The Arms Project also argues, in Chapter 5, that arms supplies to the Indian government must be conditioned on an improvement in the human rights record of its security and militant forces.

[189] *See, e.g.*, "India Accelerates Drive Toward Self-Sufficiency,", *Defense News*, July 26-August 1, 1993.

[190] Rahul Bedi, "Indian industry opens up," *Jane's Defence Weekly*, March 13, 1993.

[191] Ranul Bedi, "India Stems the Fall in its Defence Spending," *Jane's Defence Weekly*, March 12, 1994.

[192] The Arms Project reiterates earlier recommendations by Human Rights Watch/Asia that the Indian government abide by internationally recognized principles of human rights and humanitarian law. Accordingly, government forces must refrain from current practices such as attacking civilians, engaging in torture and other forms of ill-treatment, rape, summary executions, prolonged detention, and other abuses documented and analyzed in detail by Human Rights Watch in *Dead Silence, A Pattern of Impunity, Punjab in Crisis,* and *Kashmir Under Siege*.

equipment is prompted in part by continuing conflict in Kashmir and Punjab.[193] Linking arms supplies with human rights improvements in Kashmir and Punjab, therefore, is critical.

Countries which have recently provided arms and other forms of military support to the Indian government—or have been negotiating to do so—include Belarus, Bulgaria, China, the Czech Republic, France, Germany, Great Britain, Holland, Hungary, Israel, Italy, Malaysia, New Zealand, Poland, Romania, Russia, Scotland, Singapore, Slovakia, Spain, South Africa, Sweden, Ukraine, the U.S., and former Yugoslavia. This list, however, probably presents only a partial picture of the full range of actual or potential supplier countries.

[193] Vivek Raghuvanshi, "India Accelerates Military Equipment Buys," *Defense News*, July 12-18, 1993.

Given that assault rifles and other small arms and light weapons have been used frequently by Indian security forces in attacks on civilians in Kashmir and Punjab, the Arms Project is particularly concerned about reports of major purchases of such weapons. In May 1993, the Indian Defense Ministry began negotiating deals for 100,000 Kalashnikov assault rifles and 50 million rounds of ammunition, with possible suppliers including Russia, Hungary, Romania, and Israel.[194] In an apparently separate deal, the Indian government announced plans in August 1993 to purchase more than 100,000 small arms, including Kalashnikovs, from Bulgaria, Poland, the Czech Republic and Slovakia.[195]

The Indian Ministry of Defence (MoD) announced in October 1993 that it was finalizing contracts with ammunition producers in a number of countries to supply equipment for a new munitions factory complex in Bolangir, in eastern India. Touted as the largest and most technologically advanced munitions plant in Asia, the Ordnance Factory Bolangir will annually produce 200,000 Barmines (antitank landmines), 200,000 rounds of 155mm ammunition, 150,000 rounds of 125mm shells for T-72 tanks, large quantities of 30mm ammunition for BMP-1 and -2 infantry fighting vehicles, a variety of large caliber munitions, fuzes, explosives, and detonators. Some plant equipment is already at various stages of installation, including items supplied by Day and Zimmermann (U.S.), Meissner GmbH & Company (Germany) and a Bulgarian company.[196] Reportedly, the three finalists for an estimated 500 million rupee contract for a 155mm shell plant—the most extensive and important part of the Bolangir factory—are Day and Zimmermann, Meissner GmbH & Co., and Societe Nationale des Poudres et Explosifs (SNPE) of France.[197]

One of the biggest equipment problems facing the Indian government in recent years has been the increasing lack of spare parts for Soviet-made equipment. According to Indian officials, Russia has not been able to supply most of those parts.[198] The Indian government has described the shortages as severe, and reportedly is unable to locate as many as 100,000 spare parts for Soviet weapons.[199]

Relief is apparently coming in one area, however. An agreement was signed on June 30, 1994 to create a joint company called Indo-Russian Aviation Private Ltd., based in Nasik, India, that will focus on the production of aircraft spare parts for the Indian Air Force. The company will also provide support and maintenance for Russian-designed aircraft in India.[200]

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[194] Rahul Bedi, "Indian Arms Buys Defy Cash Shortfall," *Jane's Defence Weekly*, May 8, 1993. It was reported in January 1994 that negotiations on the $8.3 million deal were still underway with Russia, Hungary, and Romania. *Jane's Defence Weekly*, January 29, 1994.

[195] Vivek Raghuvanshi, "Upgrade May Stall New Indian Tank Production," *Defense News*, August 30, 1993.

[196] Rahul Bedi, "India Fills Munition Gap", *Jane's Defence Weekly*, October 9, 1993, p. 21.

[197] "India Fills Munitions Gap," *Jane's Defence Weekly*, p. 21.

[198] "India Accelerates Military Equipment Buys," *Defense News*, July 12-18, 1993.

[199] Vivek Raghuvanshi, "India Weighs Purchase of New Russian Tank," *Defense News*, June 7-13, 1993.

[200] *Defense News*, July 11-17, 1994; *Jane's Defence Weekly*, July 9, 1994. The company will have $400 million in authorized capital with shared equity.

A particular problem has been the deterioration of India's MiG-21 fighters. A number of countries and companies have expressed interest in refurbishing and upgrading the MiG-21s, including not only Russia, but also the United States,[201] Israel,[202] France,[203] and Singapore.[204] It appears that the new Indo-Russian Aviation company will have the inside track for reworking 100-125 MiG-21s, at a cost of about $400 million.[205]

A major arms deal currently under negotiation is the Indian Air Force's purchase of eighty advanced jet trainers for an estimated $1.2 billion.[206] In August 1993, India's MoD began negotiations with a Franco-German consortium (comprising France's Dassault Aviation and Germany's Dornier Luftfahrt GmbH) and with British Aerospace.[207] Offers from U.S. and Russian manufacturers were rejected.[208]

Need for Human Rights Conditions

The dissolution of the Soviet Union—formerly India's greatest outside supplier of military equipment—as well as conflict in Kashmir, tensions in Punjab, and the always present threat of war with Pakistan, is causing India to urgently seek to diversify its sources of arms, ammunition, and military technology. India's rush to purchase large quantities of military hardware and technology, and its reliance on other governments for various forms of military support, make this an important time to bring pressure on the Indian government to improve substantially its compliance with norms of human rights and humanitarian law.

While recognizing India's right to defend itself, the Arms Project urges countries which provide arms and military assistance to India to tie supply to significant, specific improvements in India's human rights performance. Potential suppliers should pay close attention to the government's record in Kashmir and Punjab, since it is in these states that government forces have committed some of the worst and most regular violations of human rights and humanitarian law.

VI. CONCLUSIONS

[201] U.S. companies interested include Martin Marietta, Honeywell, Northrup Grumman, Litton, and General Electric. See *Washington Post*, June 14, 1994, and *Jane's Defence Weekly*, May 8, 1993.

[202] *International Defense Review*, May 1994, p. 16; Rahul Bedi, "India Courts New Clients," *Jane's Defence Weekly*, March 5, 1994, p. 29; Rahul Bedi, "India Eyes Israeli Arms Upgrades," *Jane's Defence Weekly*, November 13, 1993.

[203] *International Defense Review*, May 1994, p. 16; Vivek Raghuvanshi, "France Proposes Upgrade of India MiGs," *Defense News*, May 10, 1993.

[204] Vivek Raghuvanshi, "Indians Propose Joint Ventures," *Defense News*, October 11-17, 1993, p. 25.

[205] *Defense News*, July 11-17, 1994; *Jane's Defence Weekly*, July 9, 1994; *Defense News*, June 6-12, 1994.

[206] Vivek Raghuvanshi, "India's Near Buy of West's Trainers," *Defense News*, August 9-15, 1993. *See also Jane's Defence Weekly*, May 8, 1993; "Indian Aircraft Buy," *Jane's Defence Weekly*, December 12, 1992.

[207] *Defense News*, August 9-15, 1993. *Far Eastern Economic Review* reported in September 1993 that the Air Force preferred the British Aerospace Hawk aircraft, but that negotiations were expected to take another year. *Far Eastern Economic Review*, September 2, 1993.

[208] Hormuz P., Mama, "HAL Arising: Hindustan Aeronautics Projects Await Go-Ahead," *International Defense Review*, February 1993, p. 252; *Aerospace Daily*, August 6, 1993; *Defense News*, August 9-15, 1993.

In the course of the Punjab conflict, Sikh militants committed numerous, serious violations of the laws of war, including direct attacks on unarmed civilians, indiscriminate attacks, summary executions, kidnapping, rape, and the use of religious sites for military purposes.[209] The diffusion of advanced small arms and light weapons, many of them originally from the Afghan pipeline, to militant organizations in Punjab clearly exacerbated the human rights situation there. Such weapons were used frequently by Sikh militants directly in the commission of abuses, and allowed them, in violation of international norms, to induce terror deliberately in the general population. The increase in automatic rifles, in particular, facilitated the killing of greater numbers of civilians, by permitting Sikh militants, for example, to open fire on crowds of people with deadly results.

Militants in Kashmir have committed many grave violations of humanitarian law, most notably direct attacks on civilians, summary executions, kidnapping, and rape. The influx of arms has exacerbated the human rights situation in Kashmir, although Kashmiri militants use advanced weapons far less frequently than Sikh militants did in the course of attacks on civilians. It is likely that access to large numbers of more advanced weapons contributed to the ability of Kashmiri militants to instill terror in the Hindu population, 100,000 of whom fled to refugee camps in 1990.

The human rights record of the Indian government in Punjab and Kashmir is appalling. In Kashmir, the situation appears worse than ever, with abuses by government forces clearly on the rise. Government security forces engage in systematic violations of human rights and humanitarian law, including attacks on entire villages in retaliation for insurgent military operations. Frequent instances of torture, extrajudicial execution, disappearance, rape, unprovoked firing on peaceful demonstrations, and violations of medical neutrality are well documented.

The diffusion of vast quantities of weapons to militants in Punjab and Kashmir is linked to the so-called Afghan pipeline: massive, covert transfers of arms by the U.S.CIA through Pakistan's ISI to the Afghan mujahidin after the Soviet invasion of Afghanistan in 1979. To conceal U.S. involvement, the CIA transferred arms secretly, provided limited oversight over the pipeline, and imposed virtually no effective controls over its Pakistan outlet. Similarly, the ISI exerted little verifiable oversight over the pipeline; a former chief of the Afghan bureau of the ISI has claimed that the agency's usual procedures to keep track of weapons shipments were suspended.

The deliberate evasion of accountability on the part of the U.S. and Pakistani agencies involved allowed weapons to be extensively siphoned off from the pipeline, apparently by members of the ISI, and by Afghan fighters who, many claim, sold weapons to raise cash for field supplies or for personal gain. The rupture of the pipeline meant that by the mid-1980s, weapons intended for the Afghan insurgents had made their way into commercial channels. Pipeline weapons are still available for sale in the arms bazaars in Pakistan's Northwest Frontier Province.

Pipeline weapons have made their way into the hands of Sikh and Kashmiri militants. Evidence points to several sources: Pakistan's ISI, the NWFP arms bazaars, and former Afghan fighters. The Arms Project concurs with widely-held expert opinion that members of the ISI play a role in the transfer of some of the weapons used by Kashmiri militants; in addition, credible accounts report some ISI involvement in the transfer of weapons used by militant Sikhs.

Although virtually all observers agree that ISI operatives have provided weapons and military training to militant organizations, especially those in Kashmir, the extent to which Pakistan's central government has actively encouraged or systematically facilitated weapons transfers to Sikh or Kashmiri militants is thus far impossible to confirm irrefutably. However, the ISI high command and the central government made possible weapons transfers from the pipeline to Kashmiri and Sikh militants, even if such transfers were not a consequence of programs and policies at the highest level of government. The central government is responsible for failing to account for the compelling evidence of ISI involvement in the transfer of weapons to Sikh and Kashmiri militants, for example through a public inquiry, to make clear its policies concerning such transfers, to express concern at the human rights record of those groups assisted by its agencies, or to give any sign that human rights conditions are a feature of such assistance.

[209] See Appendix I on applicable standards of humanitarian law and principles of human rights. While some of the laws of war may not be legally binding on militant organizations, the Arms Project believes that the laws of war provide standards to which insurgent groups should be held.

Many complex political variables contributed to the increase in violations by the militants and the weaponry available to commit them, but it is clear that the massive diffusion of weaponry into the region from the pipeline contributed to the exacerbation of the human rights situations in those states.

With the collapse of the Soviet Union—formerly India's largest outside arms supplier—several countries, including the U.S., Russia, Israel, Germany, and France, have begun to provide India with arms, transfers of technology and other forms of military assistance, or are negotiating to do so. The Arms Project is concerned that supplier governments have not imposed and enforced serious and systematic human rights conditions on the provision of arms and military-related assistance to the Indian government.

Recommendations

- Militant organizations in Kashmir and Punjab should abide by the standards of international humanitarian law, in particular, rules which forbid attacks on civilians, summary executions, hostage-taking, torture and ill-treatment, rape, threats to commit illegal acts, and the use of religious sites for military purposes.

- The government of Pakistan should end all support for abusive militant organizations in Kashmir and Punjab. Countries choosing to provide weapons, ammunition, or other forms of military assistance to militants in Kashmir or Punjab should condition such transfers explicitly on the human rights performance of the recipient, and then monitor closely the recipient's human rights record. Supplier countries should terminate weapons transfers and all other military support immediately if the recipient fails to adhere to internationally recognized principles of human rights and humanitarian law.

- The Indian government should abide by internationally recognized principles of human rights and humanitarian law. Countries selling arms or providing military assistance to India should condition such transfers explicitly on the human rights performance of the Indian government.

- The government of Pakistan should investigate the involvement of the ISI and other defense agencies in the sale or transfer of weapons and other assistance to militants in Punjab and Kashmir, and halt such practices pending the imposition and implementation of explicit human rights conditions, formal central government authorization, and strict controls.

- The governments of Pakistan and the United States should formally investigate allegations that members of the ISI siphoned off weapons from the Pakistani-controlled, U.S.-orchestrated pipeline. The results of these investigations should be made public, and the respective governments should take appropriate legal action.

- The United States should investigate allegations that stockpiles of pipeline weapons are currently maintained in Pakistan under the control of the ISI, and formulate effective measures for recovering or destroying these stockpiles in consultation with the government of Pakistan.

- The Pakistani government, with the assistance and support of the international community, should formulate viable measures to help control the spread of weapons to and from the Northwest Frontier Province.

- In all future arms transfers, whether covert or not, the United States should insist on strict accountability by the recipients and intermediaries, and strict adherence to international humanitarian law and internationally recognized principles of human rights. Shipments should be immediately terminated to governments and other parties that refuse to comply.

APPENDIX

Applicable Standards of Humanitarian Law[210]

The Arms Project believes that groups engaged in organized armed conflict should be held to the standards of humanitarian law required of governments, even where the law may not be binding on the militants. This is particularly true when the groups aspire to political dominance or nationhood and claim to be engaged in a military conflict aimed toward that end—as is the case for most Sikh and Kashmiri militants. This section briefly summarizes norms of humanitarian law and principles of human rights relevant to militant activity in Punjab or Kashmir, focusing on actions against civilians.

Summary

Attacks against civilians violate numerous international humanitarian norms. Common Article 3 to the Geneva Conventions of 1949, for example, obligates states and opposition forces in non-international conflicts, and prohibits "violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment, and torture" of "persons taking no active part in the hostilities." Consistent with Human Rights Watch/Asia's position, this report assumes that the situations in Punjab and Kashmir constitute Article 3 conflicts. Militants in both states are, therefore, legally bound by Article 3.[211]

Attacks against civilians also violate related customary principles of humanitarian law which require the protection of the civilian population against the effects of hostilities. These principles were expressly recognized in U.N. General Assembly Resolution 2444 "Respect for Human Rights in Armed Conflicts", adopted unanimously on January 13, 1969. The resolution affirms:

> ...the following principles for observance by all governments and other authorities responsible for action in armed conflicts:
> ...(b) That it is prohibited to launch attacks against the civilian populations as such;
> (c) That distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible.

[210] International humanitarian law is the body of international law that complements human rights law by providing explicit norms regulating human rights observance in armed conflict. It is the human rights component of the laws of war.

[211] For the relevant legal analysis, see Human Rights Watch/Asia and Physicians for Human Rights, *Dead Silence,* pp. 14-15, and Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 30-35. Human Rights Watch/Asia notes that the situation in Punjab constituted an Article 3 conflict at least until mid-1992 when many militant leaders were killed and their organizations decimated as part of a vicious campaign by the Indian government.

The preamble to the Resolution states that these principles apply "in all armed conflicts," i.e., both international and non-international armed conflicts.[212] Accordingly, they apply to militants fighting in Punjab and Kashmir. The rules, which forbid both direct attacks against civilians and indiscriminate attacks, are considered expressive of customary law,[213] and were later codified in the 1977 Additional Protocols to the Geneva Convention of 1949.[214]

The Additional Protocols define the term "civilian" negatively as any person who is not a member of the armed forces or an organized armed group of a party to the conflict, and does not take a direct part in the hostilities.[215] Common Article 3 to the Geneva Conventions of 1949 similarly protects "[p]ersons taking no active part in the hostilities." A clear distinction is made in the law between direct, armed participation and general participation in the war effort.[216] Where doubt exists as to whether a person is a civilian, combatants must presume that the person is a civilian.[217] Likewise, where a question exists as to whether a particular object, normally dedicated to civilian purposes, also serves a military function, Additional Protocol I requires combatants to presume that it is not used for military purposes, and therefore, to refrain from attacking it.[218] Although the Additional Protocols are not legally binding on militants in Punjab and Kashmir, the customary principle of civilian immunity that they incorporate directly applies. Other provisions contained in the Additional Protocols which relate to the protection of civilians and civilian objects, while not universally considered to reflect customary law, are used in this Appendix as authoritative standards.

Principles of human rights such as those which forbid arbitrary deprivation of life; prohibit torture, cruel, inhuman or degrading treatment or punishment; ensure the right to liberty and security of the individual, and the right to a fair trial are also applied here. These rules, also, only provide authoritative guidelines and are not legally binding on the militants.

Targeted Attacks

[212] Ibid. The International Committee of the Red Cross has long regarded these principles to be among the basic rules of humanitarian law applicable in all armed conflicts.

[213] *See e.g.*, ICRC Commentary on the 1977 Additional Protocols to the Geneva Conventions of 1949, pp. 585-589, 598, 615. Michael J. Matheson, Deputy Legal Advisor, United States Department of State, "The United States Position on the Relation of Customary International Law to the 1977 Protocols Additional to the 1949 Geneva Conventions," *American U. J. International Law and Policy*, (Fall 1987); U.S. Army Field Manual 27-10; and, U.S. Air Force Pamphlet 110-131.

[214] Article 48 of Additional Protocol I provides that "to ensure respect for and protection of the civilian population and civilian objects, the parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives, and accordingly, shall direct their operations only against military operations." Article 51(1) and (2) state respectively that the civilian population and individual civilians "shall enjoy general protection against dangers arising from military operations," and "shall not be the object of attack." Various kinds of indiscriminate attacks are also forbidden under Article 51(4) and (5), and the taking of special precautions to spare civilians from collateral harm are required under Article 57. Additional Protocol II's more general formulation states that "the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations" and "shall not be the object of attack." Additional Protocol II, Art. 13(1) and (2).

[215] See 1977 Additional Protocol I Article 50. "Armed forces" includes all organized armed forces, groups, and units under a command responsible to a party to the conflict. Ibid., Art. 43 (1). *See also* Additional Protocol II, Arts. 1 and 13.

[216] ICRC Commentary, p. 619.

[217] 1977 Additional Protocol I, Art. 50(1).

[218] Ibid, Art. 52.

Direct attacks on civilians contravene Common Article 3 as well as rules of customary law mandating the immunity of civilians from being the objects of attack during armed conflict. As noted above, humanitarian law defines civilian broadly as any person who is not actually a member of the armed forces or organized armed group of a party to the conflict or is not taking part directly in hostilities. Targeted attacks by militants on political leaders, even those who advocate clamping down on militant activities, or, for example, on judges who preside over trials of suspected militants—frequent targets of both Sikh and Kashmiri militants—are forbidden under these rules. Attacks on civilian government buildings are likewise forbidden, unless they are used in ways that contribute significantly to the war effort.[219] In the same vein, attacks cannot be justified against Hindu non-combatants simply because they are more likely to support the actions of the Indian government. Random attacks directed against civilians, such as the kind frequently committed by Sikh militants—drive-by shootings and attacks on buses and trains, for instance—are similarly impermissible.

Violence undertaken by members of militant groups against civilians in retaliation for government strikes against militants additionally contravenes humanitarian laws which prohibit reprisal against the civilian population or individual civilians.[220] "Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population" are also prohibited under humanitarian law.[221] In Punjab, in particular, evidence suggests that easy access to large numbers of more sophisticated weapons allowed militants deliberately to spread terror among civilians. Drive-by shootings into crowds of civilians or opening fire on passenger vehicles, typical of Sikh militant abuses against civilians, are examples. The deliberate creation of refugee flows (arguably done by militants in both states seeking to purge the Hindu population) is forbidden as well.

Summary executions and other forms of extrajudicial punishment of civilians constitute breaches of Common Article 3 and customary laws immunizing civilians from attack. Principles of human rights law, including prohibitions on the arbitrary deprivation of life[222] (in the case of an execution) and on torture, cruel, inhuman or degrading treatment or punishment[223] (in the case of certain extralegal punishments that do not lead to death), may also be breached, as well as the rights to a fair trial and due process of law.[224] Attacks directed specifically against journalists, in addition to violating Common Article 3 and customary laws forbidding direct attacks against civilians, also violate humanitarian law that specifically protects journalists in times of war,[225] and implicate human rights laws safeguarding the freedom of expression and the right to a free press.[226] Election-related attacks contravene customary humanitarian laws forbidding attacks on civilians, and interfere with the right to free elections.[227]

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[219] *See e.g.*, Additional Protocol I, Art. 52.

[220] *See e.g.*, Additional Protocol I, Art. 51(6).

[221] Additional Protocol I, Art. 51(2); Additional Protocol II, Art. 13.

[222] *See e.g.*, International Covenant on Civil and Political Rights, Art. 6. *See also* Universal Declaration of Human Rights, Art. 3 ("Everyone has the right to life").

[223] *See e.g.*, Universal Declaration of Human Rights, Art. 5, and the International Covenant on Civil and Political Rights, Art. 7, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[224] *See e.g.*, Universal Declaration of Human Rights, Arts. 10 and 12, and the International Covenant on Civil and Political Rights, Art. 14.

[225] Additional Protocol I, Art. 79. Again, while Additional Protocol I is not legally binding on militants engaged in internal conflict, the Arms Project believes that militants should be held to this standard.

[226] *See e.g.*, Universal Declaration of Human Rights, Art. 19; International Covenant on Civil and Political Rights, Art. 19.

[227] *See e.g.*, Universal Declaration of Human Rights, Art. 21, and the International Covenant on Civil and Political Rights, Art. 25.

A specific prohibition on rape and indecent assault is codified in Additional Protocol II.[228] In addition, because rape constitutes cruel treatment and an outrage on personal dignity, also violates Common Article 3 and parallel human rights principles.[229] Hostage-taking—defined as detaining persons "for the purpose of obtaining certain advantages" and causing such persons to "answer with their freedom or their life or compliance with the orders of the [captors]"[230]—is banned explicitly under humanitarian law.[231] Relevant human rights principles include those protecting the right to security and liberty of the individual and forbidding ill-treatment.[232]

Attacks on medical workers violate basic humanitarian laws safeguarding noncombatants. The Code of Medical Neutrality in Armed Conflict also provides rules aimed at protecting medical personnel and patients during armed conflict.[233] Consistent with HRW/Asia's findings, the killings, abductions, assaults and threats of medical workers and patients by militants in Kashmir violate the Code of Medical Neutrality.[234]

Indiscriminate Attacks

The laws of war envision that attacks on legitimate military targets may endanger civilian lives and property, but require that combatants take appropriate measures to reduce the risk of collateral harm to civilians and civilian objects. Failure to do so is considered an indiscriminate attack.[235]

[228] Additional Protocol II, Art. 4(2)(e).

[229] *See e.g.*, Universal Declaration of Human Rights, Art. 5; International Covenant on Civil and Political Rights, Art. 7. See also The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 1.

[230] ICRC Commentary, p. 874.

[231] Common Article 3 of the Geneva Conventions of 1949; Additional Protocol I, Art. 75; Additional Protocol II, Art. 4.

[232] International Covenant on Civil and Political Rights, Arts. 9 and 7, respectively; Universal Declaration of Human Rights, Arts. 3 and 5, respectively.

[233] The Code of Medical Neutrality, formulated by the International Commission on Medical Neutrality, 1747 Connecticut Avenue NW, Washington D.C., is based on principles concerning medical neutrality set forth in the Geneva Conventions of 1949 and the 1977 Additional Protocols. They apply to all situations of international and non-international conflict. While the Code is not binding as international law, the Arms Project believes that it is an authoritative interpretation of international law.

[234] Asia Watch and Physicians for Human Rights, *Pattern of Impunity*, pp. 35, 171-173.

[235] *See e.g.*, Additional Protocol I, Arts. 51(4) and (5), and 57.

Additional Protocol I, for example, prohibits as indiscriminate those attacks "which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."[236] This concept, known as the rule of proportionality, is rooted in customary law.[237] It requires the attacking party to weigh expected collateral harm to civilians against the concrete and direct military advantage anticipated.[238] If collateral harm can reasonably be expected to be excessive, the attack is illegal. Related to this rule is the requirement that attackers take all feasible precautions to avoid or minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.[239] U.N. Resolution 2444 similarly asserts that a "distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible." Moreover, the ICRC Commentary to Additional Protocol II notes that Article 13's protection of civilians from "the dangers arising from military operations" includes an obligation of "avoiding or in any case reducing to a minimum, incidental losses, and in taking safety measures."[240] There have been reports which suggest violations of these rules by militants.

The use of religious sites as military strongholds contravenes rules which forbid the use of places of worship in support of military efforts.[241] Stockpiling weapons in a site frequented by large numbers of civilians also violates humanitarian law which mandates that measures be taken to safeguard civilians from the effects of attacks, and that combatants avoid locating military objectives within or near densely populated areas.[242] If militant forces initiate an attack—as reportedly was the case in the 1988 shoot-out between Sikh militants and government forces at Amritsar's Golden Temple—they further breach laws requiring attackers to take steps to reduce collateral harm to civilians.

It must be noted that the launching of unlawful attacks by militants does not relieve the Indian government of its own responsibilities; regardless of the illegality of a strike by militants, the Indian government must take its own precautions to diminish harm to civilians when it wages a counterattack.

ACKNOWLEDGMENTS

This report is based on field research undertaken by Human Rights Watch Arms Project consultant Christopher Smith in India and Pakistan in March and April 1993. The field research concentrated on the flow of light weapons and small arms to militant groups in India. This report also relies heavily on human rights investigations carried out in South Asia by Human Rights Watch/Asia (formerly Asia Watch) since 1990.

Contributors to the report include Mr. Smith (currently senior research fellow at the Centre for Defence Studies in London), Kenneth Anderson (former director of HRW Arms Project), Monica Schurtman (former counsel to HRW Arms Project), Stephen Goose (Washington director of HRW Arms Project), and Patricia Gossman (research associate

[236] Additional Protocol I, Art. 51(5)(b).

[237] Indeed, the principle that combatants must balance military needs and humanitarian considerations is one of the oldest precepts of humanitarian law. *See e.g.* discussion in Human Rights Watch/The Arms Project and Physicians for Human Rights, *Landmines: A Deadly Legacy*, New York: Human Rights Watch, 1993, p. 268.

[238] ICRC Commentary, p. 625.

[239] Additional Protocol I, Art. 57.

[240] ICRC Commentary, p. 1449.

[241] *See* Additional Protocol I, Art. 53(b).

[242] *See e.g.*, Additional Protocol I, Arts. 57 and 58.

for HRW/Asia). Kathleen Bleakley (associate of HRW Arms Project) provided research assistance and prepared the report for publication.

The Arms Project gratefully acknowledges funding from the Rockefeller Foundation, New York.

Human Rights Watch Arms Project

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