

INDIA

INDIA'S SECRET ARMY IN KASHMIR New Patterns of Abuse Emerge in the Conflict

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I. SUMMARY

In 1996, the conflict in Kashmir¹ entered its seventh year, with little indication that parliamentary elections scheduled for May 23 and 30² would either lead to peace or end the widespread human rights abuses that have characterized the war. All of the militant organizations fighting for independence of the disputed territory have vowed to boycott the polls. In the months preceding the elections, Indian security forces have intensified their efforts against militant groups, stepping up cordon-and-search operations and summarily executing captured militant leaders. Alongside them, operating as a secret, illegal army, have been state-sponsored paramilitary groups, composed of captured or surrendered former militants described as "renegades" by the Indian government. Many of these groups have been responsible for grave human rights abuses, including summary executions, torture, and illegal detention as well as election-related intimidation of voters.

At the same time, some armed militant groups have become more ruthless. To enforce their boycott of the polls, the militant groups have attacked and killed candidates and campaign workers. Some militant groups have also continued to kidnap and execute civilians. Over the past year, militants have also stepped up indiscriminate attacks on civilians through bomb blasts and the use of landmines.

The election has intensified the conflict, but the deterioration in the human rights situation can be traced to early 1995 when the security forces began making systematic use of these irregular militias.³ While attempting to reassure the international community that they have taken steps to curb human rights abuses in Kashmir, Indian forces have in effect subcontracted some of their abusive tactics to groups with no official accountability. The extrajudicial killings, abductions and assaults committed by these groups against suspected militants are instead described as resulting from "intergroup rivalries." But civilians have also been their victims, and the militia groups have singled out journalists, human rights activists and medical workers for attack. They have been given free rein to patrol major hospitals in Srinagar, particularly the Soura Institute, the Sri Maharaja Hari Singh (SMHS) hospital and the Bone and Joint Hospital. They have murdered, threatened, beaten and detained hospital staff; in some cases these abuses have occurred in full view of security force bunkers or in the presence of security force officers. They have also removed patients from hospitals. These abuses constitute clear violations of medical neutrality.⁴

In some cases, attacks by these paramilitary groups appear to have been carried out on orders from security officers; in other cases, the groups appear to operate on their own, within broadly defined limits to their discretionary

¹ The conflict is situated in the valley of Kashmir in the north Indian state of Jammu and Kashmir. The valley of Kashmir lies between the Pir Panjan and Karakoram mountain ranges of the Himalayas. When we have used the term "Kashmir" we are referring to the valley, which includes the towns and villages along the Jhelum river, from Handwara and surrounding towns in the northwest to Anantnag in the southeast.

² Elections were held in the Jammu and Ladakh constituencies of the state on May 7, 1996. Elections for the Baramulla and Anantnag constituencies were scheduled for May 23, and the Srinagar and Udhampur constituencies on May 30. Srinagar is the summer capital of Jammu and Kashmir.

³ Before 1995, Indian security forces in Kashmir used former militants to carry out killings of suspected militants and others. The December 1992 murder of human rights activist H.N. Wanchoo is believed to have been ordered by Border Security Force (BSF) officer Ashok Patel and carried out by former militants whose release from prison was compensation. Other assassinations in 1993 and 1994 are also suspected to have been the work of hired gunmen, either former militants or mercenaries, working for the security forces. It is only since early 1995 that the security forces have deployed paramilitary outfits to carry out regular patrols and other counterinsurgency operations on a routine basis.

⁴ Previously, such raids were conducted by uniformed Indian security forces, particularly the BSF. During these raids, medical workers were also harassed and assaulted. For more on this, see 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, March 1993), and Asia Watch and Physicians for Human Rights, *The Human Rights Crisis in Kashmir: A Pattern of Impunity* (New York: Human Rights Watch, July 1993).

powers and the full expectation on the part of the security forces that they will use their discretion to take initiatives within the overall counterinsurgency strategy of fighting terror with terror. Their actions are taken with the knowledge and complicity of official security forces. When arrested by local police, members of these groups have been released on orders of the security forces. Not one has been prosecuted for human rights abuses. In this report, Human Rights Watch/Asia provides evidence of the culpability of state-sponsored irregular paramilitary forces in three cases of extrajudicial executions and two attempted assassinations. We also describe a range of other abuses committed by these groups.

Violations of human rights and humanitarian law by the regular security forces — the army, the Border Security Force (BSF) and the Central Reserve Police Force (CRPF) — have also continued. These violations include the deliberate killing of detainees in the custody of the security forces in Kashmir and reprisal killings of civilians. Human rights groups and press accounts have registered reports of such killings every month,⁵ but there is no sign that security personnel have been prosecuted in a single case of summary execution. In the few high-profile cases in which courts-martial have taken place, soldiers have been prosecuted for abuses, such as the excessive use of force, which fall short of murder.

Regular forces have also been responsible for disappearances and reprisal attacks against civilians. More than one hundred cases of detainees disappearing in the custody of the security forces have been documented by human rights groups since the conflict began; to Human Rights Watch's knowledge, not one has resulted in the prosecution of any member of the security forces.⁶ Security legislation has increased the likelihood of such abuses by authorizing the security forces to shoot to kill and to destroy civilian property while at the same time protecting them from prosecution for human rights violations. In the case of reprisal attacks or assaults by soldiers on civilians during search operations, the government has ordered a handful of investigations, but many reported instances of abuse have been ignored by the authorities.

Indian security forces in Kashmir continue to administer torture systematically to coerce detainees to reveal information about suspected militants or to confess to militant activity. Torture is also used to punish detainees who are believed to support or sympathize with the militants and to create a climate of political repression. The practice of torture is facilitated by the fact that detainees are generally held in temporary detention centers, controlled by the various security forces, without access to the courts, relatives or medical care.

Methods of torture include severe beatings, electric shock, crushing the leg muscles with a wooden roller, and burning with heated objects. The Indian government has not made public any investigations into any of the many

⁵ It is impossible to determine with any precision how many such killings have occurred. In its 1996 report, the U.S. State Department notes that “[H]uman rights groups consider credible reports that dozens of such killings occur every month.” See U. S. Department of State, *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: March 1996). The reference appears on the first page of the India chapter in the report. The Kashmir Monitor, a human rights group, compiled the following figures on deaths in custody (excluding “encounter” killings and deaths described as resulting from “cross-fire”) from press reports; these figures should be seen as representing the bare minimum of killings in this period: June 1994: 24; July 1994: 37; August 1994: 24; September 1994: 40; October 1994: 20; December 1994: 23; January 1995: 12; February 1995: 11; March 1995: 17; April 1995: 14; May 1995: N/A; June 1995: 13; July-October N/A; November 1995: 16.

⁶ The Kashmir Monitor documented ninety-nine cases of disappearance between 1990 and 1992. Human Rights Watch reprinted this list in its 1993 report, *The Human Rights Crisis in Kashmir*. In a report published in June 1995, the Kashmir Monitor reported that “[m]ore than 300 persons who were arrested by the army/paramilitary forces during the [past] six years ... are missing.” Kashmir Monitor, *Informative Missive* (June 1995). Human Rights Watch has continued to receive reports of disappearances from human rights groups in the state. The Indian government has never responded to Human Rights Watch's request for information about any of these cases. As Lokshahi Hakk Sanghatana, a coalition of human rights groups, observes in its report, *Blood in the Valley*, the only remedy available for the families of those that have disappeared is to file a *habeas corpus* petition with the court. Hundreds of such petitions are pending before the Jammu and Kashmir High Court. Court orders demanding that detainees be produced are routinely disregarded by the security forces. See Lokshahi Hakk Sanghatana, *Blood in the Valley: Kashmir, Behind the Propaganda Curtain* (Bombay: Lokshahi Hakk Sanghatana, 1995).

documented cases of torture, nor has it ever announced that a member of the security forces was prosecuted or punished for torture. Although the government denies that torture is practiced systematically and as a matter of policy in Kashmir, government officials have admitted that torture takes place.

Security personnel in Kashmir have also been responsible for rape as a counterinsurgency tactic. In response to international attention to the problem, the Indian government has made public a number of prosecutions of members of security forces for rape. However, reports of rape and other sexual assaults in Kashmir persist.⁷ In many cases, these incidents are never investigated by judicial and medical authorities competent to determine culpability.

The Indian authorities have done little to curb human rights violations by their army and security forces. In the rare cases in which investigations of abuses have taken place, the most severe punishments have generally been limited to dismissals or suspensions from duty. Security officers have also offered bribes and have threatened individuals and families in an attempt to prevent them from pressing charges. The Indian government's failure to account for these abuses and take rigorous action against those members of its forces responsible for murder, rape and torture amounts to a policy of condoning human rights violations.

Armed militant organizations⁸ in Kashmir have also committed many grave violations of international human rights and humanitarian law. Armed with sophisticated weaponry mostly procured in Pakistan, militant groups have launched indiscriminate attacks that have killed and injured hundreds of civilians. The militant groups have increasingly made use of car bombs and other explosive devices in crowded areas. The groups have also deployed landmines on public roads and in other areas used by civilians. Militants have thrown grenades at buses and government buildings, killing and wounding civilians. These attacks have occurred in the Kashmir valley and have also been reported in Jammu.

Militant groups have kidnaped civilians, including foreigners, and held them as hostages in order to demand the release of imprisoned militants. They have threatened, assaulted and in some cases murdered Hindu residents of the Kashmir Valley. In mid-1996 some 100,000 Hindu refugees were still living in refugee camps in Jammu and Delhi where they had fled after a series of such attacks.⁹

Various armed militant groups in Kashmir have also committed rape and have launched other violent attacks on women, creating a climate of fear for women in Kashmir in which violent abuses are committed with impunity. As the elections neared, militant groups also assassinated candidates and party workers, particularly those from the Congress party. The militants also kidnaped and summarily executed suspected informers and collaborators. They also kidnaped and murdered civilians and issued bans and other threats against the press.

Many examples of these violations are contained in this report, based on a visit by a researcher for Human Rights Watch/Asia to Kashmir in January 1996. He interviewed local human rights activists, lawyers, health professionals, journalists, teachers and political figures, and reviewed *habeas corpus* petitions, High Court judgments, and medical documents on incidents of abuse by the security forces and irregular paramilitary groups. Human Rights

⁷ Human rights groups, including Kashmir Monitor, Committee for Initiative on Kashmir, and Lokshahi Hakk Sanghatana, have reported that allegations of rape continue, and in many cases are never investigated by the authorities. As Kashmir Monitor has noted, "[M]ajor cases of rape committed by security forces in the border areas, in far-flung areas, and in areas beyond the searchlight of the press and human rights organisations have become non-events." See *Blood in the Valley*, p. 91.

⁸ There are several dominant groups fighting Indian troops in Kashmir, and perhaps as many as one hundred smaller ones. The two most prominent are the Jammu and Kashmir Liberation Front (JKLF), which is considered the most popular and which supports independence, and the Hezb-ul Mujahidin, which is reportedly the best armed and which supports accession to Pakistan.

⁹ For centuries, the Kashmiri Hindu community, often called Pandits, shared the Kashmir valley and its distinct culture with the majority Muslim population. The exodus of more than 100,000 in early 1990 was provoked by violent attacks by armed militant groups. Most remain in refugee camps in Delhi and Jammu. For more on this, see Asia Watch, *Kashmir Under Siege* (May 1991), pp.147-151.

Watch/Asia also interviewed witnesses about incidents of abuse by militant groups. In all, Human Rights Watch/Asia conducted more than sixty interviews with witnesses and other informed sources, including army, police and other government officials. Wherever possible, Human Rights Watch/Asia inspected the sites of reported incidents.

Before this report was published, Human Rights Watch/Asia provided the Home Ministry of the government of India and India's National Human Rights Commission (NHRC) with details on all of the cases we investigated and requested an official response. Information received from the government that relates to individual cases and issues is included in the relevant sections of Chapter V.

II. RECOMMENDATIONS

Human Rights Watch makes the following recommendations for action to be taken by the government of India, by the militant forces in Kashmir, and the government of Pakistan and by the international community to address the human rights crisis in Kashmir.

To the Government of India

The government of India should disarm all state-sponsored militias not established and regulated by law and prosecute members of such groups who have been responsible for extrajudicial killings, assaults and other abuses. Other crucial steps include the following:

- The government of India should establish a civilian review board to oversee any rehabilitation program for surrendered militants. This review board, which should be headed by a civilian and include other civilian representatives, should have access to records on surrendered weapons and vocational training programs to ensure that the former militants are not compelled to serve in state paramilitary forces not established and regulated by law or induced to take part in security operations that violate international human rights and humanitarian law.
- The Indian government should permit the U.N. Working Group on Disappearances, the Working Group on Arbitrary Detention, the Special Rapporteur on Torture and the Special Rapporteur on Summary or Arbitrary Execution to conduct investigations in Kashmir.
- The government of India should ensure that all reports of extrajudicial executions, deaths in custody, torture and rape by security forces and unofficial paramilitary forces in Kashmir are investigated promptly by a judicial authority empowered to subpoena security force officers and official registers and other documents. Security personnel, including police, army and paramilitary, responsible for these abuses should be prosecuted in civilian courts. Only with such trials and appropriate punishments will these forces receive the clear, unequivocal message that human rights violations are not condoned by their superiors. Those found guilty of abuse should be punished regardless of rank. The punishments should be at least as severe as those specified under civilian law. The results of these investigations and the punishments should be made public as a means of giving the people of Kashmir a reason to believe in the government's commitment to justice and the rule of law.
- Although the government of India has promised since 1993 to establish a centralized register of detainees accessible to lawyers and family members, this has never happened. In addition, security personnel continue to defy court orders to produce detainees in court. The government of India should take stern and swift action against all officers who have obstructed or ignored judicial orders to produce detainees. All places of detention should be made known to the court and be subject to regular inspection by a magistrate. In addition, the security agencies should require that arresting officers provide signed receipts for all detainees to family members, village elders or persons of similar status. The receipt would be retrieved when the person is released.

- In previous reports, Human Rights Watch has urged the government of India to provide police training, perhaps after consultation with international experts, on gathering adequate evidence for rape prosecutions. Explicit prohibitions against rape should be included in training for all enlisted men and officers in the police, paramilitary and military as a way of sending a clear signal that rape is not tolerated by the state. Medical workers who have examined and treated rape victims should be protected from abuse. Medical facilities, including private licensed physicians, should be encouraged to give testimony and introduce physical evidence in court with regard to rape and other forms of sexual and physical abuse.
- State authorities and the headquarters of the army and paramilitary operations in Kashmir should issue public statements affirming the security of human rights monitors. The statement should include explicit guarantees for the security of human rights monitors to investigate incidents of abuse, record the statements of witnesses, publicize their reports and petition the courts.
- State and military authorities should also issue public statements affirming the security of medical personnel and institutions and affirming the neutrality of hospital premises. Security personnel should be trained in the principles of medical neutrality and those violating those principles should be prosecuted.

To the Militant Organizations

- Militant groups should immediately stop all attacks on civilians, including kidnappings and assassinations. All hostages should be released immediately. Militant groups should abide by human rights norms and the provisions of Common Article 3 of the Geneva Conventions which prohibit hostage-taking, cruel, inhuman and degrading treatment and executions.
- Militant groups should immediately desist from using any explosive devices in civilian areas and from using landmines. They should make public the whereabouts of any landmines they have planted.
- Militant organizations should immediately halt any actions that interfere with or impede the delivery of health services, including attacks on or threats against health professionals and violating the medical neutrality of hospitals by committing abuses within hospital premises.
- Militant leaders should issue public statements affirming the security of journalists. All threats against journalists and editors should cease.

To the International Community

- The U.S., U.K., France, Germany, Russia and India's other trading partners should suspend all military sales and all programs of military cooperation with India, including joint exercises, until India disarms all state-sponsored paramilitary groups operating in Kashmir.
- At the annual World Bank-sponsored donors meeting on India in September, participant countries should issue a public statement indicating that continued economic support for India should not be seen as support for the Indian government's human rights policies. In the statement, and in private and public meetings with Indian government officials, members of the donor group should raise concerns about the state sponsorship of paramilitary organizations and press India to disband all such groups. They should press India to invite the U.N. Special Rapporteurs on Torture and Summary or Arbitrary Executions, and the Working Groups on Disappearances and Arbitrary Detention, to visit Kashmir. They should also raise concerns about attacks on human rights monitors in Kashmir, and press India to allow full access to Kashmir for international human rights groups.
- The diplomatic staff of India's allies and trading partners should upgrade their reporting on human rights abuses by state-sponsored militias in Kashmir, as well as abuses by regular security forces.

- The international community should condemn Pakistan's efforts to support abusive militant groups operating in Kashmir and make any future arms sales or military cooperation agreements contingent on an end to Pakistan's support for abusive militant groups. The government of Pakistan should end all support for abusive militant organizations in Kashmir.

III. BACKGROUND

The conflict in Kashmir, which erupted into near civil war in 1990, emerged out of a fifty-year political struggle for control of the territory. Both India and Pakistan claim control of Kashmir; the unresolved status of Kashmir continues to be the most serious impediment to ending tensions between the two South Asian enemies which many observers fear could lead to another, possibly nuclear, war.¹⁰ Although Kashmir has a majority Muslim population, it has had a long history of religious tolerance and a unique culture, referred to as *Kashmiriyat*, which combines elements of the three major religions which have flourished there: Buddhism, Hinduism and Islam. However, since the early 1950s, India's attempts to control the state through rigged elections and other political machinations fueled resentment among the state's Muslim political leaders, and ultimately led to the emergence of Muslim militant groups committed to fighting for independence. Such groups found ready support and arms in Pakistan. By 1990, popular resentment toward India's policies in the state had grown into a mass movement for *azadi*—independence. The militant groups which have been fighting for independence from India are divided between those who believe the territory should become part of Pakistan and those who believe that Kashmir should become an independent state. Some of the groups openly espouse an Islamist ideology; others advocate a secular Kashmiri state that would include Kashmiri Buddhists, Hindus and others. The Indian government has sought to hold Pakistan entirely responsible for the escalation in fighting that has taken place since 1989 and has blamed Pakistan for “exporting” Islamic fundamentalism to the state. Although Pakistan has taken advantage of the situation by providing arms and other support to the militants, in fact, the roots of the Kashmir crisis are indigenous and originate in India's central government's attempts to exert political control over the state.

¹⁰ China also claims and controls a small part of Kashmir bordering Tibet.

The conflict has its origins in the state's disputed accession to India in 1947, when colonial British India was partitioned to create the nations of India and Pakistan. Kashmir's then ruler, Maharaja Hari Singh, refused to accede to either nation, apparently in a bid to preserve Kashmir's independence.¹¹ However, an invasion by Pakistani tribesmen¹² 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. Nehru agreed to send troops only if Kashmir formally acceded to India. On October 27, 1947, the maharaja agreed to Kashmir's accession to India on the condition that Kashmir be permitted to retain its own constitution.¹³ Indian troops succeeded in halting the Pakistani forces, driving them back to the western third of the state, which then came under Pakistan's control as "Azad" (free) Kashmir.

The question of Kashmir's final status was never resolved, however. British authorities had urged that the question of Kashmir's accession be settled by a plebiscite as soon as law and order was reinstated and the invading forces had left. But the plebiscite was never held. The Indian government argued first that the essential precondition to a plebiscite, the exit of Pakistani troops from "Azad Kashmir," had not been met, and later that the Kashmiri people had effectively ratified accession by voting in local elections and adopting a state constitution. United Nations intervention achieved a cease-fire on January 1, 1949.

Through the 1950s and 1960s, political discontent with the central government's attempts to manipulate politics in the state grew, as successive state governments controlled by the central government eroded Kashmir's autonomy.¹⁴ Pro-independence and pro-plebiscite activists were repeatedly jailed. In 1964 the first militant group, the Jammu and Kashmir Liberation Front (JKLF), was formed to fight for independence. On July 2, 1972, India and Pakistan signed the Simla Accord, under which both countries agreed to respect the cease-fire line and to resolve differences over Kashmir "by peaceful means" through negotiation. The Simla Accord left the "final settlement" of the Kashmir question to be resolved at an unspecified future date. Since then, the Simla Accord has been the touchstone of all bilateral discussions of the Kashmir issue, even though the accord itself left the issue unresolved.

In 1986, then Indian Prime Minister Rajiv Gandhi and Farooq Abdullah, Chief Minister of Jammu and Kashmir, forged a new accord, which was widely criticized in the state as a betrayal of Kashmiri interests. Charges of widespread corruption soon discredited Farooq Abdullah's National Conference party. A new opposition party, the Muslim United Front (MUF), which had the support of pro-independence activists, Islamic fundamentalists and many frustrated Kashmiri youth, was launched and contested the March 1987 polls for seats in the state assembly. Widespread irregularities in the vote count and mass arrests of MUF candidates in the election's aftermath caused a

¹¹ Kashmir was an important Buddhist center from the second century B.C. It was ruled by successive Hindu dynasties until it came under Muslim rule in the fourteenth century. It became part of the Sikh empire of Ranjit Singh in 1819. In 1846, after the Second Anglo-Sikh war, the British forces granted control of Kashmir to Gulab Singh, an ethnic Dogra chieftain, who was ruler of the neighboring region of Jammu. Dogra rule was deeply resented by Muslim's in the state, who suffered from widespread discrimination although they formed the majority. Maharaja Hari Singh was Gulab Singh's descendent. In the early 1930s, a popular movement was launched in Kashmir to end the maharaja's rule and establish democracy in the state. Sheikh Mohammad Abdullah was one of the leading forces behind the movement.

¹² According to most reports, the forces included Pakistan army soldiers and irregulars in civil dress.

¹³ Instrument of Accession, clause 7. Thus Kashmir retained autonomy in all areas except defense, currency and foreign affairs. As a consequence of Kashmir's conditional accession, article 370 was incorporated in 1949 into the Indian constitution which provided *inter alia* that other articles of the constitution "may be extended to Kashmir ... only in 'consultation' with the state government if it pertains to matters regarding legislative power of Parliament, and with the 'concurrence' of the state government if it pertains to other matters."

¹⁴ Following the state's conditional accession to India, Sheikh Abdullah became head of the state's interim administration. He was dismissed and arrested in 1953. Bakshi Ghulam Mohammad was appointed in his place.

watershed in popular disillusionment with state politics and drove many to support emerging militant groups, including the powerful Hezb-ul Mujahedin, which reportedly had significant support from Pakistan. The major militant organizations were divided between those who advocate an independent Kashmir and those who support accession to Pakistan.

After the elections, militants of the JKLF and other groups stepped up their attacks on the government, detonating bombs at government buildings, buses and the houses of present and former state officials, and enforcing a state-wide boycott of the November 1989 national parliamentary elections. One month later, JKLF militants abducted the daughter of Home Minister Mufti Mohammad Sayeed, then freed her when the government gave in to demands for the release of five detained militants. That event, together with a surge in popular protest against the state and central governments, led New Delhi to launch a massive crackdown on the militants. In response, the state government resigned in protest and governor's rule was declared on January 19, 1990.¹⁵ From the outset, that Indian government's campaign against the militants was marked by widespread human rights violations, including the shooting of unarmed demonstrators, civilian massacres and summary executions of detainees. Militant groups—which received arms and training from Pakistan—stepped up their attacks, murdering and threatening Hindu residents, carrying out kidnappings and assassinations of government officials, civil servants and suspected informers and engaging in sabotage and bombings. Some 100,000 Hindu Kashmiris, known as “Pandits,” and thousands of Kashmiri Muslims fled the valley. By May 1990, rising tension between Pakistan and India following the escalation of the conflict in Kashmir raised fears of another war between the two countries.

In mid-1992, the government launched a “catch-and-kill” policy to execute captured militants. That policy, together with the January 1993 massacre of at least forty civilians by BSF troops in Sopore, focused international attention on human rights violations in Kashmir. In late 1993, the All Parties Huriyat Conference, an umbrella organization of the leaders of all the political and militant organizations fighting for independence, was founded to act as the political voice of the independence movement. In October 1993, a militant siege at the Hazratbal shrine in Srinagar ended peacefully; however, forty demonstrators were shot dead by BSF troops in Bij Behara. In 1994, the government released several prominent political leaders, apparently as part of a government effort to pave the way for elections in the state.

On May 11, 1995, a two-month-long standoff between militants and the Indian army at a Sufi shrine in the town of Charar-e Sharief ended in catastrophe when the shrine was torched and it and most of the town burned to the ground. It was not clear who set the fire; the Indian government blamed the militants while most Kashmiris blamed the army. The disaster forced the Rao government to cancel its plans to hold elections.

Throughout 1995, Kashmiri militant groups increasingly resorted to the indiscriminate use of explosives, including car bombs and letter bombs, not only in Jammu, but in heavily-trafficked areas of Srinagar, where such attacks had been rare. Civilians were the principal victims. Many of these attacks appeared to be the work of Islamist groups whose leadership included Afghans and other non-Kashmiris. In November, the Federal Election Commission rejected government plans to schedule elections on the grounds that the security situation was not conducive to holding the polls.

In July 1995, a previously unknown militant group, Al Faran, kidnaped six tourists in Kashmir: two Americans, one of whom later escaped, two Britons, one German and one Norwegian. The group demanded the release of twenty-one detained militants, principally top members of the militant group, Harakat-ul Ansar. On August 13, police

¹⁵ Under the Jammu and Kashmir Constitution, governor's rule may be imposed for six months, after which, pursuant to the Constitution of India, president's rule, which permits New Delhi to suspend state government and rule directly, may be enacted for six-month periods. Article 370 of the constitution allows president's rule in Kashmir for only one year at a stretch and only after six months of governor's rule. President's rule was imposed in July 1990. Jammu and Kashmir's legislative assembly was formally dissolved in February 1990.

discovered the beheaded and mutilated body of the Norwegian hostage, Hans Christian Oster. The murder was widely condemned by political leaders and most other militant groups in the Kashmir valley. As this report went to press, the remaining hostages were still in Al Faran's custody.

As of May 1996, at least six major militant organizations, and several smaller ones, operate in Kashmir. Their forces are variously estimated at between 5,000 and 10,000 armed men. They are roughly divided between those who support independence and those who support accession to Pakistan. The oldest and most widely known militant organization, the Jammu and Kashmir Liberation Front (JKLF), has spearheaded the movement for an independent Kashmir. Its student wing is the Jammu and Kashmir Students Liberation Front (JKSLF). A large number of other militant organizations have emerged since 1989, some of which also support independence, others of which support Kashmir's accession to Pakistan. Although all groups reportedly receive arms and training from Pakistan, the pro-Pakistani groups are reputed to be favored by Pakistan's military intelligence, the Directorate of Inter-Services Intelligence (ISI).¹⁶ The most powerful of these is the Hezb-ul-Mujahedin. The other major groups are Harakat-ul-Ansar, a group which reportedly has a large number of non-Kashmiris in it, Al Umar, Al Barq, Muslim Janbaz Force and Lashkar-e Toiba, which is also made up largely of fighters from Afghanistan and Pakistan. According to press reports, several hundred fighters from Afghanistan and other Muslim countries have also joined some of the militant groups or have formed their own. The Harakat ul-Ansar group, a powerful militant organization which first emerged in 1993, is said to be made up largely of non-Kashmiris.

In the early years of the conflict, rivalries among the militant groups, and particularly between the dominant groups, sparked frequent clashes and often prevented the militants from coordinating military operations.¹⁷ In 1993, the All Party Huriyat Conference (APHC), an umbrella group of political and militant leaders, was formed to act as the official voice of the militant movement. However, rivalries within the APHC have limited its effectiveness. Charges of corruption have also tainted some APHC leaders.¹⁸

The militant forces do not control territory in Kashmir, but certain parts of the valley have gained a reputation as strongholds of particular militant groups, from which they have launched attacks on Indian government troops trying to conduct search operations in the vicinity. Many of these towns are along the supply lines for weaponry from Pakistan. However, the militants have lost considerable ground since the introduction of the state-sponsored paramilitary groups. These groups have gained control of pockets of territory throughout the valley.

The militants' military operations are generally characterized by ambushes of security force patrols and convoys and hit-and-run attacks on security force bunkers and pickets, for which they generally use grenades, rocket-propelled grenade launchers and anti-personnel and anti-tank mines. Some militant groups have organized commando units responsible for attacking specific targets, such as security force bunkers. The militants also engage army troops and other security forces in gun battles. For these operations they rely on weapons such as AK-47 and AK-56 assault rifles, light machine guns, revolvers and other light weapons. The militants are also reported to have sophisticated night vision and wireless communication equipment. The availability of this sophisticated weaponry has had a measurable impact on the effectiveness of the militants' military operations. Increasingly in 1996, the militants were reported to be making use of landmines. State-sponsored militias also use automatic rifles, grenades, revolvers and other small arms.

¹⁶ Under Pakistan's late president Zia ul-Haq, the ISI gained increased powers over domestic and foreign intelligence operations. The ISI was the conduit for outside covert assistance to the Afghan resistance and has reportedly provided some of that weaponry to a number of militant groups in Kashmir. See Selig S. Harrison, "Showdown in Kashmir," *Peace and Security*, Vol. 5, Number 3, Autumn 1990, pp. 8-9. See also, Steve Coll, "India, Pakistan Wage Covert 'Proxy Wars'," *The Washington Post*, December 8, 1990.

¹⁷ See Sumit Ganguly, "Avoiding War in Kashmir," *Foreign Affairs*, Winter 1990/91 (1990) p. 65, and Steve Coll, "Kashmiris Describe India Resorting to Arson in Rebel War," *The Washington Post*, November 16, 1990.

¹⁸ See Harinder Baweja, "New Disenchantment," *India Today*, December 31, 1995.

State authorities claim that over 13,500 AK series assault rifles, 700 rocket launchers, 16,000 grenades and 3,000 mines have been recovered since 1990. Much of this weaponry reaches Kashmir from Pakistan, and militant leaders freely acknowledge that they receive support from Pakistan's ISI. Officially, the Pakistani government has denied involvement in arming and training Kashmiri militants, but the claim is generally not considered credible.¹⁹

¹⁹ See Chapter VIII. Pakistan's support for pro-independence groups like the JKLF has reportedly waned in favor of pro-Pakistani groups like the Hezb-ul Mujahedin.

Government forces operating in Kashmir include the Indian Army and India's federal security forces, the Central Reserve Police Force (CRPF), the Border Security Force (BSF), and the Special Task Force. The army's role in the conflict expanded in 1993 with the introduction of the Rashtriya Rifles, an elite army unit created specifically for counterinsurgency operations in Kashmir. As of 1996, at least 300,000 troops were deployed in the valley, including those positioned along the Line of Control.²⁰ The local Jammu and Kashmir policemen are generally not involved in counterinsurgency operations, largely because they are believed to be sympathetic to the insurgency.²¹ However, in 1995 the Special Task Force (STF), a counterinsurgency division of the Jammu and Kashmir Police, made up of mainly non-Muslim non-Kashmiri recruits, was formed apparently to create the impression that the counterinsurgency effort had local support. In each district, Special Task Force Operations are headed by the superintendent of police (SP) for operations.

Since at least early 1995 Indian security forces have armed and trained local auxiliary forces made up of surrendered or captured militants to assist in counterinsurgency operations. These forces, who wear no uniforms and operate outside of the normal command structure of the Indian army and other security forces, nevertheless are considered state agents under international law. These groups participate in joint patrols, receive and carry out orders given by security officers, and operate in full view of army and security force bunkers and camps. Some members of these groups are even housed in military compounds. They are generally referred to as "renegades" or "sarkari militants" or the "third force."

Militants who surrender and then become recruits for one of the paramilitary groups are apparently motivated by the pay and the opportunity to carry out attacks on former rivals without risk of being killed by the security forces. Ikhwan-ul Muslimoon, for example, has targeted Hezb-ul Mujahedin forces as well as members of Jamaat-e Islami in its attacks. Some recruits may have been rejected from a militant group; others may have family members who were victims of militant violence and join the state forces out of a desire for revenge. Some paramilitary recruits join for the chance to engage in other crimes with impunity. Ikhwan ul-Muslimoon has reportedly been involved in illegal timber sales of valuable teak and other woods. Although the security forces are aware of the operation, they have done nothing to stop it.²²

The government has also forcibly recruited some paramilitary group members by detaining members of their families as hostages until the former militants agree to work with the security forces. The security forces have also recruited former militants who were themselves detained and tortured by the security forces. Human Rights Watch interviewed many detainees who were told by the security forces that the torture would end if they agreed to work with their captors.

The number of former militants in the state-sponsored militias is impossible to determine. There are reported to be four or five groups operating throughout the valley, and while each works with one or more of the security forces

²⁰ Estimates of the number of troops vary from 300,000 to 500,000. The government of India has not made accurate figures available.

²¹ In fact, in April 1993 most of the force went on strike to protest the death in custody of a constable, Riaz Ahmed. After security forces stormed the police headquarters, some 1,000 of the police were disarmed and interrogated.

²² Harinder Baweja and Ramesh Vinayak, "A Dangerous Liaison," *India Today*, March 15, 1996, p. 53.

operating in Kashmir, the army has overall authority for them. The most prominent of the groups is Ikhwan-ul Muslimoon [Muslim Brotherhood], headed by Koko Parray, a folk singer and former JKLF militant. Parray commands the Hajan area; his deputy is Ansar-ul Haq who controls operations elsewhere and has been campaigning as an independent in the May 1996 elections. Ikhwan ul-Muslimoon is reportedly composed of former members of many of the militant organizations, most of whom had been detained by the security forces before joining the group. It works with the Rashtriya Rifles and with the State Task Force, a division of the Jammu and Kashmir Police created in 1995 of recruits from mostly outside the state. It functions in the Hajan area and in the Shivpura area of Srinagar.

The name of another paramilitary group, the Taliban, was reportedly deliberately chosen to create confusion with the militant Islamic Afghan group of the same name.²³ Since the conflict in Kashmir began in 1990, the Indian government has attempted to discredit militant organizations by claiming that the uprising was provoked by Pakistan and was not indigenous in origin. It has also accused the militants of espousing a militant Islamic ideology when that characterization is only true of some of the groups. Mia Bashir Ahmed, a powerful Congress leader in Kashmir, has been Taliban's principal patron. The Taliban works with the Indian army in Kashmir and operates in the area of Kangan on the outskirts of Srinagar. The Muslim Mujahedin, another group, operates around Anantnag and works with the STF. It has taken over many of the patrolling responsibilities of the security forces.

The BSF and the Rashtriya Rifles are financing their own paramilitaries. According to one press report, competition to claim a greater number of surrendered weapons and recruits has led to friction between army forces and Border Security Force (BSF).

In March 1996, the Indian biweekly newsmagazine *India Today* highlighted the role of paramilitary groups:

[They have become the] centerpiece of the counterinsurgency operations in the Valley ... Used initially as intelligence sources—to help in flushing-out operations—they are now also being used as “prowlors”: they take part in the security forces' armed encounters with militants.” ...In fact, the security forces are raising “small armies” of surrendered militants in the Valley and, in the militancy-affected areas of Doda, are relying on them to even neutralize hard-core outfits like the Harkat-ul-Ansar (HUA), the Hizbul Mujahedin and the Lashkar-e-Toiba, all dominated by battle-hardened Afghan mercenaries. The police too are helping, though in a limited way ... “Special Operation Groups” comprising the police and the surrendered militants, holding high-powered wireless sets, masquerade as ultras [militants] and catch the genuine ones by surprise.²⁴

By May 1996, political negotiations for resolving the crisis in Kashmir remained deadlocked, and in six years of war, the conflict had claimed at least 20,000 lives, and possibly many more.²⁵ Weary of the war and disillusioned with the militants, many Kashmiris have nevertheless continued to express support for the independence movement. Despite the scheduling of parliamentary elections in May 1996, there were few indications that there would be an end to the abuses and the violence anytime soon.

²³ The name Taliban comes from the Arabic word for student. In Afghanistan, the Taliban organization emerged in 1994 as a movement of religious students against other rebel groups whom they accused of corruption and unIslamic behavior. By 1996, the group controlled most of southern Afghanistan and was entrenched in a protracted struggle with the forces of President Rabbani for control of the capital, Kabul.

²⁴ Harinder Baweja and Ramesh Vinayak, “A Dangerous Liaison,” *India Today* (New Delhi), March 15, 1996, p. 52-53.

²⁵ No precise figures are available on the number of persons killed. Press reports have cited a figure of 20,000 based on hospital and police sources in Kashmir.

IV. APPLICABLE INTERNATIONAL LAW

International Human Rights Law and Standards

International human rights law prohibits the arbitrary deprivation of life under any circumstances. The government of India is a signatory to the International Covenant on Civil and Political Rights (ICCPR). Article 6 of the ICCPR expressly prohibits derogation from the right to life. Thus, even during time of emergency, "[n]o one shall be arbitrarily deprived of his life."²⁶

²⁶ Article 4, Article 6, International Covenant on Civil and Political Rights.

The International Covenant on Civil and Political Rights (ICCPR) also prohibits torture and other forms of cruel, inhuman and degrading treatment. Articles 4 and 7 of the ICCPR explicitly ban torture, even in times of national emergency or when the security of the state is threatened.²⁷

The evidence gathered by Human Rights Watch/Asia indicates that the Indian army, Border Security Force, Special Task Force, Central Reserve Police Force, and state-sponsored paramilitary "renegade" groups—the principal government forces operating in Jammu and Kashmir²⁸—have systematically violated these fundamental norms of international human rights law. Under international law, India's state-sponsored militias are state agents and therefore must abide by international human rights and humanitarian law. The government of India is ultimately responsible for their actions.

International Humanitarian Law

In addition to internationally recognized human rights, Human Rights Watch/Asia believes that both the government of India and armed groups fighting against it in Kashmir are bound in this situation by international humanitarian law (the law of armed conflict) applicable in non-international (internal) armed conflict. The applicable law is found in Article 3 common to the four Geneva Conventions of August 12, 1949 ("Common Article 3"); additional authoritative standards are found in Protocol II (1977) Additional to the Geneva Conventions of 1949 ("Protocol II"). Common Article 3 and Protocol II each provide international law and standards governing the conduct

²⁷ Article 4 states "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed. . . no derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision." Article 7 states "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." International Covenant on Civil and Political Rights, U.N. General Assembly Resolution 2200 A (XXI) of 16 December 1966. India became a signatory on April 10, 1979.

²⁸ The other security forces deployed in Kashmir, the CRPF and the BSF have combat duties and sometimes conduct operations jointly with Indian army forces.

of parties in an internal armed conflict, including government forces and insurgents. India has ratified the four Geneva Conventions of 1949, and is thus obliged to uphold Common Article 3.²⁹

Human Rights Watch/Asia believes that, given the widespread and frequent fighting throughout Kashmir, recourse by the government to its regular armed forces, the organization of insurgents into armed forces with military commanders responsible for the actions of those forces and capable of adhering to laws of war obligations, the military nature of operations conducted on both sides, and the size of the insurgent forces and of the government's military forces, Common Article 3 is applicable to the conflict in Kashmir.³⁰

Thus, each party is absolutely bound to apply the following provisions, irrespective of the behavior of other parties:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;

²⁹ India has not ratified Protocol II. Moreover, Human Rights Watch/Asia does not believe that the conflict in Kashmir reaches the threshold necessary for Protocol II to apply, that is, an armed conflict that takes place "in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol." Nevertheless, India and the insurgents are obligated to uphold Common Article 3, and Protocol II provides authoritative guidance for the interpretation of the provisions of Common Article 3.

³⁰ See generally Heather A. Wilson, *International Law and the Use of Force by National Liberation Movements* (Clarendon-Oxford, 1988), at 45-48, for a review of generally debated criteria and state practice; see also G.I.A.D. Draper, *The Red Cross Conventions* (Stevens and Sons, 1958), at 15-16. It is essential to acknowledge, however, that Common Article 3 carries no implications for the legitimacy of insurgent forces; the government is entitled to prosecute those captured in internal insurgency for the violation of domestic law. "The application of [Common Article 3] shall not affect the legal status of the Parties to the conflict." Common Article 3 to the Geneva Conventions of 1949. Current state practice is best reflected in *Public Prosecutor v. Oie Hee Koi* (Federal Court of Malaysia, 1968) (nationals of the Detaining Power are not entitled to protection as prisoners of war and may be tried under municipal law). See also Wilson at 46-48.

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.³¹

These principles apply to all parties to the conflict, both government and guerrillas. The obligation to comply with Common Article 3 is absolute and independent of the obligation of the other parties.³² Thus, the government of India, like other governments, is obliged to abide by these provisions and is responsible for violations committed by and attributable to its armed forces and state-sponsored paramilitary forces under its command or protection.³³ It cannot excuse itself from complying with Common Article 3 on the grounds that the militants are violating Common Article 3, and vice versa. However, Common Article 3 in no way precludes the government of India from punishing persons for

³¹ Common Article 3, subsections 1 and 2.

³² Common Article 2, The Geneva Conventions of 1949: "Although one of the Powers in a conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations."

³³ The principal government forces operating in Jammu and Kashmir—the Indian army, the Central Reserve Police Force and the Border Security Force—are all entities of the central government in New Delhi. Army soldiers report, ultimately, to the Minister of Defense; the CRPF, BSF and other national paramilitary police forces report to the Home Minister. As such, the actions of these troops are governed by the international laws of war and international human rights law which bind the government of India. In addition, since January 19, 1990, the central government has ruled the state directly.

crimes under its domestic laws. Indeed, Human Rights Watch/Asia believes that it is the Indian government's duty to do so. Thus, Kashmiri militants may be tried for murder, kidnaping or other crimes, so long as they are afforded the rights of due process.

Persons protected by Common Article 3 of the Geneva Conventions include all noncombatants, even if they have provided food, shelter or other partisan support to one side or the other, and members of the armed forces of either side who are in custody, are wounded or are otherwise *hors de combat*. If under these circumstances, such persons are summarily executed or die as a result of torture, their deaths are tantamount to murder.

Torture, hostage-taking, and rape have all been prominent abuses in the Kashmir conflict, and it is evident that Common Article 3 forbids each of them.³⁴ Rape also violates the ICCPR and Common Article 3 prohibitions on torture.³⁵

³⁴ See Chapter VIII.

³⁵ Rape is clearly prohibited by Common Article 3; it is customarily understood to constitute both cruel treatment and an outrage on personal dignity. Protocol II provides authoritative guidance for interpreting Common Article 3's prohibition on "outrages upon personal dignity." Protocol II outlaws "humiliating treatment, rape, enforced prostitution and any form of indecent assault." The commentary of the International Committee of the Red Cross explains that this article "reaffirms and supplements Common Article 3 ... [because] it became clear that it was necessary to strengthen ... the protection of women ... who may also be victims of rape, enforced prostitution or indecent assault." Protocol II, article 4(2)(e). For a discussion of the status of rape in international humanitarian law, see Helsinki Watch, division of Human Rights Watch, *War Crimes in Bosnia-Herzegovina*, vol. II (April 1993), at 20. The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the acquiescence of a public official or other person acting in an official capacity.

When any party to an armed conflict, internal or international, uses rape, or acquiesces in the use of rape by its combatants, with the intention of inflicting severe pain or suffering and for the purposes of coercing, punishing, or intimidating, or to obtain information or a confession, it constitutes torture.

In addition to Common Article 3, Human Rights Watch/Asia also finds that the Code of Medical Neutrality in Armed Conflict applies to the Kashmir conflict. This code provides standards for the protection of medical workers and their humanitarian work during armed conflict.³⁶

V. VIOLATIONS BY INDIAN GOVERNMENT FORCES: STATE-SPONSORED "RENEGADE" MILITIAS

Both regular, uniformed Indian army and federal security forces and state-sponsored paramilitary groups have committed serious and widespread human rights violations in Kashmir. These violations have characterized the behavior of regular troops since the conflict began in 1990. While reports of some kinds of abuse have decreased since 1994, such as the indiscriminate use of lethal force against unarmed demonstrators, other abuses, notably summary executions and torture, show no sign of abatement, due in part to the activities of the state-sponsored militias. As noted above, these groups operate without any accountability. Wearing no uniforms, their members cannot be easily identified. There is no one to whom civilians may register complaints about the group's behavior. As one Kashmiri doctor told Human Rights Watch/Asia, "When someone misbehaved, he was wearing a uniform, so he was accountable. We could call his commander. Now, when these renegades misbehave, there is no one to call. No one accepts responsibility for them, though we know the government is sponsoring them."

Human Rights Watch/Asia obtained overwhelming evidence of the fact that these groups are organized, armed and protected by the Indian army and other security forces and operate under their command and protection, despite the Indian government's claims to the contrary. The government uses the groups in a number of ways: as informers who watch and report on the activities of the militants; as spies to infiltrate existing militant organizations; or as members of paramilitary "renegade" organizations to attack members of Jamaat-e Islami and Hezb-ul Mujahidin and other militant groups. Members of these militias are also used to support Indian government policies. In public statements, Koko Paray has indicated his group's support for the elections and intention to field candidates and ensure that people in areas under its control vote despite the militants' boycott.

³⁶ The Code of Medical Neutrality in Armed Conflict is reproduced in full in the appendix.

Government officials have described the recruitment of former militants as a rehabilitation program. While that might be the stated goal of the government's efforts, as of April 1996, no rehabilitation programs were functioning. In an interview with Human Rights Watch/Asia, Gopal Sharma, Inspector General (IG) of Police, acknowledged that since August 15, 1995, the government had agreed to pay Rs. 5,000 [\$143] to any militant who surrendered AK-series assault rifles and varying amounts for other small arms. Sharma also stated that upon surrendering their weapons, the militants were supposed to be sent to designated rehabilitation centers where they would be paid Rs. 2000 [\$57] a month for six months. At the time that Human Rights Watch/Asia met with IG Sharma, he claimed that one such center had been established in Jammu and another was to be created in Srinagar. However, a report by *India Today* published in March 1996 noted that no one was lodged at the Jammu center.³⁷ Sharma admitted:

There could be some militants working with the security forces as gatherers of information. Koko Parray's group is thirty strong, maybe 100 strong. Militants are 8-9,000 strong. Some militants who split with their former allies may be able to get the protection of the security forces.

Government officials routinely deny that these groups do anything more than act as informants for the security forces. In a March 1996 report in the national daily *Hindu*, Jammu and Kashmir Chief Secretary Ashok Kumar denied allegations that the government was providing arms to surrendered militants, stating that "[t]he government will not be party to such a racket. We are not giving arms to the illegal persons." That statement was contradicted by Lt. Gen. (Retd.) D.D. Saklani, adviser to the state governor, who told reporters that the government was going to provide the surrendered militants with licenses for 12-bore guns [shotguns].³⁸ In a report published in the *Times of India* on March 9, 1996, Colonel K. P. Ramesh of the Rashtriya Rifles stated that surrendered militants were provided arms for their protection and given reward money for providing information.³⁹

During the Human Rights Watch/Asia visit to Kashmir in January 1996, we were informed that these groups have been armed by the government. On several occasions, Human Rights Watch/Asia observed members of these groups moving about openly carrying automatic weapons, in full view of security personnel, even though under the government's rehabilitation program, all surrendered militants are required to hand over their weapons. In one case investigated by Human Rights Watch/Asia, members of Ikhwan-ul Muslimoon, who had detained a hospital worker they suspected of militant sympathies, ordered his colleagues to buy him a pistol so that they could confiscate it and pretend to the security forces that they had succeeded in getting a militant to surrender.⁴⁰

On several occasions in January 1996, Human Rights Watch/Asia also observed Indian army forces carrying out patrols and other operations accompanied by members of such groups. In one incident, for about three hours on the morning of January 21 in Naseem Bagh, seven kilometers southwest of Srinagar, four men armed with AK-47s blocked the road and stopped every passing vehicle. Accompanying them were six army soldiers of the Rashtriya Rifles unit. A witness told Human Rights Watch/Asia about another incident that occurred at 9:30 AM on January 23, 1996. The

³⁷ Ibid.

³⁸ According to a report in *India Today*, the licenses have not materialized. See above.

³⁹ Cited in A.G. Noorani, "State Terror-I, Repeating Punjab in J & K," *Statesman*, April 17, 1996.

⁴⁰ See "Detention and Beating of Ghulam," below.

witness had observed a white car on the main road in Wanbal - Nawgam, six kilometers southwest of Srinagar. In it were six people, all of whom were wearing civilian clothes, including one known to the witness as a surrendered militant. About thirty feet behind the car were seven army trucks and an eighth army vehicle bearing a red cross. All of the vehicles, led by the white car, were proceeding very slowly in a line toward Srinagar.

In January 1996, a taxi driver in Srinagar told Human Rights Watch/Asia that several days earlier he had been approached by two members of a paramilitary group who demanded the use of his taxi. The driver stated that the men told him they wanted to go to a village ten kilometers outside Srinagar. The driver took them, but when they got there, one of the men pulled out a grenade, the other a pistol. One of the men showed a card, which the driver could not see, and said they were "Task Force" and that they needed the car, but they would return it by 3:00 PM that afternoon. Then the men said that they would drop the driver off at a bus stop so he could get back to Srinagar. One of the two men drove. As he drove, they passed by an army camp. The soldiers waved the car by without stopping it. The men dropped the driver off. The driver returned to Srinagar and waited at the taxi stand that afternoon, but the taxi was not returned to him until two days later.

The state-sponsored groups operate with impunity. In an interview with Human Rights Watch/Asia, Police Inspector General Gopal Sharma claimed that "surrendering [did] not relieve [former militants] of legal responsibility for their crimes," and that some had been prosecuted, "but convictions [were] hard to come by." However, another police officer responsible for investigating the activities of these groups contradicted Sharma's assertion, complaining that Army and BSF officers had also secured the release of paramilitary force members when they had been arrested by local police. He told Human Rights Watch/Asia:

The government has recruited criminals who loot and steal and extort and these criminals are living in security force camps. This is the third force—the renegades. It is completely true that they exist. ... It is 100 percent true that police investigate crimes, arrest individuals and then the army interferes and lets them go so they can work with the army as renegade forces.

According to a report in *India Today*, the government's policy of using surrendered militants for counterinsurgency efforts "has heightened the enmity between the various security agencies operating in Kashmir—mainly the Border Security Force (BSF) and the army—with each trying to score a point by notching up a higher tally of surrendered militants."⁴¹ Militants who have surrendered to the army have been beaten by BSF forces for not surrendering to them. The BSF reportedly told some of them to obtain new weapons so that they could surrender again, and the BSF could get the credit.⁴²

Victims of abuse by these groups have testified that the government has deliberately avoided arresting members of these groups even when there was clear evidence of their committing crimes. Residents angry at extortion by the groups have demanded that the administration either disarm the groups or give them uniforms.⁴³ After four journalists were abducted by Ikhwan-ul Muslimoon forces in July 1995, the security forces made no effort to apprehend leaders of the group, even after Koko Parray acknowledged publicly that he had ordered the kidnaping. Parray was even permitted to hold a press conference on the incident.

The security forces have also been complicit in these crimes. During the journalists' kidnaping, Ikhwan forces were waved through security checkpoints after they had given a prearranged password. The paramilitaries operate in close proximity to army and BSF camps. Some members of these groups have been housed in the camps.

⁴¹ "A Dangerous Liaison," p. 55.

⁴² Ibid.

⁴³ Ibid.

Security too is a major problem, for groups like the Hizbul Mujahedin and HUA [Harakat-ul Ansar] are waiting to bump off the surrendered militants. Fear has set in with the killing of eight surrendered militants and most of them are forced to sleep in army camps at night.⁴⁴

A witness who was abducted by Ikhwan-ul Muslimoon forces told Human Rights Watch that he was detained at a house adjacent to an army Rashtriya Rifles camp at Umarheer, Ahmed Nagar, Baspara, three kilometers from Soura hospital. A Rashtriya Rifles bunker stands at the entrance to the house. The local Ikhwan-ul Muslimoon commander, Mohammad Ramzan, who had interrogated the witness, apparently lived in the house. Ikhwan-ul Muslimoon forces identified two women who were cooking in the house as Ramzan's wife and sister-in-law.

⁴⁴ Ibid., p. 53.

The paramilitary militias have principally targeted Hezb-ul Mujahedin militants and members of the banned pro-Pakistan political party, Jamaat-e Islami. Like their counterparts in the regular security forces, they have also killed civilians in reprisal for militant attacks on their forces. According to a press report, in early February, 1996, Hizbul Mujahedin forces abducted twelve members of a state-sponsored paramilitary group from a house in Bagh-e-Mehtab located near an army camp. The heads of three of the men taken were found later; the fate of the remaining nine is not known. Other members of the state-sponsored group retaliated by dragging an elderly man off a bus and lynching him and burning down eleven houses and seven shops.⁴⁵

Attacks on Human Rights Activists

Human rights activists have increasingly come under attack in Kashmir. Between April 1995 and April 1996, two human rights monitors were killed and one critically injured.⁴⁶ The impact on Kashmir's human rights community has been devastating. Lawyers who had formerly taken up petitions on behalf of victims of abuses no longer do so out of fear of reprisals, particularly from the mercenary groups. Many have left Kashmir. The few human rights activists who have continued to document abuses in Kashmir do so at considerable risk to themselves.

The Murder of Jalil Andrabi

The body of Jalil Andrabi, a prominent human rights lawyer and pro-independence political activist associated with the JKLF, was found in the Kursuraj Bagh area of Srinagar on the banks of the Jhelum river on the morning of March 27, 1996. According to press reports, the body was in a burlap bag. Andrabi, who was forty-two, had been shot in the head and his eyes had been gouged out. He had apparently been dead for at least one week. According to eye-witnesses, Andrabi was detained at about 6:00 PM on March 8 by a Rashtriya Rifles unit of the army which intercepted his car a few hundred yards from his home in Srinagar. On March 9, the Jammu and Kashmir Bar Association filed a *habeas corpus* petition in the Jammu and Kashmir High Court, and the court ordered the army to produce Andrabi. However, the army denied that Andrabi was in custody. Over the next two weeks, the court continued to grant the government extensions for replying to the petition.

The murder sparked widespread protests in Kashmir and condemnation from civil liberties groups in India and abroad. In Srinagar, a protest march led by JKLF leader Yasin Malik was broken up by police who beat up members of the crowd, smashed a number of reporters' cameras and seized the body.⁴⁷ The police also fired shots in the air to

⁴⁵ "A Dangerous Liaison," p. 55.

⁴⁶ Two others were detained for months without being charged or tried. On the night of June 15, 1995, Sheikh Mohammad Ashraf, president of the Baramulla branch of the Jammu and Kashmir bar association, which regularly documented abuses by Indian security forces, was arrested by the Rashtriya Rifles unit of the Indian army. He was released on September 9; throughout his detention, his family was denied access to him. Earlier, on May 1, 1995, Mohammad Ashraf, an advocate at the High Court in Srinagar, was reportedly arrested and charged under the Public Safety Act, a preventive detention law. He was later released.

⁴⁷ Amnesty International, "India: Possible Extrajudicial Execution: Jalil Andrabi, Lawyer, Human Rights Activist," (ASA 20/15/96, 27 March 1996).

disperse the crowd. In a statement released on March 29, the United States condemned the murder and called for a “full and transparent investigation.” On April 2, United Nations High Commissioner for Human Rights Jose Ayala Lasso called on the government of India to “undertake a thorough investigation ... with a view to establishing the facts and imposing sanctions on those found guilty of the crime.” On April 3, India’s National Human Rights Commission (NHRC) announced that it would send a team to Kashmir to investigate the killing.

Andrabi had previously received death threats from government-sponsored so-called “renegade” forces. At about 9:30AM on January 29, 1996, two men arrived at Andrabi’s house in Srinagar, claiming that they wished to discuss a human rights case with him. After confirming that Andrabi was at home, one of the men left, saying that he was going to bring his mother and sister who were waiting outside in a taxi.⁴⁸ He returned instead with a third man. At that moment, a number of other persons gathered at the house, including Andrabi’s brother, who began questioning the men. The three men abruptly left, stating that they would see Andrabi at his office. After they left, witnesses in the vicinity of the outside gate of the neighborhood reported that the three men had returned to two waiting taxis in which eight more men were sitting, some openly carrying weapons.

The next day, at 9:20AM, the first two men returned to Andrabi’s house. After confirming that Andrabi was at home, they left and returned along with at least two other men in a taxi with license number Reg. JKT-1988. Andrabi told Human Rights Watch/Asia that one of the other men appeared to be wearing a uniform and carrying a weapon under his *pheran* (a long woolen cape). From an upstairs window, Andrabi took photographs of the men and the taxi. When the men saw him, they abruptly returned to the taxi and left. Local residents reported that on the way to Andrabi’s house, the taxi had been escorted by a Border Security Force vehicle until it was within one hundred yards of the outside gate of the neighborhood.

The incident followed several other attacks on human rights activists in Kashmir, and about a week before the incident, Andrabi had told Human Rights Watch/Asia that he had received warnings that he “would be next.” Since 1984, Andrabi had filed petitions in the High Court on behalf of detainees and had publicized the fact that the security forces routinely ignored High Court orders to produce detainees in court. At the time he was abducted, he was preparing for a trip to Geneva to attend the meeting of the U.N. Human Rights Commission where he hoped to raise concern about the human rights situation in Kashmir.

The Attempted Assassination of Mian Abdul Qayoom

Mian Abdul Qayoom, forty-six, was until April 1995 the president of the Jammu and Kashmir Bar Association and one of Kashmir’s most prominent human rights monitors. Under his direction, the bar association produced voluminous records of human rights violations by Indian security forces in Kashmir. On April 22, 1995, he was shot by two unidentified gunmen. The incident left Qayoom permanently disabled.

At 9:00AM on April 22, 1995, Qayoom observed two young men outside his house. They asked him if he was Mian Qayoom and when he replied that he was, they told him that their “boy,” Jahangir, was in jail in Jammu and that his case was to be heard before a TADA [Terrorist and Disruptive Activities Act] court⁴⁹ in Jammu. They asked Qayoom if he would appear on his behalf. Qayoom asked them if they had any papers on the case, and they told him

⁴⁸ The ruse was nearly identical to the one used by gunmen who shot the president of the bar association, Mian Abdul Qayoom. See account of Qayoom’s case, below.

⁴⁹ TADA circumvented due process requirements in the criminal procedure system for alleged terrorist activities. The law was allowed to lapse in May 1995; however, hundreds of TADA cases remain pending before the courts. Introduced in May 1985, TADA allowed the state to arrest those suspected of terrorism without producing them before a judicial magistrate for 180 days (a period that could be extended to one year). Under TADA, confessions made before a police officer and no other witnesses could be used as evidence (creating the opportunity for custodial abuse). Trials took place in specially designated courts, often *in camera*, and the identities of witnesses could be kept secret.

that their father was outside in the car, and that they would obtain the papers from him. Qayoom told them to meet him at his office, a building adjacent to the house.

As Qayoom went out the side door of the house toward his office, he saw one of the men walking down the front yard toward the driveway, while the other man stayed near the door to the office. Qayoom unlocked the office door, and he and the second man entered the office together. As Qayoom turned to sit down, he saw that the man had a pistol in his hand. The man fired one bullet into the left side of Qayoom's stomach. As Qayoom fell to the floor, the man fired another shot, which missed. Family members rushed to the office, and the man put the pistol into the side of his pants and ran away. The family ran after him and saw him get into a white Maruti car. The family put Qayoom in a car and took him to the SMHS hospital. He was there for ten days, and then transferred to the Batra Hospital in Delhi where he remained for ten weeks. His left kidney was removed, and he underwent two additional operations to remove the bullet and repair nerve damage. Despite the operations, Qayoom was left permanently disabled and is no longer able to stand or walk. Jammu and Kashmir police collected the second bullet from the site and an FIR⁵⁰ [First Information Report] was registered. No one has been charged in the case.

Qayoom had received a warning that he would be killed. He told Human Rights Watch/Asia that on June 30, 1994, while he was in court in Srinagar, a Jammu and Kashmir policeman handed Qayoom a paper marked "secret" in which unnamed sources claimed that Hezb-ul Mujahidin planned to kill Qayoom because of his alleged association with the JKLF. However, Qayoom was not associated with the JKLF but with the Jamaat-e Islami, a banned political party which is pro-Pakistan; the militant organization Hezb-ul Mujahedin is aligned with the Jamaat. After seeing this paper, Qayoom filed a FIR charging that government forces were conspiring to kill him. He also informed the NHRC and Delhi-based human rights activists of the incident.

Qayoom had been arrested on several occasions because of his human rights work and his public statements supporting self-determination in Kashmir. On July 29, 1990, while he was still president of the bar association and president of a political grouping of eleven parties supporting independence, he was arrested by the BSF in Pulwama and charged under the Public Safety Act⁵¹ with making a statement calling for self-determination for Jammu and Kashmir.

He was detained for nearly two years. His detention was challenged by the Bar Association in the High Court, and on February 14, 1991, the court declared the detention unconstitutional and directed the superintendent of district jails in Jammu to release him. Qayoom was released but before he could leave the jail he was rearrested and taken to the Joint Interrogation Center (JIC)⁵² in Jammu. On March 1, the court approved an application for bail, but again, before he could be released, he was ordered detained under the PSA for another year. On February 15, 1992, fifteen days before the detention order was to expire, Qayoom was again rearrested on the same grounds for which he had obtained bail in 1991. He was finally released on February 23, 1992, when the Supreme Court of India rejected the government's appeal of the bail order.

Upon release in March 1992, Qayoom was re-elected president of the bar association. He continued to focus on human rights cases, visiting jails, filing petitions on behalf of detainees, and meeting with international visitors and monitors. In April 1993, when he tried to go on the *haj* (Muslim pilgrimage) in Saudi Arabia, he and his wife were

⁵⁰ A FIR is the starting point for any criminal investigation.

⁵¹ The Public Safety Act, enacted in 1978 and amended in 1987 and 1990, empowers the state government to detain persons without trial for up to one year for a broad range of activities and has been widely used to suppress peaceful dissent.

⁵² There are a number of Joint Interrogation Centers throughout Kashmir, at which the BSF, army, and CRPF and intelligence agencies participate in interrogations.

stopped at the New Delhi airport. In 1994, he was granted permission to go on the haj, but when he returned, he was detained for three hours and his passport was impounded.

He stated that his house had been raided some twenty times since 1990; the most recent was in June 29, 1994, when BSF soldiers searched it in the middle of the night. According to advocates in Srinagar, the bar association virtually ceased functioning after Qayoom's shooting.

Human Rights Watch/Asia requested information from the government of India about the incident. The National Human Rights Commission (NHRC) stated that the attack on Qayoom "was a sequel to intergang rivalry." The NHRC provided no other information or evidence to clarify this statement, except to say that a police investigation is still underway. "Intergang rivalry" is the standard phrase used by the government to downplay abuses by state-sponsored militias. The Home Ministry confirmed that a police investigation was continuing. As of May, 1996, no one had been charged in the shooting of Mian Abdul Qayoom.

These attacks on Andrabi and Qayoom were the latest in a pattern of attacks on human rights monitors. In 1992-1993, three leading human rights activists were killed in Srinagar. On December 5, 1992, H.N. Wanchoo, a retired civil servant and trade unionist who had documented hundreds of cases of extrajudicial executions, disappearances and torture by the security forces, was shot dead by unidentified gunmen. On February 18, 1993, Dr. Farooq Ahmed Ashai, an orthopedic surgeon who documented cases of torture and indiscriminate assaults on civilians, was shot by Central Reserve Police Force troops, who fired at his car, which was marked with a red cross, apparently in retaliation for an earlier militant attack. The troops then reportedly delayed his being taken promptly to a hospital for emergency care. He died shortly after finally reaching the hospital. On March 3, Dr. Abdul Ahad Guru, a leading member of the militant Jammu and Kashmir Liberation Front (JKLF) who had documented abuses by Indian security forces, was abducted by unidentified gunmen and shot dead. The government of India has never made public any action it has taken to investigate these killings and prosecute those responsible.⁵³

Attacks on the Press

Ikhwan-ul Muslimoon and other state-sponsored armed groups in Kashmir have demonstrated a particular antipathy toward the press. In July 1995, four journalists with the dailies *Greater Kashmir* and *Naida-I Mushraq* were abducted by Ikhwan-ul Muslimoon forces and held for four days. After ordering several newspapers to temporarily cease publication in November 1995, Koko Parray accused all of the Kashmir journalists of being militants: "There is little difference between the editors and the Hizbul Mujahidin. Journalists are writing posters and pamphlets for them."⁵⁴ After several days, the papers were permitted to resume publication.

The Shooting of Zafar Mehraj

On December 8, 1995, Zafar Mehraj, a veteran Kashmiri journalist, was shot and critically injured as he returned from an interview with Koko Parray, the head of the state-sponsored paramilitary group Ikhwan-ul Muslimoon, at Parray's headquarters in Hajan, a small town fifty kilometers from Srinagar. Mehraj, forty-three, was working for Zee television, an independent television corporation. He had previously been threatened by both the security forces, who suspected him because of his ties to militant group and his travel in Pakistan,⁵⁵ and some militant groups who resented his contacts with Indian officials. Although the identity of the gunmen who shot him may never be known, the evidence strongly suggests the involvement of state-sponsored militia forces.

⁵³ For more on these cases see *Human Rights Crisis in Kashmir*.

⁵⁴ Parray was quoted in Harinder Baweja, "Propping Up the Enemy's Enemy," *India Today*, December 15, 1995., p. 34.

⁵⁵ See *Kashmir Under Siege*, p. 105.

The interview with Koko Parray had originally been scheduled for November 26, but Parray would not meet with them then and told them to return on December 8. That day the Huriyat had called a general strike, but the press was free to travel. During the interview Parray met with one of his men for fifteen minutes. After the interview, the journalists declined lunch and left at 12:45 PM. When they reached the village of Shaltang, nine kilometers north of Srinagar, they saw a cream colored Ambassador car with its hood up and a man looking inside. As they drove by, the man held up an AK-47 rifle and ordered the journalists to stop. With the man were two other men, all wearing scarves covering their faces and carrying AK-47s. One of them approached the front seat and asked, "What are you doing?" When told that they were journalists, he said, "You were meeting with that bastard, Koko Parray, bloody informer. We are from Hezb-ul Mujahidin." Then the two men went to the back seat window and asked, "You are Zafar Mehraj?" After Mehraj had identified himself, they asked him who he had been to see. When he said he had interviewed Koko Parray, the men ordered him to come with him. Mehraj did not move, so the man pulled him out forcibly.

When one of the other journalists tried to get out, and the same man pointed his AK-47 and said, "If you come out, I'll shoot you. You can move from here after one hour." He was speaking with an unusual accent; he was not from Srinagar. The men put Mehraj in the Ambassador car and drove away. Mehraj described what happened next:

They pushed me into a cab and took my wristwatch and cash, about Rs. 2-3000. [US \$57-85] It was snowing hard. They drove for a while. Then at some point they said, "We are with Parray. Are you a journalist?" I said that I was. Then they said, "Oh, we thought you belonged to Jamaat-e Islami. We're sorry. We will let you go." I told them to stop and let me go, but they said, "No we'll leave you where you'll get transport." After that they removed their kerchiefs. At some point I noticed a minibus behind our taxi. The car stopped. The Matador minibus stopped on the other side of the road. They told me that the minibus contained their own "boys" and said they were going to Srinagar and could take me home. They told me to get down from the taxi. I did and as I walked across the road from the taxi to the bus, one of the boys from the bus, who was standing on the road, shouted at me, "Hey! Where are you going?" I turned and saw him take out his Kalashnikov to fire at me. I could see him shivering—he was young, in his early teens. I recited verses from the Quran loudly. Then he opened fire.

Three bullets hit Mehraj. One caused a superficial wound; one entered his left upper back and exited the right upper back; one entered his left upper stomach and exited his right upper stomach. Two or three minutes after Mehraj had fallen to the ground, he heard the taxi and minibus leave together. He tried to wave down passing vehicles, but several passed him before a truck finally stopped. The driver told him that he could not risk his life by helping him, but if Mehraj could climb into the back of the truck by himself, the driver would take him to a place where he could get a lift to a hospital. Mehraj climbed into the truck, and the driver drove approximately ten kilometers to a small market town where Mehraj saw a police constable. Mehraj got out of the truck and told the constable that he had been shot. The constable told him to take a motorcycle taxi to the hospital.

I asked two or three drivers to take me to the hospital but they all refused. Finally I begged a driver on the other side of the road. I said, I have old parents and one young child. Please help me. He told me, "Don't make any noise. Get inside calmly." He took me to Srinagar SMHS hospital, not by the main road but by the back roads. I walked into the emergency room.

Mehraj's transverse colon had been shattered, and he had suffered multiple small intestine injuries. He stayed at the SMHS hospital in Srinagar for five days and was then transferred to an army hospital for two days because the authorities told him that the militants were roaming around SHMS freely. In fact, at the time that Mehraj was being treated there, the SMHS hospital was being patrolled by Ikhwan forces. On December 15, he was transferred to the All-India Institute for Medical Sciences in New Delhi.

After Mehraj had been abducted, the journalists who were with him waited in the car for ten minutes. During that time, two boys came by on their way to a nearby mosque; they were about twelve and sixteen years old.

They spoke Kashmiri. They asked why our friend had been kidnaped. When we said we don't know, they said they were from Hezb-ul Mujahidin. They both laughed and said, "Come on—Hezb-ul Mujahidin can't come here. There have been no militants here for six months. Those guys were Ikhwan—Ikhwan controls this area. Then they walked on to the mosque.

Shortly after that the journalists told the driver to go to Srinagar.

They had driven two kilometers from the spot where Mehraj was taken and arrived at the Hindustan Machine Tools (HMT) crossing—a major industrial area. Seeing open shops, one of the journalists decided to stop and ask if any of the shop owners had seen the kidnapers car—a cream-colored Ambassador without license plates. One of shop owners said that ten minutes earlier he had seen a car matching the description headed toward Srinagar. As the journalist walked out of the shop, he saw the kidnapper's car and the kidnaper who had done the talking during the incident. He told the driver to follow the car, which was headed from Srinagar toward Baramulla.

The journalists followed the car for five or six kilometers, when the kidnapers car stopped. The journalists parked fifty meters behind them. The kidnaper came up to the car and said, "I told you to wait an hour. Why are you chasing us?"

When the driver asked, "What have we done?" the kidnapper struck him in the face. When one of the journalists got out of the car, the kidnapper said, "Look, bastard, the army is coming. Go away."

At that moment, four army trucks filled with soldiers drove down the road—the national highway—from Baramulla toward Srinagar. The trucks passed right by them without stopping even though the kidnaper was standing in the middle of the road with an AK-47 slung over his shoulder, and the two other kidnapers were standing near their car with AK-47s clearly visible in their hands.

At that point, the journalist got back in the car. He told Human Rights Watch/Asia, "I realized that they were renegades, so we drove away to Srinagar."

Four or five days after the kidnaping, a correspondent for the *Kashmir Times* received a call from a man who identified himself as Ikhwan-ul Muslimoon, and said that the correspondent must come to Sonwar, an Ikhwan camp two kilometers from Srinagar, and that if he did not, "We'll do the same thing to you that we did to Zafar Mehraj." The correspondent did not go; he left Srinagar for Delhi.

On May 6, the Home Ministry informed Human Rights Watch/Asia that Mehraj had been returning from an interview with "the chief of a *militant* outfit," and that while the incident was still under police investigation, it was "believed that [Mehraj] has been the victim of inter gang rivalry."⁵⁶

Attacks on Medical Workers

Ikhwan-ul Muslimoon forces have been patrolling the Soura Institute and the Bone and Joint Hospital since mid-1995. The local commander is Mohammad Ramzan, a former member of the JKLF who had been arrested by the Rashtriya Rifles in 1995. After that, Ramzan was seen at the hospital accompanied by other gunmen and by army soldiers wearing Rashtriya Rifles uniforms. Ramzan wore a bullet-proof jacket under his *pheran* [long cloak], as did some of others. He told hospital staff that he "wanted to bring discipline to the Institute."

Ikhwan-ul Muslimoon patrols are sometimes carried out jointly with other security forces. Their activities inside the hospitals, including assaults on staff and detentions of staff, patients and visitors, are carried out with the

⁵⁶ As noted above, the phrase "intergang rivalry" is frequently used by the government to downplay abuses by state-sponsored militias.

knowledge of BSF forces, who maintain bunkers at the entrances of the hospitals. A Jammu and Kashmir police station is also located at the entrance to the Soura institute. Ikhwan-ul Muslimoon forces enter the hospital on a regular basis and patrol in groups of twelve, armed with automatic weapons. They often carry walkie-talkies and speak into them in the course of their searches and patrols. They have threatened and harassed hospital staff and patients, looking for militants, and have taken suspects away to "camps." One such camp is said to be located near the hospital, at an army base three kilometers away at Bachapora, Srinagar.

Before mid-1995, BSF forces themselves used to patrol the hospital, looking for militants. They would conduct search operations, known in Kashmir as "crackdowns," inside Soura, ordering all staff to line up and be searched. Any staff member or patient who is suspected of being involved with the militants is taken away; anyone who resists or objects is threatened or beaten. In November, Ikhwan-ul Muslimoon forces dragged a surgeon out of his office and kicked and punched him.

At 2:30PM on January 19, 1996, the day that Human Rights Watch/Asia visited the institute, Ikhwan forces were patrolling the main gate of Soura. Hospital employees stated that their presence was routine and that they usually stood only a few yards from the security bunker. Many hospital employees were unwilling to speak to Human Rights Watch/Asia out of fear. Doctors at the Bone and Joint Hospital complained that they were frequently searched by either armed paramilitary forces, while uniformed forces ringed the outside of the hospital, or by both paramilitary and uniformed Rashtriya Rifles forces.

The Murder of Farooq Ahmed Sheikh

Farooq Ahmed Sheikh, a thirty-one-year-old pharmacist at the Soura hospital, was shot dead by Ikhwan-ul Muslimoon forces on December 2, 1995.

A week or so before the shooting, Ikhwan forces had accosted Farooq in the pharmacy department and forced him to accompany them to the dietetics section of the institute where they assaulted him. After several other pharmacy employees intervened, Farooq was released. After that incident, Farooq told his colleagues at the hospital workers' association that a few days before the beating, he had been on duty at the hospital's emergency drug store. Ramzan's men had come and asked for medicine, and Farooq had refused to give them any. The next day, Farooq had received a message at the pharmacy counter that he should come meet Ramzan, and he did not go. On the day of the beating, Ramzan and his men came to Sheikh's department at about noon and took him first to the laundry office and then to the dietetics department, where they beat him. The men pinned his arms behind his back and beat him with gun butts all over his body. A hospital employee who was present told Human Rights Watch/Asia:

I was working when Ramzan and his two bodyguards appeared. I did not see any guns but Ramzan carried a wooden cane. The three of them entered the room where Farooq was working. Ramzan told Farooq to accompany him. Farooq went with him. When he came back half an hour later, he looked pale, withdrawn. He said that the people working in the kitchen had come to his rescue, and that Ramzan and the others had been telling him to come with them and work with them.

Several other employees were beaten by Ramzan and his men around this time. In one incident, Ramzan had four employees taken to a detention camp, but all were released the same day.

At 1:15PM on December 2, Farooq left the hospital's drug store with medicine to take to a patient. A hospital employee told Human Rights Watch/Asia that before Farooq was shot, Ramzan, accompanied by fifteen armed men, was standing in front of the inquiry office in the hospital.

I was standing in line waiting to get paid. Farooq was standing in line in front of me, also waiting to get paid. He carried in his hand a medicine bag with drugs in it. After Farooq was paid, he walked inside the ward block. I got my money and was standing inside the main entranceway. Then I saw Ramzan and his men standing near the entrance to the ward block, kicking anyone who had their hands in their pockets and telling them to take their hands out. After ten minutes I saw that Ramzan

and others had entered the ward block; one or two minutes later I heard one gun shot from inside the ward block. Two minutes later I saw Ramzan and his men walking, with guns visible, out of the ward block. As they walked by me and several other employees at the main entranceway, Ramzan said, "Farooq has been shot. He is being taken to the operation theater. Did you see anyone running from here?"

Farooq had been waiting for the elevator when he was shot. He was shot once on the right side of the back of his head. He was operated on almost immediately, but went into a coma and died on December 9. Human Rights Watch/Asia inspected the site of the shooting. It was ten yards away from a window through which a BSF bunker at the hospital entrance is clearly visible, perhaps fifty yards from the hospital. There are also BSF bunkers at several places around the hospital. Given the security presence around the hospital, there is no way someone could fire a gun in the hospital without the security forces knowing.

Shortly after the shooting, Dr. Jalal arrived at the main entrance with his bodyguard, who was carrying a pistol. Ramzan's men accused the bodyguard, but when Dr. Jalal said the man had been with him and had nothing to do with the shooting, Ramzan let him go. The hospital employee continued:

I went to the operation theater. Farooq was conscious and reciting holy verses. After that, he fell into a coma. There was blood all over his head. His hand was holding the back of his head. I left and waited outside the operating theater. Ramzan and his men were running around; two of his men were guarding the operating theater, not letting anyone in. Half an hour after the shooting, Ramzan came before a group of employees holding a bullet. He said, "See, this is a pistol bullet. We don't have a pistol. Someone else must have fired."

After the shooting, Jammu and Kashmir police came to the hospital, but none of the hospital staff was willing to speak with them because Ramzan and his men patrolled the hospital until 7:00PM. The Home Ministry provided a brief report on the incident to Human Rights watch stating that "unknown militants fired upon Farooq Ahmad Sheikh" and that a case has been registered against the "militants."

***Detention and Beating of "Ghulam"*⁵⁷**

"Ghulam" was a member of Soura Institute's employees' union. In November 1995, he was abducted from the hospital by Ikhwan-ul Muslimoon forces and detained for at a camp near the hospital. While he was detained he was severely beaten. He told Human Rights Watch/Asia that ten to twelve men with automatic weapons forced him into a car outside the hospital entrance. Four other detainees were already in the car; they were all friends and relatives of patients in the hospital. Five or six gunmen, carrying automatic weapons, were standing outside the car talking into walkie-talkies. One of them entered the vehicle and demanded money from the detainees in the car and beat them with the butt of his gun until they handed it over. Fifteen minutes later, at about noon, Ramzan appeared and one of the gunmen asked "Ghulam" to come out of the car.

I was taken to an open area surrounded by several other gunmen. Ramzan ordered his men to shoot me. Two men pointed their guns but did not fire. Then Ramzan and two of the others struck me on the head, face and back with their guns. I fell down. One of them took my watch, money and jacket. Ramzan said to me, "Give me your pistol." I had no pistol and told him so. They carried me off the lawn into the Matador.

"Ghulam" was put in the car, and three of the others in the car were released. The car left the hospital, following a white Ambassador car carrying Ramzan and the others, and stopped at a joint Jammu and Kashmir police station and BSF camp located just outside the entrance to the hospital. After about ten to twelve minutes, Ramzan came out and got back into the Ambassador car, and both cars drove to Soura Chowk, where the fourth detainee was let go. Then

⁵⁷ Human Rights Watch/Asia has used pseudonyms in many of these cases to protect the identities of the witnesses.

both cars went to the Rashtriya Rifles camp at Umarheer, Ahmed Nagar, Baspara, three kilometers from Soura hospital. They pulled up to a house adjacent to Rashtriya Rifles camp, separated by a barbed wire fence. At the entrance to the house was a Rashtriya Rifles bunker. "Ghulam" was taken to a room inside the house, where Ramzan and about ten of his men were waiting. He was stripped and beaten with canes and guns, and again ordered to hand over a pistol. He was then locked in a basement until evening, when he was again beaten and then locked in another room for the night. In the morning, "Ghulam"'s brother came to the house, but Ramzan told him "Ghulam" could not be released until he produced a pistol. "Ghulam" continued to tell them that he did not have one. "Gulam" reported:

Then Ramzan asked my brother to give him some money so that Ramzan could "arrange" for me to "surrender" a pistol. Ramzan told my brother that he would then hand the pistol over to the army so that they could record it and give me an Ikhwan identity card so that so that no one could touch me. Then my brother left. At about 1:00 PM, a number of hospital employees came to the house to see me. Ramzan told them he would not release me unless I resigned from the employees' association. I agreed to do so, and Ramzan told my colleagues to get written consent from Koko Parray to release me so that Ramzan could show the letter to Jalis Khan, the commander of the Rashtriya Rifles camp. At 10:00 PM I was told I would be released the following morning. At 9:00 AM the next day, eight people brought me back to the hospital and let me go. After my release I was hospitalized and treated for two days. I immediately resigned from the association, but the association did not accept my resignation. Twice after that Ramzan came here in a civil administration jeep and asked me if the hospital administration was running smoothly now.

VI. VIOLATIONS BY INDIAN GOVERNMENT FORCES: ABUSES BY UNIFORMED INDIAN SECURITY PERSONNEL

Extrajudicial Executions and Reprisal Killings

The systematic, summary execution of suspected militants by regular Indian forces in Kashmir has been a hallmark of counterinsurgency operations in the conflict. After escalating sharply in 1992-93, when military authorities in Kashmir launched a "catch-and-kill" operation against the militants, these killings have only declined to the extent that some have been subcontracted to irregular state-sponsored forces. There has been no change in policy about the practice. Army and BSF forces have continued to execute captured militant suspects routinely, in violation of international human rights and humanitarian law. In six and a half years of war, such executions and disappearances in Kashmir number well into the hundreds, if not higher.

Most extrajudicial killings carried out by Indian security forces in Kashmir occur after "crackdowns"—cordon and search operations during which all the men of a neighborhood or village are called to assemble for an identification parade in front of hooded informers. Those whom the informers point out are taken away for torture and interrogation, and some are simply taken away and shot. Officials in Kashmir routinely claim that the detainee was killed in an "encounter" with the security forces, or was shot trying to escape. Human rights groups in Kashmir have documented hundreds of such killings. In its annual report covering events of 1995, the U.S. State Department stated that "[H]uman rights groups consider credible reports that dozens of such killings occur every month."⁵⁸ Detainees have also disappeared in the custody of the security forces.

Since 1994, there have been fewer incidents in which government forces engaged in reprisal killings of civilians or used lethal force on a large scale against peaceful demonstrators. However, incidents in which the security forces have opened fire on civilians during crackdowns have continued. In the two cases described below, those who

⁵⁸ U. S. Department of State, *Country Reports*. The citation used was printed from a file made available electronically; the quote appears on the first page of the India chapter in the report.

were shot were clearly identified as civilians. As with other summary executions, the authorities generally claim that civilian casualties during such operations result from "cross-fire."

Security legislation has increased the likelihood of such abuses by authorizing the security forces to shoot to kill and to destroy civilian property. Under these laws, the security forces are protected from prosecution for human rights violations.⁵⁹

The Killing of Mohammad B. and Sheikh Y.

On January 20, 1995, Indian army forces of the 2nd Grenades unit conducted a crackdown in Batmaloo, Srinagar. At least two men taken into custody by the soldiers were summarily executed. Ghulam B., forty-eight, described the killing of his brother, Mohammad, a forty-two-year-old businessman.

At about 10:00 AM on January 20, 1995, I was in my house in Batmaloo, Srinagar, along with my mother and father, Mohammad and his wife and children, and a servant. Mohammad was on the phone to Delhi when we heard gunfire outside, and we all went into a single room. Fifteen minutes

⁵⁹ On July 5, 1990, the governor of Jammu and Kashmir, Girish Saxena, promulgated the Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990, which in September was passed by the Indian parliament as the Armed Forces (Jammu and Kashmir) Special Powers Act. The act authorizes the governor or the central government to declare the whole or any part of the state to be a "disturbed area" if it is found that disturbances in the area are such that "the use of the armed forces in aid of the civil power" is necessary to prevent "terrorist acts" or activities directed towards bringing about secession. In a "disturbed area," the act empowers "any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces" to:

after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances....

Also on July 5, 1990, the state government promulgated the Jammu and Kashmir Disturbed Areas Act which similarly grants the security forces enhanced powers to use lethal force in the "disturbed areas" of the six districts of the Kashmir valley and a 20-kilometer belt in the border districts of Poonch and Rajouri in Jammu region. Both acts provide, "No suit, prosecution, or other legal proceedings shall be instituted except with the previous sanction of the State Government against any person in respect of anything done or purporting to be done in exercise of the powers conferred [by the Acts]." The provisions in both of these acts on the use of lethal force directly violate the U.N. Code for Law Enforcement (Article 3).

later, there was a knock on the door. Four uniformed army soldiers of the 2nd Grenades came inside and pulled my ninety-year-old father, Mohammad, the servant and me outside. The soldiers were accusing us of being "terrorists." They accused Mohammad of being Afghan.

Leaving the father at the house, the soldiers took the men with them, along with a nephew, G. Some twenty-five soldiers were gathered around outside. They ordered the men to get shovels and shovel snow for half an hour. Then four of the soldiers took Ghulam and broke down the door of a nearby house belonging to Ghulam's uncle. Ghulam and Mohammad were made to search some six other houses; the soldiers were looking for guns and militants.⁶⁰ The search went on for half an hour. Ghulam told Human Rights Watch:

From time to time, the soldiers would hit me and point their guns at my head and tell me they would kill me. Several times while I was with soldiers, they came under gunfire [from militant forces] and they would force me to stand in front of them as they ran and returned fire.

At 11:30AM, the soldiers completed the searches of six houses and took Ghulam to a more populated neighborhood in the same area. At that point, he saw the soldiers take Mohammad away. An announcement was made through the loudspeakers at the mosque that everyone in the area should come out of their houses and assemble outside the graveyard. Ghulam continued to search apartments in the area with the soldiers and six other civilians.

At about 4:00 PM Ghulam was with the soldier when they again came under heavy gunfire. The soldiers fired back, again using him as shield. A number of soldiers were injured in the fire, and Ghulam and other civilians were ordered to carry the wounded soldiers to army vehicles at the main intersection. As they began to do so, one of the civilians, Hassan Shah, a retired policeman who was over sixty, was shot in the arm.

We asked permission to carry Shah to the SMHS hospital, half a kilometer way, on foot and by auto rickshaw. Mohinder Singh, commander of the 2nd Grenades, allowed us to do so. I ran away to my sister's house and phoned my mother. She asked me, "Where is your brother? I told her I did not know. I stayed at my sister's house that night.

The crackdown was on a Friday. On Saturday, in Nagerwal, residents reported that two bodies had been thrown out of the window of a nearby school at 4:00 PM on the day of the crackdown, and that the bodies were riddled with bullets.

⁶⁰ During crackdowns, the security forces routinely order a number of men from the locality to accompany the soldiers searching houses to act as shields and to ensure that the soldiers will not be accused of molesting women in the houses.

On Saturday, Ghulam went to the Ram Munshi Bagh police station and found Mohammad's body.⁶¹ He described the condition of the body:

There was blood around the mouth and blood on his hands. There were two other bodies there as well. I asked for the body back, and the police had me sign a paper for it.

A neighbor, Sheikh A., was with Mohammad after the soldiers took him away. He told Human Rights Watch that the soldiers came to his house and ordered him and his nineteen-year-old son, Sheikh Y., to come with them.

At 9:00AM I was in my house with my wife, son and daughter. Sheikh Y. went outside to buy some food, but returned to say that the army was nearby. All of us went upstairs to the second floor. The soldiers knocked on the door, entered the house and yelled for all of us to come downstairs or we would be killed. The soldiers took me and my son outside and took us in the direction of the government middle school in Lachmanpara, which is commonly used as an interrogation center during crackdowns. Before we arrived at the school, the soldiers told me to go to the graveyard nearby. I went and found twenty-five or thirty other people sitting there. I could hear the soldiers questioning my son. They were accusing him of firing on soldiers. My son denied it. Then a soldier took him inside the school. As I sat in the graveyard, I could hear cries from my son inside the school. I stood up, but Mohammad, who was with him in the graveyard, warned me to sit down, as the soldiers were nervous and might shoot me.

A short while later, the soldiers came up with an informer who surveyed the group of men seated at the graveyard, then pointed at Mohammad and said to the soldiers, "Take him, he is a militant." The soldiers told Mohammad to stand up and called him an "Afghani [sic] militant." Mohammad told them he had a grinding machine and was a businessman, not a militant. The soldiers took him into the school. Then the soldiers took Sheikh A. and the others in the graveyard and made them sit in snow. They were kept at the graveyard until 9:00 PM

In the afternoon some people were taken from the cemetery and were made to carry metal pipes. When they were brought back to the cemetery, they told Sheikh A. that the soldiers had used the pipes to spray kerosene on the mosque in the area, which the soldiers had then burned down. Later in the afternoon, Sheikh A. was also made to carry pipes, and he saw the mosque burning. Then he was brought back to the cemetery. At 9:00 PM the men were allowed to go home. Sheikh A. returned with a gas lamp to search inside the school, but was unable to find anyone. Later that night a neighbor told him that two bodies had been thrown from one of the school's windows. He examined the site and found blood on the snow nearby but no bodies. Later that night, at Jammu and Kashmir, he learned from a police officer that three civilians from Batmaloo had been killed earlier that day in "crossfire" between the army and the militants. Sheikh A. told Human Rights Watch/Asia:

The following day, in the morning, I went to the police station at Ram Munshi Bagh, but I was told that the bodies were not there, but were at the Joint Interrogation Center, Sonawar. I went there, but they were not there. I went back to the police station where I saw trucks with the bodies of my son, Mohammad and a third man. After that I went to the police station to file an FIR against the army for the deaths of my son and Mohammad. But I was told by a friend, who is a police officer, that he had been told not to accept any FIRs against the army or security forces. Then I went to the district magistrate, who ordered the police to accept the FIR. So the police registered the FIR on February 7, 1995.

⁶¹ The army and other security forces usually hand over dead bodies to the police.

The Killing of Ghulam Ahmed Bhat

Ghulam Ahmed Bhat, eighteen, was killed by troops of the Seventh Battallion of the BSF on December 21, 1995. As a result of a childhood illness, Ghulam had been unable to hear or speak since he was four years old.

At about 10:00AM on December 21, Ghulam was standing in a lane in front of the house in Bulbulankar, Nawakadal, in Srinagar, along with his mother and a number of other people. The neighborhood was unusually crowded because a procession was planned in honor of Kurshid Ahmed Bhat, chief of the Al Jihad Force who was killed on December 17, 1995.⁶² A crackdown was just beginning, and BSF troops from the Seventh Battallion, under Commander "Peter" Sharma, entered the neighborhood. Seeing the BSF soldiers running, Ghulam started to run and his mother ran after him to protect him.

After running along a long, narrow lane, Ghulam stopped and tried to show the soldiers that he was deaf and dumb. Then he started running again. Ghulam's mother told Human Rights Watch/Asia:

Three soldiers came after him, and one fired a machine gun burst, killing him. One soldier then kicked the body to make sure he was dead. I began crying, but the soldiers would not allow me to take Ghulam's body. About half an hour after he was shot, two or three BSF soldiers came to the area. One put a pistol on Ghulam's chest; and the other one put bullets in the pocket of his pheran. At 2:00PM, the crackdown was lifted, and the Jammu and Kashmir police arrived. They screamed at the BSF that the boy was not a militant and that they should not have killed him.

The police took the body to the police station. At 5:00PM, the body was brought home by neighbors. There was a bullet wound in the back of the head. At the time the body was handed over from police, the mother's brother, Mohammad Siddiq, was made to sign a blank paper. The next morning, two shopkeepers and a neighbor came to the mother's house and said they were coming on behalf of Commander "Peter" Sharma and said that he would pay her Rs. 200,000 not to bring a case against the BSF in court. She did not accept, and filed a case against the BSF.

The Killing of Khurshid Ahmed Bhat

Khurshid Ahmed Bhat, alias "Khalid Javeed," former head of Jihad Force, was killed after being taken into custody by BSF forces on December 18, 1995. At 9:30PM, a patrol party of several BSF vehicles came to the neighborhood of Butyar, in Srinagar. From his upstairs window, N.D., a witness, saw BSF troops encircling the house of one of his neighbors. At 10:30 PM, they entered the house and N.D. heard cries coming from the house. N.D. told Human Rights Watch/Asia:

The BSF brought my neighbor and his son out of the house and into the inner courtyard. They beat them and asked them where Javeed was. They said they did not know. One of the soldiers knocked the father to the ground, and when his wife came out and pleaded with the soldiers not to beat her husband and son, one soldier ripped off the top portion of her pheran and struck her on the chest. When the daughter came out the soldier did the same to her. At this point, Khurshid Ahmed Bhat walked out of the house. The soldiers immediately hit him with their rifles on his thighs and on the back of his head. Blood came out of his mouth. The soldiers then took hold of the daughter and told Khurshid to "engage in nasty acts with her." He refused and said "I am the man you want, that's it."

The soldiers put Bhat into a truck and drove away. They left at midnight. The next morning, BSF soldiers came to the area and fired shots into the air for more than half an hour, and then withdrew. Shortly after that, the Jammu and Kashmir police came and told the residents that a dead body had been found, and they needed someone to

⁶² See account of the killing of Khurshid Ahmed Bhat below.

come and identify it. N.D. went with others from the neighborhood to see the body at the local police station. N.D. described the condition of the body:

There was a lot of blood and several wounds on the forehead and nose, a cut in the mouth, wounds on the back and chest, cuts on the legs and arms, and a broken elbow.

Human Rights Watch/Asia saw photographs of the body. There was a bullet wound in the forehead, a bullet wound on the nose and a large open wound on the back of the head. There were also scrapes and cuts on the chest and mouth.

In an official report of the killing, the government claimed that Bhat died in an encounter with security forces.

Bhat's relatives have stated that they were approached by BSF Commander "Peter" Sharma, whose troops were responsible for the murder, and offered money not to bring a case in court. The family refused and has registered a case against the BSF. To Human Rights Watch/Asia's knowledge, no investigation has taken place.

The Shooting of Ghulam M.

In some cases, the security forces have opened fire on civilians even after the civilians have identified themselves. Ghulam M. was shot and injured by BSF soldiers outside his home in Ganderbal, thirty kilometers north of Srinagar, on December 6, 1995.

At about 8:00PM, I heard gunfire near my house. An hour later, I went outside to my shop to make sure that my two sons, who worked there, were safe. I was accompanied by a cousin and another son. We were carrying a gas light. As we reached the shop, we saw a soldier wearing white military boots lying on the road. He called out, "Who are you?" I replied that we were civilians. Then shots rang out. I was hit by a bullet in the right knee. My son cried out, "You've shot my father," and the BSF soldier yelled abusive language at him.

Ghulam M. was taken to the Bone and Joint Hospital, and his right leg was amputated from above the knee.

Torture

Torture has remained a constant in Kashmir. In his report of January 9, 1996, U.N. Special Rapporteur on Torture Nigel Rodley stated:

[The Special Rapporteur has] received information that torture was practiced routinely by the army, the Border Security Force (BSF) and Central Reserve Police Force (CRPF) against the vast majority of persons arrested for political reasons in Jammu and Kashmir. Official investigations into allegations of torture, including those that resulted in custodial deaths, were said to be rare. On the few occasions when such investigations had taken place, they were carried out by the security forces themselves, rather than by an independent body.⁶³

There is no evidence that the government of India has taken serious steps to curb the practice of torture in Kashmir. Most detainees taken into custody by the security forces in Kashmir continue to be tortured. The methods that have long been practiced in the state are fairly crude, and the security forces have demonstrated little concern for disguising injuries caused by torture. These methods include prolonged beatings, electric shock, burning with

⁶³ United Nations Economic and Social Council, *Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37 (E/CN.4/1996/35, January 9, 1996)*, p. 18.

heated objects and crushing the muscles with a wooden roller. Detainees are generally held in temporary detention centers, controlled by the various security forces, without access to the courts, relatives or medical care.

Although the government has made some effort to publicize courts-martial and punishments of security personnel who have committed rape, many charges of rape continue to go uninvestigated. As with other methods of torture, rape has been used to punish suspected militant sympathizers and create a climate of fear.

Detention Procedures that Facilitate Torture

Torture usually takes place in interrogation centers operated by the security forces, and it almost always occurs in the first hours or days after the victim is detained. Every security force has its own interrogation centers in Kashmir, which include temporary detention centers at BSF, CRPF and army camps, hotels and other buildings that have been taken over by security forces.⁶⁴ Detainees are first interrogated by the detaining security force for periods of time which may range from several hours to several weeks. During this time the detainee is not produced before a court or given access to anyone outside the interrogation center. Those suspected of being militants may then be interrogated at Joint Interrogation Centres (JICs) at which each security force is represented. Detention at the JIC may last for months.

Indian security personnel routinely ignore procedural safeguards designed to prevent torture when taking persons into custody. Although Indian law requires that everyone taken into custody must be produced before a magistrate within twenty-four hours, in fact, detainees are rarely produced at all.⁶⁵ Prohibitions and safeguards against torture in the Indian Penal Code (IPC) and the Code of Criminal Procedure (CCrP),⁶⁶ which prohibit the use of coerced confessions and prescribe inquiries into deaths in custody and prison terms for officers guilty of torture, are also routinely disregarded. To Human Rights Watch/Asia's knowledge, the government has never made public any action it has taken to hold security personnel responsible for torture in Kashmir criminally liable for their actions. The U.N. Code of Conduct for Law Enforcement Officials (Resolution 34/169, December 17, 1979) states, in Article 5, that "no law enforcement officials may inflict, instigate, or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment nor may any law enforcement official invoke superior order in exceptional circumstances such as . . . internal political instability or any other public emergency . . . as justification for torture."

⁶⁴ Some of the interrogation centers which have been used are: Old Airport (BSF), Hari Niwas Interrogation Center (CRPF), Papa I (CRPF), Papa II (BSF), Red 16 (BSF), Badami Bagh (Army Cantonment), Gogoland -- between the old and new airports (CRPF), Bagi Ali Mardan (Nowshera) (BSF), Lal Bazaar Police Station (BSF), Hotel Mamta, Dal Gate (BSF) and Shiraz Cinema, Khenyar (BSF).

⁶⁵ This provision is routinely disregarded by police throughout India. Under Article 9 of the ICCPR, "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law. . . and shall be entitled to a trial within a reasonable time or released."

⁶⁶ Sections 330 and 331 prescribe prison terms and fines for officers guilty of torture. Section 176 of the CCrP requires a magisterial inquiry into any death in custody. The Indian Evidence Act and the CCrP also prohibit the use of coerced confessions.

Lawyers in Kashmir have filed more than 15,000 *habeas corpus* petitions since 1990 calling on state authorities to reveal the whereabouts of detainees and the charges against them. However, in the vast majority of cases, the authorities have not responded, and the petitions remain pending in the courts. A large number of bail applications are also pending. Even when the High Court has ordered state authorities to produce detainees in court or release those against whom no charges have been brought, state and security force officials have refused to comply. Lawyers have also filed petitions charging officials with contempt for non-compliance, but these petitions have also received no response.

Under pressure from the authorities, the courts routinely grant government officials extended time to respond to petitions. Detainees who have been held for up to a year have not been granted access to legal counsel. The Jammu and Kashmir Bar Association has a list of 100 persons held as of October 1995 in one joint interrogation center in Kotbalwal, near Jammu. They have been held there without charge after they were first detained for one year under the Jammu and Kashmir Public Safety Act. In some cases, after a year had passed without formal charges being brought, the security forces filed another FIR to hold the detainee on the pretext of a new investigation. Fearing reprisals, judges have been reluctant to challenge the actions of the security forces.

In response to a petition about the mistreatment of detainees in the state, in October 1994, the Jammu and Kashmir High Court ordered that in each district a committee be created of district judges, district magistrates, senior superintendents of police (SSPs) and district medical officers to visit every jail and interrogation center and submit a report to the High Court about the conditions and facilities every two weeks. In May 1995, the state government appealed the order, and a Division Bench made up of two judges of the High Court affirmed the initial ruling, with the amendment that the reports be submitted every two months. However, the security forces refused to provide lists of the detention centers, so that as of January 1996, the court had received only four reports in total from the thirteen districts in the state in the eight months since the court's ruling.

In December 1995, the district judge in Anantnag complained that the army had not provided him with a list of detention centers, and as a result he was only able to visit the JIC in Anantnag. He reported that at the JIC, many detainees were detained "not pursuant to any law." He noted that fifty-two detainees were housed in "five small cell type rooms... Patently, the accommodation is too short to lodge dozens of persons ... [A]ll ... complained about the lack of medical facilities."⁶⁷ One year earlier, he had documented torture by the security forces, including forcing detainees to sit for extended periods of time in cold water, electric shock, pulling the legs apart at a wide angle, and suspending detainees upside down. In his December 1994 report, the judge noted that marks of violence on the detainees were "quite visible."⁶⁸

There is no question that civil and security officials in Kashmir are aware of the widespread use of torture. Petitions pending before the Jammu and Kashmir High Court provide ample documentation, including medical evidence, of the systematic use of torture.

Torture of S.K.

Human Rights Watch/Asia interviewed S.K., a student, who was arrested by Commanding Officer Joshi of the 81st Battalion of the BSF on January 25, 1995.

Commanding Officer Joshi accused me of being a Pakistani national. At the BSF base camp I was brought to some other Kashmiris to speak with them so they could check my accent. They kept me in

⁶⁷ *Report of the District Committee Anantnag constituted by the High Court in Public Interest Petition Jalil Andrabi v/s State*, December 1995.

⁶⁸ Office of District and Sessions Judge, Anantnag, *Jalil Andrabi vs. State of J&K and others*, H.C. petition no. 850 of 1994: *Preliminary Report*.

base camp until January 27. On the morning of January 27, my hands and legs were tied to the bed, and I was made to lie back on a steel bed. Uniformed BSG soldiers put a piece of cloth in my mouth. Three of them leaned on my chest and head. Then they pumped water into my nose. I was suffocating and choking. I started bleeding from my mouth. Then the soldiers turned me over and beat me on my back and feet with a long iron rod. They also hit me with a leather belt which they had dipped in water. My back was bleeding. There was blood splattered on the wall in the room. Then they made me lie down face up on bed again and tied my hands and feet to bed. They applied electric shock to my feet, genitals, chest, and tongue for twenty minutes in all. Two wires—one on either side of my body—were attached to a generator with a crank which one of the soldiers turned. If he turned the crank fast, the shock was severe; if he turned it slowly, less so.

The following day S.K. was shifted to the BSF Papa II interrogation center in Srinagar where he was interrogated by a BSF officer who had "SP"[superintendent] on his uniform and was called Vikas by his subordinates.

He told me that if I spoke on the telephone with my uncle in Karachi, they would not torture me. I have no uncle in Karachi. He said if I would not admit to being a Pakistani national, they would torture me. He said, "First we will destroy your kidneys, then your lungs, then you will die." I was tied to the bed with my legs spread out at nearly a 180-degree angle. For the next thirty minutes, I was again given electric shock to my legs and genitals, and they took lit matches and burned my beard, and finally they applied shocks to my head until I fell unconscious. At one point during interrogation, Vikas, the BSF officer said, "No one knows you are in our custody; we can just throw you in the river and no one will ever know."

When S.K. woke up, BSF deputy inspector general Rajinder Mani, the BSF chief interrogator, began questioning him about public opinion in Kashmir. On the evening of January 30, a doctor examined S.K. because he had not urinated in thirty-six hours, had swelling all over his body and bloody stools. He was given some medicine, but the swelling continued. On February 2, S.K. was transferred to the Badami Bagh Cantonment army hospital, where he described how he had been tortured. He was given penicillin. However, S.K. was afraid to tell them that he was allergic to penicillin, and the swelling worsened. On the evening of February 2, S.K. overheard a doctor tell a BSF officer from Papa II that his kidneys had failed, that his liver was failing and that he had only six hours left to live. The doctor advised the officer that S.K. "should be thrown on the roadside because it would be a custodial killing if he were to die in the hospital."

That night, the officer came to me and said they would take me to the Soura Institute. Instead, BSF soldiers took me from Army hospital to the police control room in Srinagar. The BSF officer who took me there told me I should not tell anyone in the press what had happened to me. He also said, "if you want to save your life, go to Soura [hospital] yourself." I was at the police control room for two hours. At 8:00PM the Jammu and Kashmir police took me home. At 1:30AM I started vomiting pink fluid. The morning of February 3 I was taken to SMHS hospital, where I stayed for two days. My condition worsened. On the morning of February 4, I was taken to the Soura Institute where I remained for eighteen days. I was given five sessions of dialysis so my kidneys recovered. Since then that terrible experience is always on my mind. When I see a BSF officer, there are no words to express what I feel, because that whole episode -- what happened to me -- comes to my eyes. I am still very weak. I tire easily. I feel eighty years old.

Torture of E.

E. a government employee from Srinagar, was arrested by the BSF during a crackdown on November 2, 1995.

At 10:00AM I went outside with my sister and asked a BSF officer to allow me and my sister to leave so that she could take an exam. She was allowed to go, but I was not. When I returned home, I discovered that the BSF had already searched the house and left. At 11:30 AM several dozen BSF soldiers surrounded the house. Six soldiers entered the house and asked for me by name and said they

had to conduct a search of the house again because they had specific information that I had connections with some militants. After they searched the house, they ordered me to come with them. They accused me of knowing the hideout locations of militants. I said I did not. Then they said that militants had been coming to my house. I replied that they did come to my house and to other houses—they enter any home at will and there is nothing we can do to stop them. But since January 1995, no militant had entered my house.

The BSF took E. and one of his neighbors to a nearby BSF camp. Outside one of the buildings, he saw five civilians sitting on the lawn with their pherans pulled around their heads. Some of them were moaning as if in pain. E. was taken to a room where six BSF soldiers were waiting. In the room was a chair, some clothes, and a telephone that is used to send electro-magnetic signals.

I was told to remain standing. They asked me my name and when I told them, several of them cursed me. One asked me, "Tell me where the militants are." I said I don't know. Another said, "They come to your house." I said yes but not since January 1995. Then one of the officers said, "You will not divulge information, so take off your clothes." I hesitated. Then one of the officers struck me on the head several times while another kicked me in the back and said, "Take off your clothes." I took off my clothes. They told me to sit, and I sat on the chair. Then one of them kicked me in the back and said, "You are not an officer here. This chair is for an officer." Then I sat on the floor with only my undershirt on and they told me to sit in front of the chair and put my hands behind me on the chair. Then one of them sat on my shoulders so that I could not move my head or arms. Another one grabbed my legs and forced them apart at nearly 180 degrees—as far as they would go. I began crying.

The soldiers continued to ask E. for the names of militants, and he replied that he did not know any. While the two soldiers were still holding his legs apart, and the third was still sitting on his shoulders, two others stood on his thighs, causing him great pain in the groin. After two minutes of this, one of the soldiers, an officer, asked, "Why do you want to die? Why don't you tell us the names?" E. again denied that he knew any. Two other BSF soldiers came into the room, and they were told to "get the telephone." E. described what happened next:

One soldier then picked up the box and brought it over, and the other pulled two wires out of the box. While the first soldier rotated the crank on the box, the second touched my genitals and thighs with the wires. I cried out. This continued for two or three minutes. Then the officer asked me, "Will you now reveal the names?" I said I don't know anyone. He asked what connections I had with militancy, and I said none except I am a social worker and a Kashmiri. Militants come into our homes as you do; how can we stop them? Then the officer signaled with his hand to the two soldiers holding the telephone apparatus. They again applied the wires to my thighs and genitals for three or four minutes. I was crying at each shock. After that the officer told them to stop. Throughout this the other five officers continued to sit on me and hold my legs apart. The one sitting on my shoulders was pulling my hair. The officer asked if I was married. I said no, and he said, "We will render you impotent if you do not cooperate."

The soldiers gave E. electric shocks two more times. The fourth time one of the soldiers placed a green chili on one of the wires, which increased the pain. E. fell unconscious, and when he came to, a soldier told him to stand up and helped him walk around the room. When he came outside he saw the soldiers who had interrogated him questioning the neighbor who had been arrested with him. E. was told to sit with the others on the lawn, and the neighbor joined them a short time later. At about 3:00 PM, they were taken to BSF headquarters in Srinagar, one kilometer away. On the morning on November 3, they were taken to the Papa II interrogation center, where they were separated. E. was made to wait on the lawn where more than ten other persons were being held. He was not tortured there, but most of the other detainees were called up one by one, questioned and then beaten with canes and leather belts. E. told Human Rights Watch/Asia:

Two detainees were stripped and forced to climb a wooden pole about twelve feet high. Then a BSF soldier would apply shocks to the man with wires. When the man would slip down, crying, they would beat him with lathis [canes]. I also saw at least two persons in Papa II on November 4 who were not able to walk. I talked to one of them. He identified himself as Badshah Khan, district commander of the JKLF in Kupwara, a border district in northwest Kashmir. He told me his back had been burned after kerosene oil had been poured on it. He identified another person there as Alam Khan.

In the evening E. was taken back to the BSF camp. On November 6 he was again taken to Papa II where the soldiers told him he should work for the BSF as an informer. E. refused. That evening, when he was brought back to the base camp, the Jammu and Kashmir police were called, and he was handed over to them. The police took E. and his neighbor home. Since his torture, E. has suffered numbness in his penis and impotence.

Torture of Feroz Ahmed Ganai

Feroz Ahmed Ganai, a twenty-eight-year-old contractor, was arrested by the BSF on November 29, 1995. On December 12, he was brought to the Bone and Joint Hospital with a gangrenous broken leg and acute renal failure. According to doctors in the emergency ward, Ganai had been brought in by the commander of the BSF 1st Battalion who claimed that Ganai was a militant and that he had broken his leg trying to escape.⁶⁹ However, Ganai told the doctors that the BSF had broken his leg on the first day of interrogation. Ganai pleaded with the doctors, "Keep me here—otherwise they will kill me."

A doctor who examined Ganai stated that his leg had been broken about fourteen days earlier.

It had become gangrenous, with secondary blistering. The leg below the knee was entirely black at the time he was admitted and had to be amputated. The patient had received no medical care for the injury prior to his admission. Both kidneys had failed because of the gangrene and because of the beatings. The patient was in a state of shock; his blood was infected. He had contusions all over his body and face.

It took the BSF three to four hours to arrange for blood transfusions. But the doctors did not use that blood because upon screening it was found to contain sexually-transmitted diseases. Instead they used the hospital's blood bank and amputated Ganai's left leg from above the knee. On December 13, he was sent to Soura for kidney treatment.

While Ganai was under treatment at the Bone and Joint Hospital and the Soura Institute, he remained in BSF custody. Since his arrest, no family member or lawyer had been permitted to see him. In response to a petition filed by the family, on December 19, the High Court ordered that the family be permitted visits and that one person nominated by the mother be allowed to sit with him at the hospital. However, the BSF ignored the order.

When Human Rights Watch/Asia visited the Bone and Joint Hospital in January 1996, we observed six uniformed BSF soldiers accompanying Ganai, who was walking on crutches, out of the hospital. We have been unable to obtain any further knowledge of his whereabouts or condition.

In response to a letter from Human Rights Watch/Asia, the National Human Rights Commission requested information from the BSF in Kashmir about Ganai's case. BSF Commander S. S. Kothiyal responded with a statement claiming that Ganai, who was a "chief of Jamat-ul Mujahideen [a little-known militant group], was arrested on November 29, 1995, and that when he had tried to escape in heavy snow, he broke his leg. Because Ganai "did not observe proper precautions as advised by the doctor and kept on moving his leg" the leg became gangrenous and had to be amputated. The BSF commander also claims that family visits were permitted.

⁶⁹ Having publicized Ganai's arrest as big catch, the BSF apparently did not want him to die in custody.

The BSF statement is flatly contradicted by the testimony of doctors who treated Ganai and by the High Court's December 19 ruling on family visits. According to a statement by the NHRC, as of May 1996, Ganai was in custody at a Joint Interrogation Centre in Srinagar.

Torture of S.

S., a doctor from Tral, a village about forty kilometers south of Srinagar, was arrested by the BSF and tortured. He told Human Rights Watch/Asia that on May 15, 1995, he was arrested by a local BSF commander, "Jamil Khan," who accused him of treating a militant who had been injured escaping from Charar-e Sharif.⁷⁰ He was taken first to a BSF camp in Tral, and then to Lathpora, a BSF camp in Pulwama district.

I was questioned by Intelligence Officer Sharma for about an hour at midnight and for an hour the next morning. On the morning of May 16, I was taken to the BSF camp at Bunar, still in Pulwama district. The BSF commander questioned me, then he put me into a cell in which there were several basins of water, several ropes, several cricket bats, and some electric equipment. About five BSF soldiers were in the room. They kept me there for one hour. First they made me take off my clothes. Then they forced my head five or six times into a basin of water. Then they covered my head with a plastic bag so that I could not breathe. Then they made me sit down with my knees raised and a rod inserted behind and under them while my hands were tied against my legs.

S. was then sent to the Papa II interrogation center where he was questioned further. He was released at 3:00 PM.

Torture of Mohammad I.

Mohammad I., a seventeen-year-old student, was arrested by the 163rd Battalion of the BSF in April 1995 from the old town neighborhood of Srinagar. Along with ten others, he was taken to the local interrogation center at Baramulla. He was kept there for three and a half months. He stated:

I was interrogated six days a week, all day, for the entire time. The interrogation room was a small room with no windows, only a door. There were ropes and wooden clubs and wires and a car battery. On the first day, I was separated from the others, my legs were tied and I was beaten with clubs and a wooden stick with nails in it, usually on my legs, but sometimes on my hands. They repeatedly accused him of being a militant. I told them I was not. They also tortured me with the roller. They made me lie with my legs tied while two soldiers rolled the roller over my thighs until I fainted.⁷¹

One day a soldier extinguished cigarettes into Mohammad's right hand to form the letter "F," saying, "You said you wanted freedom." When Human Rights Watch/Asia interviewed Mohammad I. in January 1996, his right hand was still grossly disfigured from the burns.

Mohammad I. stated that he was given electric shock to his testicles for sixteen days. The shocks were given consecutively, lasting two or three minutes, until he would go into convulsions and faint. After the first three and a half months he was shifted to the Baramulla JIC, where he was not tortured. He was held there until December 20 when the district sessions court in Baramulla ordered him released on bail on the grounds of his medical condition.

⁷⁰ On May 10, 1995, a two-month standoff between the army and militants who had taken refuge in a Sufi shrine in the town of Charar-e Sharief in western Kashmir ended in disaster when the shrine and much of the town burned to the ground.

⁷¹ Soldiers usually stand on the roller, thereby increasing the pressure on the leg muscles.

Mohammad I. had no medical care while detained. According to a doctor who treated him in Srinagar, he has suffered episodes of manic-depression and needs psychiatric treatment. He has also lost 50 percent mobility in his right hand, passes blood in his urine and has become impotent.

Sexual Assault/Attempted Rape by Rashtriya Rifles Soldiers in Wurwun

On the night of December 30, soldiers from the Rashtriya Rifles unit of the Indian army entered a house in Wurwun village, district Pulwama, seventeen kilometers south of Srinagar, assaulted several family members and sexually assaulted and attempted to rape three women. Rahti Akhtar, forty-five, testified that she first heard dogs barking at 11:30 PM. When she looked outside, she saw about eight soldiers enter the courtyard and encircle the house. A few approached the door and knocked. The soldiers asked her to give them some food, and she said that she would send it to the camp. She recognized some of the soldiers as ones she had seen in the area. Fahmeela Akhtar, fifteen, told Human Rights Watch/Asia that at 11:30PM, she was awakened by her mother telling her that the army had come. Her mother then tried to call out to their neighbors, but the soldiers yelled at her to keep quiet.

Then Fahmeela's sister, Mubera Akhtar, seventeen, opened the front door of the house. Three army soldiers entered and stood at the door. One said, "Keep quiet," then bolted the door from the inside. The soldiers were all in uniforms bearing the Rashtriya Rifles insignia, and they were wearing white boots. All three were drunk. Mubera said to one of the soldiers, "If you want to search, please let us go outside, and you search for what you want." The soldier told her to keep quiet and then at gunpoint forced the men into one room and the five women and three children into another and closed the doors. One soldier remained inside the room with the men. Two soldiers were inside the room with the women.

Nazir, twenty-two, and Mohammad, twenty-four, heard their mother's cries and came downstairs. When the soldiers said that they wanted to search, Nazir asked them if the family could wait outside. He told Human Rights Watch/Asia:

The soldiers refused and forced us at gunpoint into one room. One of them hit me with the butt of his gun. They were carrying Kalashnikov rifles. They smelled of alcohol. One soldier stayed outside the room; the door was not bolted. I could hear my sisters' cries from the other room.

Fahmeela told Human Rights Watch/Asia:

First the soldiers forced Mubera and Amira to the floor and lay on top of them and molested them. One soldier pulled off the top portion of my clothes. I opened the door and tried to run, but the soldier caught me and pulled me back and started to molest me. I was screaming.

Nazir and Mohammad managed to escape from their room. Nazir told Human Rights Watch/Asia:

I climbed out the window and went to the front door, where I saw three soldiers standing. I could not enter the house, but I managed to get into the corridor. Mohammad came into the corridor at the same time. Then the soldiers grabbed us and took us outside. I got hold of a *congri* and threw it at one of the soldiers and slipped away.

The soldiers had bolted the front doors of the two neighbors' houses, but when the residents went to the second floors of their houses and screamed, other residents of the village came and unbolted the doors and the soldiers ran out of the Akhtar house. The crowd pursued them. As they ran, the soldiers fired their guns in the air. The neighbors followed the soldiers to the entrance of the camp. The soldiers had been in the house for about fifteen minutes.

The next day, when the residents noticed that a soldier's cap was scorched, they yelled, "He is one of them!" The soldier claimed that he burned his cap while ironing it.

On the following day, December 31, residents of the village gathered to protest the incident, and soldiers from the army camp attempted to disperse them. The next day, the commanding army officer came with some of the soldiers to the village along with a local officer. Rahti told Human Rights Watch/Asia:

The commanding officer told us not to tell anyone what had happened. He said that in exchange, the army would not search houses in the area or conduct a crackdown in the area or arrest any young men. He said, "We are already involved in two cases of this kind. Please don't involve us in a third case."

Despite this, the residents lodged a formal complaint with the local police. Afterwards, soldiers from the camp came around warning people not to talk about the incident.

As Human Rights Watch/Asia was conducting these interviews, we observed fifteen to twenty soldiers walking rapidly down the road with three young men from the village in their custody: Nazir Ahmed Dar, twenty-six; Khurshid Ahmed Malik, twenty-six; and Javeed Ahmed Rathore, twenty-four. The three were among the leaders of the gathering in the village the day after the attempted rape. As this report went to print, Human Rights Watch/Asia was unable to determine whether the men were detained for any length of time or released.

VII. VIOLATIONS BY MILITANT ORGANIZATIONS

From the earliest years of the conflict in Kashmir, militant organizations fighting for independence or accession to Pakistan have committed grave violations of international human rights and humanitarian law. The most egregious of these abuses have been the murders of hundreds of civilians, both Muslim and Hindu, who have been targeted because of their suspected support for the Indian government, or because they otherwise opposed the policies or practices of one or another of the militant groups.

There are no accurate statistics on the numbers of these killings and other abuses, but anecdotal evidence from Kashmir indicates that most of these abuses have increased since 1994. The rise in some abuses parallels a rise in crime generally by militant groups; many abductions and assaults appear to be linked to extortion. Members of some of the groups have also committed rape, have threatened and attacked journalists, and have kidnaped tourists and others as political hostages. As the groups have lost ground to the security forces, they have also increasingly made use of land mines and other explosive devices against the security forces, with predictable civilian casualties.

Common Article 3 to the Geneva Conventions, which is applicable to both government forces and armed insurgents in an internal armed conflict such as that in Kashmir, expressly prohibits "cruel treatment and torture" and "outrages upon personal dignity, in particular humiliating and degrading treatment." Explicit threats to kill are barred by these provisions.⁷² Rape by militant groups is a violation of international humanitarian law under Common Article 3 of the Geneva Conventions, which prohibits murder, torture and ill-treatment of non-combatants by both government and militant forces. Armed militants have used rape as a weapon: to punish, intimidate, coerce, humiliate and degrade. The fear of rape has reportedly been a factor in the flight of Muslim families from Kashmir.⁷³

Militant organizations have issued threats against government officials assigned to prepare for the elections.

⁷² Article 13 of Protocol II provides, "Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited."

⁷³ *Ibid.*, p. 43.

On April 16, 1996, the Hezb-ul Mujahedin threatened government officials making arrangements for the elections, stating that "any government official ... found taking part in poll duties ... will be dealt with severely."⁷⁴ Various militant groups have employed threats to force shopkeepers, businesses and the media to desist from activities considered "un-Islamic" or detrimental to the militants' objectives. Targets of such threats have included liquor dealers and cinema hall owners, among others. Militant groups have also issued threats to journalists and have assaulted or kidnaped journalists whom they accuse of "biased" reporting. They have also issued bans on newspapers, and have enforced these bans through kidnappings of distributors and other assaults.

The criminal activities of the militant groups have alienated Kashmiris; many now openly condemn the groups' abusive behavior. Even political leaders aligned with militant groups have acknowledged that the abuses have undermined the militants' support in Kashmir. However, little, if anything, has been done to curb the abuses.

Militant Operations

⁷⁴ "India: Kashmir Guerrillas Threaten Indian Poll Officials," Reuters, April 16, 1996.

At least six major militant organizations, and perhaps dozens of smaller ones, operate in Kashmir.⁷⁵ They are roughly divided between those who support independence and those who support accession to Pakistan, and include both Kashmiri-groups and those made up largely of Afghan or Pakistani recruits.⁷⁶ The oldest and most widely known militant organization, the Jammu and Kashmir Liberation Front (JKLF), has spearheaded the movement for an independent Kashmir. Its student wing is the Jammu and Kashmir Students Liberation front (JKSLF). In September 1995 the JKLF split into two factions, one of which remained loyal to long-time leader Amanullah Khan, who lives in Pakistan, and the other of which recognized JKLF leader Yasin Malik.⁷⁷

A large number of other militant organizations have emerged since 1989, some of which also support independence, others of which support Kashmir's accession to Pakistan. Although all groups reportedly receive arms and training from Pakistan, the pro-Pakistani groups are reputed to have been favored by Pakistan's military intelligence, the Directorate of Inter-Services Intelligence (ISI) and by the Jamaat-e Islami party in Pakistan. The most powerful of these is the Hezb-ul Mujahedin. Other major groups include:

- Al Umar - The military arm of the Quami Action Committee, this group of an estimated 600 operates mainly in Srinagar.
- Al Barq - The military arm of the People's League operates in Kupwara, Baramullah and parts of Srinagar with an estimated 1,000 members.
- Muslim Janbaz Force - A smaller group of about 300, this group supports Shabir Shah and is presently consolidating itself in Doda, Poonch, Ranjouri and parts of Srinagar.
- Harkat-ul-Ansar - A group of an estimated 1,000 of which 750 are believed to be foreign militants and operates in Anantnag and Doda. Committed to fighting for accession to Pakistan.
- Lashkar-e-Taiba - A group of 300 Afghans and Pakistanis which reportedly coordinates its activities through local groups. Operates in Kupwara, Baramullah and Badgam.⁷⁸

The militant forces do not control territory in Kashmir, but until 1995, certain parts of the valley had gained a reputation as strongholds of particular militant groups, particularly towns near the Line of Control which separates the

⁷⁵ "Who's Who of Militancy," *India Today*, September 15, 1995, p. 24.

⁷⁶ The influx of foreign fighters has reportedly increased since 1994; however, these groups represent a small proportion of the militants fighting in Kashmir. See Harinder Baweja, "Losing Control," *India Today*, p.27.

⁷⁷ "Jammu and Kashmir Liberation Front Reportedly Splits," British Broadcasting Corporation (BBC) Monitoring Service in Reuters, September 30, 1995.

⁷⁸ "Who's Who of Militancy," *India Today*, September 15, 1995, p. 24.

Indian state of Jammu and Kashmir from the territory controlled by Pakistan. Since mid-1995, these groups have lost ground to regular Indian forces and to state-sponsored militias.

The militants' military operations are generally characterized by ambushes of security force patrols and convoys and hit-and-run attacks on security force bunkers and pickets, for which they generally use grenades, rocket-propelled grenade launchers and anti-personnel and anti-tank mines. Some militant groups have organized commando units responsible for attacking specific targets, such as security force bunkers. The militants also engage army troops and other security forces in gun battles. For these operations they rely on weapons such as AK-47 and AK-56 assault rifles, light machine guns, revolvers and other light weapons. Since 1994, the militants have increasingly made use of land mines and timed explosive devices. The militants are also reported to have sophisticated night vision and wireless communication equipment. State authorities claim that nearly 13,544 AK series assault rifles, 715 rocket launchers and 16,513 grenades have been recovered since 1990.

The Arms Pipeline

Much of this weaponry reaches Kashmir from Pakistan. Militant leaders have claimed that they have received support from Pakistan's ISI.⁷⁹ Although many long-time observers of the region believe that Pakistan has directly provided weapons to militants in Kashmir,⁸⁰ there are many complexities about the arms supply relationship. Most of these weapons have come from 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.⁸¹ However, the extent to which

⁷⁹ Under Pakistan's late president Zia ul-Haq, the ISI gained increased powers over domestic and foreign intelligence operations. The ISI has also been the conduit for outside covert assistance to the Afghan resistance and has reportedly provided some of that weaponry to a number of militant groups in Kashmir. See Selig S. Harrison, "Showdown in Kashmir," *Peace and Security*, Vol. 5, Number 3, Autumn 1990, pp. 8-9. See also, Steve Coll, "India, Pakistan Wage Covert 'Proxy Wars'," *The Washington Post*, December 8, 1990.

⁸⁰ 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," *The 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."

⁸¹ *The 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

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.

assistance through them to insurgencies in Kashmir, Punjab, and Assam. Anderson and Moore, "After Cold War...", *The Washington Post*.

On May 16, 1994, *The Washington Post* reported 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. The article also noted that during this period, Pakistan funneled support through "private organizations," frequently operated by former army and ISI officials.⁸² 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.⁸³ 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.⁸⁴

Killings and Other Abuses by Militant Groups

In the years before tensions in Kashmir erupted into near-civil war, the JKLF and other militant groups deliberately targeted civilians for assassination. The principal targets included members of the Hindu community in Kashmir,⁸⁵ civil servants and political figures, particularly Muslim political leaders associated with the National Conference party and other political groups opposed by the militants. Militant groups have also abducted and executed civilians, both Hindu and Muslim, whom they have accused of being government informers or of otherwise supporting the government of India.⁸⁶ As a matter of policy, militant groups summarily executed captured security personnel. These executions violate international humanitarian law.

Some groups, particularly but not exclusively those led by non-Kashmiri militants from Afghanistan or Pakistan, have also exploded bombs in buses and cars with the intention of killing civilians. Members of militant groups have used rocket-propelled launchers to fire grenades into government buildings of the civil administration, injuring and killing employees. Armed militant groups have also launched targeted bomb attacks against civilians in Jammu district and in Delhi.

⁸² John Ward Anderson, "Pakistan Aiding Rebels...," *The Washington Post*.

⁸³ See Human Rights Watch/ Arms Project, *Arms and Abuses in Indian Punjab and Kashmir* (New York: Human Rights Watch: September 1994). Anderson, "Pakistan Aiding Rebels...," *The Washington Post*.

⁸⁴ See *Arms and Abuses*. 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.

⁸⁵ When the conflict escalated in 1989, militant groups issued widespread threats to members of the minority Hindu community in Kashmir. Attacks on Hindus since 1988, and particularly in early 1990, have driven more than 100,000 Hindus to flee Kashmir to Jammu and Delhi, where most remain in increasingly desperate conditions in refugee camps. Tens of thousands of Muslims have also fled.

⁸⁶ Militants have also killed and wounded members of the security forces -- the CRPF, BSF and others -- operating in Kashmir. These are not violations of the laws of war if the killings occur in combat or ambush and are not the result of perfidy. Insofar as members of the security forces have combat duties and are actively engaged in hostilities, they are military targets, subject to direct attack. Although policemen, customs agents and other government personnel authorized to bear arms are excluded from the definition of "armed forces" and are not proper military targets, policemen with combat duties are military targets. See Report of Working Group B, Committee I, 18 March 1975 (CDDH/I/238/Rev.1; X, 93), in Levie, Howard S., ed., *The Law of Non-International Armed Conflict*, (Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1987), p. 67. BSF, CRPF and other national security forces operating in Kashmir routinely engage in combat with militants. In many situations, they are, in effect, acting in lieu of army soldiers to perform purely military functions. Under international humanitarian law applicable in internal armed conflicts, the government may try members of guerrilla forces for sedition, treason and murder in violation of state laws, but must afford them due process.

A number of militant organizations have claimed responsibility for some of the assassinations, kidnappings and other attacks carried out by their forces in Kashmir. There are many other cases in which no group has taken responsibility, and it is impossible to say which of the many groups operating in the state have committed these abuses. In each of the cases described in this chapter, militants killed, assaulted or threatened civilians with death; these actions directly violate international humanitarian law, which protects civilians and other non-combatants from abuse.

There are no precise figures for the number of killings of this kind that have taken place since the conflict began. Government sources report that more than 4,000 civilians have been killed by militant groups since 1990, and another 6,000 injured. The cases described below are illustrative of the kind of murders of civilians that militant groups have committed and continue to commit.

Killings and Attempted Assassinations

- On April 15, 1996, Taj Mohideen, a candidate from the Congress party, escaped assassination when militants threw a grenade at him during a rally in Dayalgam, Anantnag district.⁸⁷
- On February 14, 1996, the Muslim Janbaz Force (MJF) issued "shoot-on-sight" orders to kill five former militant leaders who had attempted to initiate negotiations with the government of India. In its statement, the MJF called on all militants to shoot Babar Bader, Bilal Lodhi, Imran Rahi, Ghulam Mohideen Lone and Ahsan Dar on the grounds that their move to start peace talks was "a conspiracy hatched by India's Research and Analysis Wing. (RAW) [India's intelligence organization] against the freedom movement of Kashmiris."⁸⁸
- Parvez Imroz, a Kashmiri human rights activist, was shot on April 12, 1995, when he was driving home after visiting a friend some eight kilometers from Srinagar. At 7:45 PM, as Imroz reached the outskirts of Kanipura, two men armed with automatic weapons signaled for him to stop. Imroz sped up, and as he passed he was hit in the upper left back. He lost control of the car and stopped in front of a mosque. Someone came out of the mosque and drove Imroz to the SMHS hospital. Fragments of AK-56 bullets were found in Imroz's upper back, and his left lung was damaged. After six days, Imroz was transferred to a hospital in Delhi, where he remained for fifteen days. When he returned to the valley, several militants of Hezb-ul Mujahedin apologized for shooting him, claiming that it was a case of mistaken identity.

Killings and other Attacks on the Hindu Minority

The militants have also used threats to compel Hindu families and suspected political opponents to leave the Kashmir valley. Beginning in 1988, many Hindus were made the targets of threats and acts of violence by militant organizations, and this wave of killing and harassment motivated many to leave the valley.⁸⁹ With government assistance, a large part of the Hindu community in Kashmir, numbering more than 100,000, left the valley in 1989-90.⁹⁰ The threats have continued. According to a report in 1992, when one militant group, the Ikhwan-ul-Muslimin, appealed for the Kashmiri Hindus to come back to the valley, two others, Al-Umar and Al-Jehad, immediately issued press

⁸⁷ "India: Congress Candidate Escapes Kashmir Grenade Attack," Reuters, April 15, 1996.

⁸⁸ Sheikh Mushtaq, "India: Kashmir Rebel Group Orders Killing of Breakaways," Reuters, February 14, 1996.

⁸⁹ The government role in encouraging the exodus, particularly the part played by former Governor Jagmohan, is a matter of considerable controversy in Kashmir and among the Hindu refugees 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.

⁹⁰ The precise number of Kashmiri Hindus who fled the valley during this time is not known. Estimates vary widely. According to one press report, as of November 1990, some 50,000 Hindu families had fled. See James P. Sterba, "Valley of Death," *Wall Street Journal*, November 9, 1990. *India Today* previously had reported almost 90,000 Hindus having left the valley for Jammu or Delhi. *India Today*, April 30, 1990, p. 10. Many began leaving in 1988, and the migrations continued through 1990.

releases warning them not to return.⁹¹ Such threats and violence constitute violations of the laws of war, and Human Rights Watch/Asia was able to document many specific cases that occurred early in the conflict.

- On January 4, 1996, fifteen Hindu villagers from the Barshala village in Doda were killed after unidentified gunmen reportedly ordered them to line up before separating Hindus from Muslims. Official sources claimed that Harakat-ul Ansar was responsible.

Summary Executions and Other Abuses Against Accused Informers

⁹¹ Harinder Baweja, "Living on the Edge," *India Today*, July 15, 1992, p. 48.

The killings of suspected police informers or others accused of undermining the militant's political or military objectives have been ordered by senior commanders of the militant organizations. While some individual militants may murder political rivals or carry out vendetta killings on their own, the assassinations of political figures and suspected government agents are carried out as a matter of policy.⁹²

A number of militant organizations have claimed responsibility for executions of suspected informers, political figures and civil servants. There are many other cases in which no group has taken responsibility, and it is impossible to say which, if any, of the many groups operating in the state may have committed the crime. Such executions have been reported frequently since 1990.

Militant leaders have admitted that they execute members of the security forces who have been captured by their forces. Such executions represent grave violations of international humanitarian law.

Indiscriminate Attacks

Common Article 3 prohibits not only murder but other forms of "violence to life and person," including violence that results in injury and not death. Militant bombings and grenade attacks on civilian government buildings and civilian transport vehicles are violations of the laws of war. Militants have also planted land mines on public roads, posing a serious risk to civilian traffic, including medical vehicles.

- The increase in bomb blasts in late 1995 appeared to mark a new phase in the militants' strategy. At least six bombs exploded during the first week of September in the center of Srinagar, an area where attacks had been rare, with the largest bomb killing at least thirteen people and injuring more than two dozen.⁹³
- A bomb exploded on December 3, 1995 at a crowded bus stop in Anantnag. At least eight people were killed and twenty injured. All of the victims were civilians. No group claimed responsibility for the December blast.⁹⁴

⁹² Militant leaders have stated that they conduct judicial proceedings against anyone captured by their forces who is accused of informing on the militants to the security forces or otherwise harming the political and military objectives of the militants. During interrogation of suspected informers, the militants have resorted to brutal methods to coerce confessions or other information. Although the militants claim to hold trials of those in custody, these procedures are so rudimentary and biased that they constitute a clear violation of internationally-recognized standards of due process, and executions carried out on the basis of such procedures represent gross abuses of international humanitarian law.

⁹³ "Blast Sends Fearful Shudder though Kashmir," Reuters, September 8, 1995.

⁹⁴ "At Least Three Killed in Kashmir Blast," Reuters, December 3, 1995.

- A bomb exploded in the Sadar Bazar business district of Srinagar in early January 1996 killing seven people and injuring up to thirty-five others. A little known Kashmiri separatist group, the Jammu and Kashmir Islamic Front, claimed responsibility for the bomb. A spokesman for the group said it was in protest against “atrocities” committed by Indian security forces in Jammu and Kashmir and that the JKIF would “retaliate outside Kashmir.” The same group claimed responsibility for a bomb that injured at least twenty-two others in Delhi in November 1995.⁹⁵ Indian police arrested two suspected Kashmiri rebels believed to belong to the Jammu and Kashmir Islamic Front in connection with the bombing.⁹⁶
- At a parade site in Srinagar on Republic Day, January 26, 1996, a rocket with a timing device was detected before detonation.⁹⁷

⁹⁵ “Seventh Victim Dies after Delhi Bomb Explosion,” Reuters, January 4, 1996.

⁹⁶ “India Arrests Two Kashmiris for Delhi Blast,” Reuters, January 4, 1996.

⁹⁷ “Bomb Blasts Mar Indian Day of Celebration,” Reuters, January 26, 1996.

- On November 10, 1995, two civilians and a soldier were killed when an army vehicle struck a landmine near the village of Jahalas about 145 miles west of Jammu. No group claimed responsibility for planting the mine.⁹⁸

Militants have also opened fire indiscriminately at civilian vehicles.

Kidnaping

Kidnapings, long a favored tactic of some of the militant groups, has continued unabated. As this report went to press, three European and one American kidnaped by the little known Al-Faran group in July 1995 were still missing. The group executed a Norwegian hostage in August 1995. Less publicized have been the kidnapings of hundreds of Kashmiris by militant groups over the years. Many of these kidnapings have also ended in murder. The motives for kidnaping are both political and criminal: civilians have been held as hostages for detained colleagues, or as a means to extort funds from their families; many of these hostages have been murdered.

Common Article 3 prohibits the "taking of hostages." The International Committee of the Red Cross commentary on Protocols I and II of the Geneva Conventions explains that hostages are persons

detained for the purpose of obtaining certain advantages. This means that hostages are persons who find themselves, willingly or unwillingly, in the power of the enemy and who answer with their freedom or their life for compliance with the orders of the latter and for upholding the security of its armed forces.⁹⁹

Since the conflict began, militants have engaged in frequent kidnapings of civilians, some of whom have been held as hostages for detained colleagues, or as a means of exerting pressure on family members of the victim who support a rival militant organization. Particularly in 1991, militant groups also kidnaped foreigners, apparently as a means to attract international attention. Militants have also kidnaped civilians in order to extort funds from their families. Human Rights Watch/Asia has documented numerous cases of kidnapings that occurred between 1989 and 1993.¹⁰⁰ According to government sources, over 2,000 persons have been kidnaped by militant groups since 1990, 548 in 1995 alone.

The Al Faran Kidnaping

⁹⁸ "India: Road Accidents, Land Mine Kill 22 in India," Reuters, November 10, 1995.

⁹⁹ International Committee of the Red Cross, *Commentary on the Additional Protocols* (1987) p. 874. Although the Additional Protocols do not bind the parties to the Kashmir conflict, as elaborations upon the principles outlined in common Article 3, they provide rules of authoritative guidance which may be used in evaluating the parties' conduct.

¹⁰⁰ See *Kashmir Under Siege*.

The most prominent case in 1995 was the kidnaping of five tourists by a previously-unknown militant group, Al-Faran. On July 4, 1995, two American tourists, Donald Hutchings and John Childs, and two British tourists, Paul Wells and Keith Mangan, were kidnaped near Pahalgam. Childs later managed to escape. Only July 8, Al-Faran kidnaped a German tourist, Dirk Hasert. The next day, one last hostage, a Norwegian, Hans Christian Ostro, was taken in the Zojibal area. For about two months, a tense dialogue was kept alive between Indian negotiators and Al-Faran, with the militant group demanding the release of twenty-one jailed militants including four senior leaders of different groups and refusing to compromise on their demands.¹⁰¹ Less than six weeks after the last hostage was taken, Ostro's body was found decapitated with the words "Al-Faran" carved on his back. The murder was widely condemned by other militant organizations in Kashmir and the All Parties Huriyat Conference. Undeterred, the group has repeatedly threatened to kill the remaining hostages. After the murder, commando forces were dispatched and negotiators from the U.S. and Britain were flown in to assist the Indian Security forces in locating the hostages.¹⁰² By October, New Delhi's credibility in handling the situation had been seriously damaged. Foreign diplomats claimed that the Indian government had begun censoring information that was exchanged between them and Al-Faran.¹⁰³ As this report went to press, there was no further information about the fate of the remaining hostages.

VIII. UNATTRIBUTED VIOLENCE

Many incidents of violence in Kashmir go unattributed and unpunished. The impunity enjoyed by the security forces for a wide range of abuses, and the murderous internecine battles among the various militant groups has created a climate of violence in which murder has become routine. By creating its own militias to fight the militant groups, India has fostered conditions bordering on anarchy in Kashmir. In many cases, it is impossible to know whether militants or state-sponsored paramilitary groups are behind particular acts of violence.

The Explosion of a Parcel Bomb at the BBC Office in Srinagar

The explosion of a parcel bomb in the offices of the British Broadcasting Corporation (BBC) in Srinagar on September 7, 1995, is one such incident. It marked a new phase in violence directed at the press. The parcel was addressed to BBC correspondent Yusuf Jameel, who had been a target of both the security forces and various militant groups over the years. Jameel was arrested by the army in June 1990 and held for several days while army officials denied he was in custody. On several occasions between 1990 and 1995, militant groups, angry that the BBC had not broadcast their statements or versions of events, threw grenades at his house.¹⁰⁴ Mushtaq Ali, a photographer with Agence France Press, who was with Jameel in the office that day, died in the explosion. Jameel and Habibullah Naqash, photographer with *Asia Age* and UNI, were injured. No competent investigation into the incident has been undertaken, which raises questions about the possibility of government complicity.

Habibullah Naqash told Human Rights Watch/Asia that he was in the BBC office alone at 3:00 PM on September 7, when a woman wearing a *burqa* walked into the office, handed him a package and asked for Yusuf Jameel. When she was told that Jameel was out, she repeatedly told Naqash to give the package to him, but not to open it. When Jameel returned, accompanied by Mushtaq Ali, an office assistant brought him the package. Jameel began to open it, but stopped to make a phone call. Mushtaq Ali then picked up the package and inserted his fingers to rip the

¹⁰¹ "Sticking to their Guns," *India Today*, August 15, 1995, p. 37.

¹⁰² "The Hostage Crisis," *India Today*, September 15, 1995, p. 19.

¹⁰³ "Credibility on the Line," *India Today*, October 31, 1995, p. 48.

¹⁰⁴ For more on these incidents, see *Human Rights Crisis in Kashmir*, and Asia Watch, *Kashmir Under Siege* (New York: Human Rights Watch, 1991).

paper. The blast threw Naqash outside the office. Mushtaq Ali, who suffered massive injuries to the head and chest, died in the hospital. Naqash and Jameel suffered lacerations and some hearing loss.

In its response to a request by Human Rights Watch, the Home Ministry reported that a police investigation into the incident was still underway.

IX. CONCLUSION

Since 1993, the Indian government has embarked on a campaign to improve an international image tarnished by the appalling human rights record of its police and security forces. Some of the steps the government has taken have been significant, particularly its decision to allow the International Committee of the Red Cross to provide its humanitarian services in Kashmir. However, many other measures that should have been taken were not: The vast majority of security personnel responsible for abuses are never punished or are subjected only to mild disciplinary measures; nothing has been done to curb the most egregious of abuses—summary executions and torture—or punish those responsible; and instead of ensuring that its troops abide by the rule of law, India has sponsored irregular militias that operate completely outside the law to carry out its counterinsurgency operations. Compounding the tragedy in Kashmir, many of India's trading partners, eager to embrace one of Asia's greatest "emerging markets" or concerned more with South Asian security relations than with human rights, have muffled earlier criticisms that had earlier served to force India to acknowledge the need for reform.

There is no question that the security threat posed by the militants in Kashmir is genuine. Indeed, as the election neared, a number of militants groups demonstrated that they were prepared to go to any lengths to enforce their will through violent attacks on candidates, campaign workers and other civilians. Their indiscriminate use of landmines and other explosive devices reveals a deep callousness toward civilian life. These actions have contributed to the erosion of civil life and security in Kashmir, and no militant group has shown any interest in ending abuses by its forces, even though their behavior has lost them much support among civilians in Kashmir.

However, the Indian government's counterinsurgency campaign has only exacerbated the situation. As was the case in Punjab, there is little to distinguish between the abusive tactics of the security forces and their agents and the militants they have come to Kashmir to fight. If this strategy continues, and there is no effort to disarm the militias who are responsible for much of the violence now claiming Kashmir, the May 1996 elections will be worse than meaningless. They will herald the beginning of a period of lawlessness in Kashmir that India may not be able to control.

As a new government takes power in New Delhi, the international community should seize the moment to test the government's promise of transparency by pressing India to disarm all irregular militias, fully investigate all reports of abuse and punish those responsible, and provide for full access to Kashmir for the specialized U.N. human rights bodies—the Special Rapporteurs on Torture and Summary and Arbitrary Execution and the Working Groups on Disappearances and Arbitrary Detention—and for international human rights organizations. Arms sales and other forms of military cooperation to both India and Pakistan should be suspended until both countries end their support for abusive forces—including state forces, militias, and militant groups—operating in Kashmir.

APPENDIX: The Code of Medical Neutrality

(These standards are a reformulation and compilation of standards that are binding as either customary norms or as treaty law under the Geneva Conventions. They are based on rules and principles concerning medical neutrality set forth in the four Geneva Conventions of 1949 and their two additional protocols of 1977, and apply to all situations of international and internal armed conflict.¹⁰⁵)

¹⁰⁵ The code was formulated by the International Commission on Medical Neutrality, 1747 Connecticut Avenue NW,

1. Sick and wounded combatants and civilians shall be protected, treated humanely, and provided with medical care without delay.
2. Medical workers shall be respected, protected, and assisted in the performance of their medical duties.
3. The sick and wounded shall be treated regardless of their affiliations and with no distinction on any grounds other than medical ones.
4. Medical workers shall not be punished for providing ethical medical care, regardless of the persons benefiting from it, or for refusing to perform unethical medical treatment.
5. Attacks on defenseless sick or wounded combatants or civilians are prohibited. Upon detention, they shall receive thorough and responsible medical exams and medical care.
6. Medical workers shall have access to those in need of medical care, especially in areas where civilian medical services have been disrupted. Similarly, people in need of medical care shall have access to such services.
7. Medical facilities, equipment, supplies and transports shall be respected and protected, regardless of whom they serve, and shall not be destroyed.
8. A recognized medical emblem, such as the red cross or the red crescent, shall be displayed by all medical units, personnel, and transports provided it is used for medical purposes only.
9. Parties to an armed conflict shall cooperate to make and support practical agreements for the care of the sick and wounded.
10. No party to a conflict can legitimately claim to serve the interests of its nation's citizens if it violates this code, which is based on moral, ethical and legal principles.

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