

# INDIA'S IMPUNITY IN KASHMIR: SURVEILLANCE, COUNTER INSURGENCY & POLITICS OF FEAR



**A COLLABORATIVE WORK OF RESEARCHERS FROM INDIAN  
OCCUPIED JAMMU & KASHMIR AND PALESTINE.**

**India's Impunity in Kashmir: Surveillance,  
Counter Insurgency & Politics of Fear**

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**Cover Image:** Ikhwan camp/SOG - Special Operations Group) in Kadipora, Islamabad town, in Occupied Kashmir. This camp was one of the many camps of Government militia popularly known as Ikhwan.

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## Executive Summary

*“Grab them by their b\*\*\*\*, their hearts and minds will follow.”*

With the eruption of insurgency, as a form of resistance in the 1990s against Indian rule, the government of India has employed different forms and strategies of counter-insurgency operations in Kashmir. Besides the usage of the strategy of containment, the use of draconian laws, disproportionate use of force, extra-judicial and custodial killings, rapes, and torture have been the key features of these operations, this *modus operandi* has been aided by modern means of the cyber warfare which includes communication blockade aided by internet shutdowns (as psychological warfare). However, these measures employed to curtail the insurgency and political dissent with large social costs have failed to resolve the fundamental political issues. These employed oppressive counter-insurgency measures by the Indian state are in clear violation of basic Human rights as well as international law. Kashmir was governed under the requirements of India’s ‘national security’; with its administration centered on counter-insurgency measures and the basic rights of Kashmiris kept in perpetual abeyance. The more conventional methods of counter-terrorism have been aided by modern measures including cyber warfare and “managing” perceptions and narratives. Besides the communication blockade for curtailing the information flow or political narrative of Kashmiris, instilling fear and silencing the population to hinder the uprising against the occupation, controlling social media space and long curfews have been some of the new additions to the previously existing strategies of counter-insurgency measures.

One of the longest internet shutdowns was imposed on 05 August 2019 after Article 370 and 35A of the Constitution of India was

abrogated and the state of Jammu and Kashmir was dismantled into two Union Territories; UT of Jammu and Kashmir and UT of Ladakh. The Jammu and Kashmir union territory regained a 4G connection on 6<sup>th</sup> February 2021 after 552 days of no to low internet. The erstwhile state of J&K went for almost 172 days of absolute digital blackout and 378 days of speed throttling. The lack of access to phone lines and the internet due to this forced blackout has had a severe impact on the diverse rights of people including suffocating the daily lives of Kashmiris, affecting education, relationships, jobs, medical accessibility, press freedom, and freedom of expression. It was called a “digital apartheid” by the rights group. After the communication blockade followed the intensified electronic surveillance methods. The architecture of surveillance methods has been upgraded in the recent past with the advancement of new technologies in Kashmir valley. More technologically equipped police control rooms, CCTV networks, and mobile squads have been deployed by the state as a strategy and an instrument in its counter-insurgency mechanism. The presence of electronic surveillance units in different areas has further added to the already existing visible web of military existence in controlling the Kashmiri landscape. According to media reports, 4,257 CCTV cameras will be installed at 251 police stations and 88 police posts across Jammu and Kashmir. Drones, snipers, deployment of policemen in plain clothes, roadside mobile bunkers and vehicles checking vehicles, and roadside frisking has been normalized in Kashmir valley.

Similarly, escalation of frisking and Cordon and Search Operations (CASOs), after the revocation of Article 370 along with the incorporation of new checkpoints have been deployed where people were lined up, frisked, and subjected to identification checks by heavily armed cops and paramilitary men.

Ahead of 05 August 2019, 380 companies of central forces were deployed in Kashmir valley; in July 2020, then another 100 companies were rushed in and in November 2021, another 50 companies were deployed. Searches were conducted by women constables of the Central Reserve Police Force as they checked bags of women passing through Srinagar's Lal Chowk area. During these CASOs and raids (including the horrific night raids), vandalism, destruction of civilian properties, harassment as well as loot and theft of cash, gold, and jewelry, and torture by Indian armed forces have been widely reported. Cases of sexual violence and physical assaults against women and men have also been extensively reported during the process of these search operations. However, the *modus operandi* of these operations has changed post-August 5, and they are now being predominantly used as a tactic of 'spreading fear' among the population instead of what was claimed by Indian forces of it as to "flush out militancy". The practice of using civilians as the human shield has also been widely reported.

State Agencies including the National Investigation Agency (NIA) and State Investigation Agency (SIA) have been brutally used to curb the political dissent in Kashmir. NIA and later on SIA have raided almost every sector in Kashmir from individuals, NGOs, Human rights defenders, religious institutions, and academics to journalists. More than 100 raids per year have been reported since 2019. However, according to government data, only six persons have been convicted from 2016 to July 2021. This conviction rate is in total contrast to whatever the allegations are being leveled at the time of raids and harassment.

Operating in one of the world's most intricate and restrictive environments, journalists have been at the forefront of the assault

and unreasonable policies in Kashmir. Journalists in Kashmir, since 2019, have been routinely summoned to police stations for questioning on their work and their social media posts, threatened with jail if their work criticizes the authorities, and pressured to self-censor. According to media reports, at least 35 journalists in Kashmir have faced police interrogation, raids, threats, physical assault, or fabricated criminal cases for their reporting. Between 5 August 2019 and 5 August 2022, at least six individuals including journalists, human rights activists, and academics were stopped from traveling abroad without any reason according to Amnesty International. In June 2020, the government announced a new media policy that made it easier for the authorities to censor the news and criminalize journalism in the region. In 2022, the authorities rearrested Fahad Shah, Aasif Sultan, and Sajad Gul etc., under the Public Safety Act after they had been granted bail previously in other cases filed against them in retaliation for their journalism work. The policy would cripple journalism in the Valley, and it empowers the government to be the editor, printer, and publisher of newspapers in the Union Territory of J&K. The Kashmir Press Club (KPC), formed in 2018, is the largest independent media body in the Himalayan region, with at least 300 journalists as its members were shut down by authorities in Kashmir. Therefore, fostering suppressive tactics and criminalizes journalism by shutting down the only space available for journalists in Kashmir.

Arbitrary detentions have been profusely used by authorities in Kashmir to curb dissent and suffocate the resistance movement in Kashmir. Since 5 August 2019, Indian authorities have intensified the use of the draconian Jammu & Kashmir Public Safety Act-1978 (PSA) to place Kashmiris under preventive detention. The authorities have arbitrarily detained thousands of Kashmiris under

the PSA since the Indian government revoked Jammu and Kashmir's special autonomous status in 2019. In November 2021, the authorities arrested a prominent Kashmiri human rights activist, Khurram Parvez, on politically motivated charges under the abusive counter-terrorism law, the Unlawful Activities Prevention Act (UAPA). Parvez, 44, is the Program Coordinator of the Jammu and Kashmir Coalition of Civil Society. The PSA allows the authorities to arbitrarily detain people for up to two years without charge or trial. The Unlawful Activities (Prevention) Act (UAPA) 1967 is India's foremost anti-terror law. UAPA not only dilutes the provisions of bail but it also authorizes police to conduct warrantless searches, arrest individuals, and keep them in custody for up to 6 months without formally filing any charges. It has been used extensively since 05 August 2019, for instance, in the case of journalists since 2016, 49 journalists in J&K have been arrested of which eight have been arrested under the Unlawful Activities (Prevention) Act (UAPA). The destruction of civilian properties by Indian armed forces personnel has been one of the key counter-insurgency strategies since the inception of the armed resistance against Indian rule in the 1990s. The destruction of civilian properties during encounters saw an escalation during the COVID-19 lockdown enforced by the government, rendering many families homeless and without shelter. The destruction of window panes and household materials including entering into people's private spaces is generally done to impose collective punishment and to dissuade the people from protesting. For example; in May 2020, 22 homes were burnt down in Srinagar during a 12-hour gunfight between Indian police and paramilitary forces and rebels, leaving dozens of families homeless during the coronavirus outbreak. In recent years Indian armed forces in Kashmir have burnt down civilian property (by JCB, cans of oil,

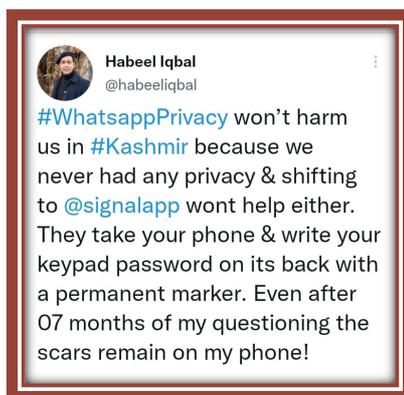
other types of chemicals, etc.) during and after gunfights between government forces and rebels. Since April 2020, the government stopped handing over the bodies of armed militants to their families and has, instead, been burying them in remote locations, citing COVID-19 concerns. In 2020, around 158 militants were buried in isolated locations in Baramulla, Ganderbal, and Handwara areas, mostly in Northern Kashmir. Mothers in Kashmir are unable to bear the pain of not seeing their sons for the last time. Shakeela suffered a heart attack 12 days after her son Adil Ahmad Wani was killed in an encounter in the Pulwama district of South Kashmir on May 6, 2021. The Indian state is taking a leaf out of Israel in denying the bodies to the families by ensuring its control not only over the living but also over the dead.

As Indian state continues to mimic Israeli strategies and sometimes even surpassing it, we at LFK –Legal Forum for Kashmir have tried to document some of the contemporary strategies. This report is a result of the collaborative work of researchers from Indian-Occupied Jammu and Kashmir and Palestine. The report has been enriched with important insights from lived experiences of Palestinian researchers. Researchers from Palestine have contributed immensely from developing a framework of research to drafting this report. This report is also a summation of everyday life of Kashmiris under Indian military occupation.

## Chapter 1

### State Surveillance – An Invisible Ghost

Surveillance is commonly understood to comprise technologies or systems that enable control of people “through the identification, tracking, monitoring, or analysis of individual data, or systems”.<sup>1</sup>



A cell phone with its password written on its backside belonging to a Kashmiri Lawyer who was ordered to hand over the same at a police station in southern Kashmir.

## 1.1. Digital Surveillance

The Indian state has used manifold resources, both human and technological, to deploy a “strategic and comprehensive programme” as part of its counter-insurgency mechanism, “leading to fear and its internalization.”<sup>2</sup> Although Indian state has been intensifying the mass surveillance architecture over a decade but electronic snooping has seen a striking expansion with the surge of civil uprisings.<sup>3</sup> Surveillance in general has always been the vital component of ruling dispensation in Jammu and Kashmir. The existence of electronic surveillance units in different areas have added to the already existing visible military presence in controlling the Kashmiri landscape.<sup>4</sup> Physical trailing, phone-tapping and house searches are trusted methods of operation that Indian Armed forces have relied on for decades in all types of government regimes. The emergence of new Information and Communication Technology (ICT) surveillance apparatus linked to the proliferation of digital data has led to rapid changes in how surveillance works and when it applies. There is more communication data available for scrutiny than ever before. The internet has significantly amplified the amount of transactional data to be had for individuals everywhere.<sup>5</sup> Unsurprisingly, surveillance has become gradually more prevalent in Kashmir, such as tracking public sentiment through social media monitoring, surveilling protests and dissenting speech, monitoring individuals of interest (e.g., journalists, political opposition, government critics), and tracking political behavior.<sup>6</sup>

This phenomenon of heightened surveillance is substantiated by following events like for instance; Vasundhara Sirnate wrote in an

article in *The Hindu* on November 2014: “An intelligence Bureau official stationed in Kashmir told me that they were tapping 10 lakh phones in Kashmir alone by 2014.”<sup>7</sup> In a press release<sup>8</sup> on 24 August 2015 J&K Police said that “the department launched Electronic Surveillance Unit in Anantnag district of Kashmir to check cybercrimes and track down the misuse of internet facilities, especially by terror outfits.” The authorities in Kashmir as reported<sup>9</sup> by *Uzma Falak* in an article in *Caravan* perceive that the “surveillance aided technology is only a supplement and not a replacement to the human interface”. While quoting<sup>10</sup> the Director General of Police K. Rajendra Kumar, she wrote that:

*“Technologies have become obsolete. We are trying to upgrade systems with a futuristic vision. Right now, focus is to modernize police control rooms, CCTV networks and have mobile squads. I would like to have the entire area under the camera.”*

*Kashmir Digits* reported<sup>11</sup> on October 2021, that “Kashmir valley will witness increased security in terms of electronic surveillance as drone grids and CCTV will be installed in places that witnessed killings, in coordination with Indian Army and Central Security agencies.” Quoting news agency *IANS*, the report further stated<sup>12</sup> “Jammu and Kashmir Police will be in lead role in preventing attacks in coordination with other security stakeholders and they have been asked to strengthen the human intelligence gathering on the ground. Round the clock electronic surveillance in vulnerable areas, better intelligence networks and strong patrolling on roads and highways around the cities to prevent entry and exit of the militants with more barricading and placing of security bunkers, will be the key features of the new security systems.” It is pertinent to mention that on February 2021, in a state-sponsored visit of foreign envoys, state authorities removed scores of army bunkers

which were installed on 05 August 2019 to show normalcy in Kashmir valley.<sup>13</sup>

On April 08, 2022 *Kashmir Life* reported<sup>14</sup> that “the police headquarters of J&K have floated tenders for UT-wide CCTV integrated network system with a primary focus on procuring hi-resolution cameras having facilities of recognizing face, automatic number plate, color unidentified objects and stone pelting. It further reported that 184 cameras will be installed in Kashmir for 43 sites while as 218 cameras will be installed in Jammu region at 119 sites. In another report<sup>15</sup> by the *Kashmir Walla* on 6 September 2022, “4,257 CCTV cameras will be installed at 251 police stations and 88 police posts across Jammu and Kashmir.”

Moreover, the District Administrations in Kashmir valley on 06 April 2022 through an order asked all the commercial establishments to install good quality CCTVs while directing them to inform the police in case of any suspicious movement observed in the closed-circuit television system.<sup>16</sup> It further stated that failure to abide by the orders by 19<sup>th</sup> April was punishable by a fine or a month's imprisonment. *AFP* while talking to diverse business men in Srinagar city illustrated how this came as an additional burden to the already precarious financial position of the local businesses.<sup>17</sup>

Moreover, surveillance is also heightened, through drones, snipers and deployment of policemen in plain clothes, roadside mobile bunkers and vehicles checked, during Independence Day and Republic Day of India besides also on VIP arrivals (Central Ministers, LG etc.) or movements. Srinagar Police on August 12, 2022 posted on twitter<sup>18</sup> that “Aerial watch is being maintained in major markets of Srinagar city, looking for miscreants, criminals

and subversive elements. Such elements should know that there is an eye above looking for them.”

## **1.2. State Cyber Bullying on Social Media Users**

Kashmir’s cyber police force was expanded immediately after the August 2019 lockdown, with the purpose of curbing cybercrimes. Since then, the unit has grown into a sophisticated surveillance operation, equipped with advanced technology for tracking down Kashmiris, including those who contracted Covid-19 during the pandemic. *Intercept* reported<sup>19</sup> that Kashmir police had filed “complaints against more than 200 users of social media platforms and virtual private networks, deploying surveillance technology to trace and summon them to police stations under anti-terror and detention laws.” Policies of social media platforms including Facebook, Twitter and Instagram etc. have been accused by rights groups in Kashmir, of silencing Kashmiri voices in digital space. The crackdown on social media is seen as a part of states’ counter insurgency mechanism and censorship efforts. The users were called to Cargo, a counterinsurgency police complex known for its history as a torture site.<sup>20</sup> *The Intercept* reported that since 5 August 2020 this place has allegedly been used to interrogate and torture young Kashmiri social media users who have been critical of the Indian government’s repressive policies implemented in the region. One of the many traumatic stories inside the infamous torture center reported by *Intercept*:<sup>21</sup>

*“Ahmed was nervous as he approached the fortified police station, its walls covered with barbed wire and gun-toting cops guarding the entrances. The college student had received a phone call the previous day from Jammu and Kashmir’s cyber police, asking him to report to the station with no reason given. Ahmed,*

*whose name has been changed for fear of retaliation, had never been summoned by the police before.*

*Upon his arrival, police immediately took Ahmed to another station nearby; his cellphone was confiscated at the gate. He was brought to a holding room where he noticed four other young people. After exchanging a few nervous glances and hushed whispers, the five youths realized they knew each other — not in person, but through social media.*

*After spending more than three hours in the holding room, getting fingerprinted and photographed, and handing over his banking information and other personal details, Ahmed was taken to an interrogation room where several officers were waiting for him. “They yelled and shouted, ‘Who is giving you money to post all this?’” he said. “One officer slapped and kicked me.” One of the officers pushed a file toward him containing screenshots of his posts from Twitter.*

*“I was asked to unlock my phone and one officer started scanning it,” Ahmed said. “Another officer asked for the passwords of my email and social media accounts.” The officers pulled up Ahmed’s Twitter account on a desktop computer and started questioning him about his more recent tweets. Some of the posts sought accountability from the police and the Indian army for human rights violations, such as extrajudicial killings of civilians in staged gunfights, while others seemed more benign.*

*“One officer asked me why I had congratulated Kashmiri photographers who won the Pulitzer Prize this year,” said Ahmed. “They asked me why I quote selective poets and poetry in my tweets.”*

*Another college student who spoke to The Intercept also said that a police officer confiscated his phone while he was detained at Cargo and looked through photos of his mother and siblings.*

*“He abused them and threatened that they will also be treated like me,” said Bilal, whose name has also been changed for fear of retaliation.*

*Bilal and two other victims told The Intercept that officers had proposed they become informants and snitch on other social media users’ police were monitoring, in exchange for their release. They were told that they would otherwise be jailed or killed in a staged gunfight.*

*Bilal was baffled by the offer to become an informant, saying that he never thought his tweets would land him in a situation in which the police would ask him to become a spy.*

*“They would leave me alone for hours to decide,” he said. However, he was eventually let go with a warning that next time he would be booked under the Unlawful Activities Prevention Act.”*

### **1.3. Snooping through Pegasus**

The intrusive surveillance project ‘Pegasus’ by an Israeli based snooping software company NSO unearthed in August 2021 had 25 Kashmiri citizens on its target.<sup>22</sup> These include separatist leaders Mirwaiz Umer Farooq, Bilal Gani Lone, Late SAR Geelani’s phone was also targeted for almost two years, two members of Mehbooba Mufti’s family and others in the list include Altaf Bukhari’s brother Tariq Bukhari, Syed Ali Geelani’s

son Syed Naseem Geelani, Zaffar Akbar Bhat and Mirwaiz Umar Farooq along with his driver. The list includes Waqar Bhatti, journalists Muzamil Jaleel of the *Indian Express*, Aurangzeb Naqshbandi with *Hindustan Times*, Iftikhar Geelani formerly with *DNA* and Sumir Kaul of *PTI*, along with Shabir Hussain.<sup>23</sup> Experts and local activists in Kashmir have asserted that these mechanisms of surveillance by Indian state have threatened the rights to privacy, freedom of assembly, autonomy and dignity in the Kashmir valley.<sup>24</sup>

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<sup>1</sup> Lyon, David, “The Search for Surveillance Theories,” in David Lyon, ed., *Theorising Surveillance: The Panopticon and Beyond* (Portland: Willan Publishing, 2006), pp. 3–20.

<sup>2</sup> Samreen Mushtaq, Mudasar Amin; Kashmir: Coronavirus is a new tool for India to oppress us, (April 7, 2020)

<https://www.middleeasteye.net/opinion/coronavirus-kashmir-india-responds-more-violence>

<sup>3</sup> Uzma Falak, How Indian Surveillance Disrupts Ordinary Life and Lives in Kashmir, (June 18, 2015) <https://caravanmagazine.in/vantage/how-indian-surveillance-disrupts-ordinary-life-and-lives-kashmir>

<sup>4</sup> PTI, JK’s Anantnag gets Electronic Surveillance Unit, (August 24, 2015)

[https://www.business-standard.com/article/pti-stories/jk-s-anantnag-gets-electronic-surveillance-unit-115082401022\\_1.html](https://www.business-standard.com/article/pti-stories/jk-s-anantnag-gets-electronic-surveillance-unit-115082401022_1.html)

<sup>5</sup> La Rue, Frank, “Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression”, A/HRC/23/40, 17 April 2013

<sup>6</sup> Ibid.

<sup>7</sup> Vasundhara Sirnate, The soldier as state actor, (November 18, 2014)

<http://www.thehindu.com/opinion/lead/the-soldier-as-state-actor/article6608758.ece>

<sup>8</sup> PTI, JK’s Anantnag gets Electronic Surveillance Unit, (August 24, 2015)

[https://www.business-standard.com/article/pti-stories/jk-s-anantnag-gets-electronic-surveillance-unit-115082401022\\_1.html](https://www.business-standard.com/article/pti-stories/jk-s-anantnag-gets-electronic-surveillance-unit-115082401022_1.html)

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Sherjeel Malik, Drone Grids, More CCTV Cameras, as Part of New Security System in Kashmir, (October 26, 2021)

<http://kashmirdigits.com/drone-grids-more-cctv-cameras-as-part-of-new-security-system-in-kashmir/>

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<sup>12</sup> Ibid.

<sup>13</sup> Kaisar Andrabi, In 'Naya Kashmir', 'Stop and Frisk' Action Brings Back Memories of Old Times (February 23, 2021) <https://thewire.in/rights/in-naya-kashmir-stop-and-frisk-action-brings-back-memories-of-old-times>

<sup>14</sup> Kashmir Life, Police Plans Wider CCTV Network Across Jammu And Kashmir, (April 8, 2022) <https://kashmirlife.net/police-plans-wider-cctv-network-across-jammu-and-kashmir-289953/>

<sup>15</sup> Kashmir Walla, J-K Police adds up 4,000+ CCTV cameras for stations, posts, (September 6, 2022) <https://thekashmirwalla.com/j-k-police-adds-up-4000-cctv-cameras-for-stations-posts/>

<sup>16</sup> Shabir Ibn Yusuf, Install CCTV cameras by April 19 or face penal action: Srinagar Police (April 13, 2022) <https://www.greaterkashmir.com/todays-paper/front-page/install-cctv-cameras-by-april-19-or-face-penal-action-srinagar-police>

<sup>17</sup> Parvaiz Bukhari, India Turning Kashmir into Surveillance State, (May 18, 2022) <https://www.barrons.com/news/india-turning-kashmir-into-surveillance-state-01652855408>

<sup>18</sup> ABP, J&K: Security Beefed Up, Aerial Surveillance in Kashmir Ahead of Independence Day Event In Srinagar (August 14, 2022) <https://news.abplive.com/news/india/jammu-kashmir-security-beefed-aerial-surveillance-in-kashmir-ahead-of-independence-day-celebrations-in-srinagar-1548022>

<sup>19</sup> Aakash Hassan, “My Phone Haunts Me”: Kashmiris Interrogated and Tortured by Cyber Police for Tweeting, (December 6, 2020) <https://theintercept.com/2020/12/06/kashmir-social-media-police/>

<sup>20</sup> Azaan Javaid, Nearly 300 social media accounts on Kashmir police radar for ‘cyber bullying’, (August 14, 2020) <https://theprint.in/india/nearly-300-social-media-accounts-on-kashmir-police-radar-for-cyber-bullying/481873/>

<sup>21</sup> Kashmir Life, 25 Kashmiris Appear In Potential Surveillance List, (July 23, 2021) <https://kashmirlife.net/25-kashmiris-appear-in-potential-surveillance-list-272886/>

<sup>22</sup> The Wire, Pegasus Project: 174 Individuals Revealed by The Wire on Snoop List So Far, (August 4, 2021) <https://thewire.in/rights/project-pegasus-list-of-names-uncovered-spyware-surveillance>

<sup>23</sup> HRW, India: Ensure Rights Protections in Kashmir, (August 19, 2019) <https://www.hrw.org/news/2019/08/19/india-ensure-rights-protections-kashmir>

<sup>24</sup> The Wire, Pegasus Project: 174 Individuals Revealed by The Wire on Snoop List So Far, (August 4, 2021) <https://thewire.in/rights/project-pegasus-list-of-names-uncovered-spyware-surveillance>

## Chapter 2

### Frisking and CASO - Forms of Repression and Harassment

The intensified spate of frisking and Cordon and Search Operations (CASOs) after the reading down of Article 370 has brought back the memories of violence in the 1990s in Kashmir.<sup>1</sup> Such measures have been extensively used as a counter-insurgency strategy by the Indian state authorities from the beginning of the armed conflict in Kashmir thereby raising the issues of privacy and dignity.

#### 2.1. The Traumas of Frisking

The pattern of ‘frisking’ by Indian armed and paramilitary forces generally involves running hands over the body of an individual in order to determine whether such an individual is holding an illegal object. The frisking is followed by ‘search’ which involves the examination of an individual.<sup>2</sup> For Kashmiris, coerced to stand in long queues with their hands in the air and waiting to get frisked by men of the Indian Army and paramilitary have been daily routine since the eruption of armed rebellion in the 1990s. For a while, there was a break from this, at least in Srinagar. However, *the Wire* reported<sup>3</sup> on 22 February 2021, Kashmir saw the return of this old practice. Srinagar’s Lal Chowk saw men, irrespective of age, being stopped and frisked. *The Wire* further reported that “at around 3:30, members of security forces –a common sight every five meters in the city for decades- abruptly seized the busiest area of Lal Chowk, Amira Kadal and forced men of all ages to stand in a line. Even children were frisked from head to toe and their bags checked.”

*The Kashmir Observer* reported<sup>4</sup> that in Srinagar and other parts of Kashmir valley, scores of new checkpoints have been deployed where people were lined up, frisked, and subjected to identification checks by heavily armed cops and paramilitary men. These checkpoints have been manned by the additional deployment of security forces which began around August 5, 2019, when the abrogation of Article 370 was announced. For instance, ahead of August 5, 2019, 380 companies of central forces<sup>5</sup> were deployed in Kashmir valley; in July 2020, another 100 companies<sup>6</sup> were rushed in; and in November 2021, another 50 companies<sup>7</sup> were deployed. Moreover, a first-of-its-kind exercise in the last three decades in the wake of killings of civilians in Kashmir, the searches were conducted by women constables of the Central Reserve Police Force as they checked bags of women passing through Srinagar's Lal Chowk area<sup>8</sup> Kashmiri women saw it as the breach of privacy and interference into private affairs.<sup>9</sup>





Indian military frisking local Kashmiri's in the outskirts of Srinagar, summer capital of the region.

Besides frisking, other additional measures including speculative CASOs, phone prying, checking mobile VPNs, roadside searches and electronic surveillance has been deployed to ‘maintain the peace as claimed<sup>10</sup> by a senior police officer. While quoting senior police officer *Greater Kashmir* reported<sup>11</sup> that “in Srinagar, extra-check points manned jointly by police and CRPF have been established at several places. At checkpoints, traffic movement is monitored very closely. We have been carrying speculative CASOs besides the frisking of vehicles at various places. The additional measures include surprise check posts and limited Cordon and Search Operations (CASO) in crowded places to keep terrorists at bay.”

However, local Kashmiris saw it as going back to 90s<sup>12</sup> and raised questions about the psychological impact of such frisking exercises on the mental health of people, especially on children in

the conflict region.<sup>13</sup> For instance, while talking to one of the witnesses *the Wire* reported:<sup>14</sup>

*“They closed all exit points and stopped traffic for hours. We thought they might have laid a cordon but when they asked shopkeepers to come out and stand in the line too, we understood that it is a crackdown like the 1990s,” said Javaid Khan, whose shop is near Amira Kadal.*

*Khan is a 42-year-old resident of the downtown area of Srinagar. He has vivid memories of the Army’s crackdown in the area – of personnel asking men, women, and children to come out of their homes, and making<sup>15</sup> them stand for hours till their houses were searched. “This was not new for us. We have grown up witnessing such incidents and this is an everyday process here. But it was frightening for youngsters,” he told *The Wire*.*

*As the frisking progressed, the forces started checking people’s identity cards, bags, and even asked many as to why they were at the market. “People wearing pherans were frisked more and even some were asked to remove them. An old man’s pheran was torn down by forces after he couldn’t take it off quickly,” Khan alleges.”*

Routine checking of mobile phones of locals and search of militancy-related photos or videos is a new tactic of intimidation and harassment employed by Indian armed forces and J&K police over the years and particularly in the aftermath of reading down of Article 370. For instance, *Kashmir Times* reported<sup>16</sup> that concerns over privacy were raised in parts of Kashmir after reports of security forces checking phones surfaced in the media. However, quoting *IANS news agency the Kashmir times* reported<sup>17</sup> that “authorities denied it is a routine procedure in the state where militants use social media to propagate their agenda and garner mass support, several incidents of citizen abuse were reported in such situations if anything incriminating was found on phones.”

However multiple incidents were reported<sup>18</sup> in which security forces had checked photos, videos, and WhatsApp messages of civilian on their smartphones.

Moreover, these measures are heightened by authorities during Festivals (Eid, Jummah prayers in Jamia Masjid Srinagar etc.), Independence Day and Republic Day of India, Amarnath Yatra and other occasions like the movement of VIPs or MLAs or Ministers. For example, ahead of Amit Shah's visit to Kashmir on October 23, 2021 there was an increase in the security vigil.<sup>19</sup> Around 700 people were detained in Jammu and Kashmir, including a few under the stringent Public Safety Act (PSA).<sup>20</sup> Several traffic restrictions were also implemented in Srinagar city. J&K police and paramilitary forces in Kashmir reinforced road checks, frisking and seizing of two wheelers during the wake of fresh escalations of violence in October 2021.<sup>21</sup> Similar patterns of frisking and other harassment tactics are perpetrated on Republic Day and on the eve of Independence Day. A case in point is that, *SSP Jammu*, in a public advisory<sup>22</sup> issued for attending the Republic Day function, "urged the public not to carry Cell phone cameras, arms/ammunition, sharp-edged weapons, handbags, polythene bags, transistors, toys, tool, stopwatch, any kind of powder, inflammable material like cigarettes, matchboxes, lighter, cameras and like objectionable items." In Kashmir valley new additional checkpoints are always erected at different places, and more bunkers and frisking are also intensified during such days.<sup>23</sup> Police and paramilitary forces carry out surprise check of vehicles on the entry and exit points in the capital city Srinagar and area-domination exercises on such occasions.<sup>24</sup> During the recently concluded Amarnath Yatra people of Kashmir were held hostage for pilgrim convoy. Curbs on civilian traffic during Amarnath Yatra were put in place while Kashmir locals were denied of the same. Civilian traffic was blocked along the Kashmir stretch of the highway at the time of pilgrim movement, while railway services remained suspended between Qazigund and Banihall, a crucial link connecting Kashmir Valley with Chenab, leading to

Jammu. As many as 100 new bunkers have been erected on the highway and the route which leads to the Amarnath cave. This year, over 40,000 paramilitary personnel have been deployed to ensure pilgrims' security, besides the deployment of the Jammu and Kashmir police and the army. The approach road not only on the highway, but on KP Road in Anantnag, which leads to the cave was also blocked.<sup>25</sup>

## **2.2. The Nightmare of CASOs and CADOs**

Cordon and Search Operation (CASO) is a counter-insurgency mechanism employed by Indian armed forces in Kashmir since the 1990s. During a CASO, Indian forces cordon off a house, a locality, or an entire village on the alleged red herring of finding militants. During these CASOs and raids, vandalism, destruction of civilian properties, harassment as well as loot and theft of cash, gold and jewelry and torture by Indian armed forces have been widely reported.<sup>26</sup> Cases of sexual violence and physical assaults against women and men have also been extensively reported during the process of these search operations.<sup>27</sup>



Indian military forces march towards a village for a Cordon and Search Operation (CASO).

According to a report<sup>28</sup> titled “Annual 2019 Human Rights Review” published by Jammu and Kashmir Civil Society<sup>29</sup> (JKCCS), at least 540 CASOs were conducted in 2017 viz; more than one per day on average. In the same year, joint forces carried 376 anti-militancy operations in the Awantipora Police district alone, as some of the top militant commanders like Zakir Musa, Sabzar Bhat and Riyaz Naikoo were active in the areas falling under their jurisdiction. In 2018, 275 such operations were launched across Jammu and Kashmir. From Jan 1 to June 30 last year, at least 107 CASOs and CADOs (Cordon and Destroy Operations) were conducted in Jammu and Kashmir, which the security forces said resulted in the killing of 143 militants. In 2021, Indian forces conducted 467 cordon and search operations, 87 gunfights, and 350 killed. *The Diplomat* while quoting the Human Rights lawyer Parvez Imroz noted<sup>30</sup> that in the incidence of

CASO, the entire locality is deemed as hostile and thus the security forces do not discriminate between men and women; they harass and abuse both. Besides torturing the young boys Indian armed forces have been using local Kashmiri boys as human shields during these CASOs and gunfights<sup>31</sup> CASO with new intensity was re-introduced in the Kashmir Valley after a gap of 15 years after the killing of Indian Army Lieutenant Ummer Fayaz by rebels in May 2017.<sup>32</sup> *News click* reported<sup>33</sup> that “CASO, in its new form, is seen by the local populace as a more brutal form of anti-militancy operation. However, the Indian forces describe it as a successful tactic used to ‘flush out the militants’ from the residential areas.” The JKCCS 2019 annual report<sup>34</sup> on Human rights stated that the modus operandi of these operations has changed post-August 5 and that they were predominantly used as a tactic of ‘spreading fear’ among the population. Multiple accounts of such atrocities were reported by media in Kashmir.

### ***Case I***

*The Diplomat* reported<sup>35</sup> a detailed account of one of CASO carried out on January 2018 in the Redwani village of Kulgam District. The area was sealed by units of Jammu and Kashmir’s Special Operation Group, Central Reserve Police Force, and Indian Army. While recalling the horror of that evening Zareena talked to *The Diplomat*:<sup>36</sup>

*Zareena (name changed on request) remembers every detail of that evening: “There was a commotion outside. A group of policemen made their way into the lawn and started kicking and breaking whatever their eyes fell on. We were looking through the window of our kitchen. They banged on the door and broke it open. After that, they started smashing everything in the living room. The TV, the vases, photo frames and wall-hangings, and everything. We were crying, pleading them to leave but they were in a stupor of rage and frenzy.” It seemed they were not looking for any militant. They had come with a determination to smash everything.*

*Why else would they smash the TV and break the refrigerator? A militant cannot be hiding in there,” an angry Zareena said.*

*When Zareena, her mother, and two sisters pleaded with the policemen to leave and tried to assure them no militant was hiding in their house, the policemen resorted to verbal abuse and swearing.*

*“I have not heard those abuses ever before in my life. It made me cringe in shame. Among those angry strangers, who carried guns and could have killed me, I felt naked when they were hurling abuse at me,” Zareena said.*

*One of the policemen, whom Zareena described as tall, heavy-built, and the angriest of the group, hit her in the back with his gun butt. For a moment, she gasped for breath.*

*“He hurled such abuses at me that I could not even stand there in front of my mother and sisters. He said I was hiding militants in my house to get sexual favors from them. Then he said a thing that made me cry incessantly,” Zareena recalled, without telling what, exactly, the policeman had said to her.*

## **Case II**

*The Diplomat reported<sup>37</sup> another horrific story from South Kashmir’s Awantipora town:*

*“On the afternoon of January 13, 2018, a large contingent of Indian forces entered Midur village in Awantipora town in South Kashmir. A door-to-door search operation in several residential houses was launched to check if any militants were hiding inside.*

*Thirty-year-old Rumaisa (name changed on request), her 24-year-old brother, and her mother had just finished their afternoon tea. Her father had gone to Awantipora town to meet someone. As she*

*was washing the dishes, she heard pro-freedom slogans from a distance. At first, she ignored it, thinking it was blaring from a loudspeaker, as happens sometimes in the villages of South Kashmir. But when the outer gate of her home flung open and a dozen security forces rushed in, she knew what was coming.*

*“None of them said anything,” Rumaisa remembered. “They just kept smashing window panes with sticks, guns and stones that were laying around.”*

*Inside, on the first floor of their house, Rumaisa and her family witnessed it all while they tried to escape from the glass shards that lay all around in every room. When the security forces were done smashing the windows, Rumaisa recalled, they barged into the house. By that time, the entire family had come down to try in vain to stop the security forces from vandalizing anything else.*

*Crockery, the refrigerator, the TV, showpieces, and many other things which Rumaisa could not recall were broken beyond repair. But the security forces did not stop there.*

*“All of them pounced upon my brother and started kicking him everywhere. For a moment, I thought he would be killed. There was nothing I could do to stop them, so I jumped over my brother to cover him from them. But they did not even spare me,” Rumaisa said, recounting the horrific details of that afternoon.*

*While a few of them were busy smashing things, and checking rooms, said Rumaisa, one of the security personnel groped her, twisted her arms behind her back, and said, “I will drag you to Tralchowk, strip you naked and shove this gun inside you.” Rumaisa did not wish to recall anything further, saying she feels too ashamed.*

*While her brother lay next to her, almost unconscious and howling in pain, Rumaisa broke into a sweat and could not say a word to the security forces.*

*“I, being a mother, wanted to die then,” Rumaisa’s mother said. “He [the security personnel] hurled such abuses at my daughter that I wished all of us should die right there. When he threatened to rape her in front of the village, I was sure he would do something terrible to her, so I quickly flung my headscarf under his feet and begged him to leave my daughter.”*

*He pushed her away, kicked her brother again, and left along with the others”*

### **Similarly, in another CASO at Puchal village in Pulwama:**

*In Puchal village, the locals said the forces broke their windows, doors, vehicles, and whatever met their eyes.*

*Sixty-two-year-old Saja said her daughter, who is in her 30s, was hit on the head with a gun by the security forces when they were conducting the searches.*

*“We let them in. We did not resist. But when they started smashing window panes, my daughter objected. The trooper hit her head with his gun and she fell down,” Saja said.*

*It did not end there. Saja, who was crying all this while, pleading and trying to get her daughter out of the clutches of the security forces, said an army trooper put foot on her daughter’s chest and started wiggling, causing more pain to her as she was already writhing on the ground with a head injury.*

*“He spat on her, made vulgar gestures and hurled abuses at her. I was sure he would do something terrible to her, so I had made*

*up my mind to kill myself even before that calamity would hit,” Saja said.*

*But then one of the troopers leading the group of army men directed them out of the house. “They did not find anyone here, so they left in frustration. They smashed everything.”*

*But Saja is not sorry about the broken things. She says she is just relieved that her daughter was not raped.*

*“Had my son been home and witnessed how his sister was abused and how she was pinned beneath the boots of the army man, I swear he would have joined the militancy,” Saja said.*

### ***Case III***

*Kashmir Wallah reported<sup>38</sup> the horrors of 40-hour long CASO at Turkwangam village (native village of HM Commander ZubairWani) in Kulgam District:*

On the morning of 12 November 2020, residents of Turkwangam woke up to the announcement being made by the village head, Jahangir Ahmad Mir, who was coerced by the army to announce: *“The entire village is cordoned off. Nobody is allowed to come out of their homes. If someone is found outside their house, he will be himself responsible for the consequences.”* The CASO continued for 40 hours.

### ***Case IV***

*The Hindustan Times reported<sup>39</sup> that “nearly 4000 police and army personnel took part in CASO across two dozen villages in Shopian. Unmanned drones and army helicopters were part of the operations. However, the operation was hampered by local*

*residents who pelted the security forces with stones, a police official said.”*

### **Case V**

*The Wire* reported<sup>40</sup> that there is no respite from CASO even in chilly winters and record-breaking cold temperatures in the Kashmir Valley leaving the ailing, old and children to face the brunt of the chilly conditions:

*“In the nearby Avind village, an orchardist recalled that recently, he and his friend were asked by the security forces to vacate the house. “On December 12 last year, it was snowing. My friend and I were busy packaging apples. Suddenly, our house was cordoned by security forces from all sides. Amid the snowfall, we were asked to come out,” the apple orchardist told The Wire.*

*Thirty-year-old Shabir Ahmad (name changed) of Mandoora village of Tral in south Kashmir narrated his experience. “At 8:30 am, when it was cold outside, I was still in bed waiting for it to get a little warmed. Suddenly, I heard some noise and I quickly came out. To my utter surprise, I found my courtyard filled with members of the Army. I was asked to lead my family members out, with our hands held up. My little baby was sleeping, but I had to bring her out despite the freezing weather conditions. My wife and baby left for another colony, and I was asked to go inside my house while the security forces searched my house.”*

*On a chilly January morning, the people of Nadimarg village in Shopian were woken up to an announcement. “The entire village is cordoned off,” they could hear. People The Wire spoke to said that due to the winter, the problems that people face are already manifold. The military operations aggravate the situation further, they said.*

*Naseema (name changed), a young woman, said that CASOs violate the privacy and people undergo mental torture. "In the freezing temperatures, when we try to sleep early, we fear that a CASO may be conducted in our colony. We start worrying less about ourselves and more about our children and the elder members of the family," she said.*

*A DSP rank police official who has been the part of anti-militancy operations in north and south Kashmir told The Wire that CASOs are launched based on the input's security agencies receive. "Irrespective of weather, situation and location once the nodal officer gets the input the operation is launched to kill the militants," he said.*

*Another CRPF trooper posted in the valley admitted that CASOs cause inconvenience to people as well as to the troopers on duty. "What can we do, when our duty demands us to launch such operations during this harsh winter? When the militancy in particular area increases, the need to conduct these operations also increases," he said."*

### **2.3. Human Shield: Kashmiri Body as an Instrument of War**

The practice of using civilians as a shield by the armed forces during encounters has been a prevalent in Kashmir since last three decades of conflict. A human shield is a non-combatant (or a group of non-combatants) who either volunteers or is forced to shield a legitimate military target in order to deter the enemy from attacking it.<sup>41</sup> As reported by JKCCS in its Annual Human Rights report (2017),<sup>42</sup> there were scores of human shield incidents in the past where civilians were used during military operations by counterinsurgency forces including "the infamous 2004 Chattibandi human shield incident in which five civilians were killed. On February 7, 2004, in Chattibandi (Bandipora district) (JKCCS Report, 2017)<sup>43</sup> army used five civilians as human shields during a counter-insurgency operation, all five died in the crossfire

between army and militants” and the one in 9 April 2017 during parliamentary by-polls, a youth named Farooq Ahmad Dar, 26, son of Abdul Rahim Dar, Chill Brass Tehsil Khan Sahab in district Budgam was first tortured and then tied to an army jeep by armed forces led by Major Gogoi.<sup>44</sup>



**Indian Army tie a 26-year-old Farooq Ahmad Dar to an armored jeep to use him as a human shield in Central Kashmir’s Budgam district.**

The case of Farooq Ahmad Dar, 26-year-old, captured the public interest because there was video footage of him being paraded on an army jeep in Beerwah in April 9, 2017. The video clip became viral through social media, and was covered by almost all major international news outlets. Despite the outrage on social media, Major Leetul Gogoi involved in the incident was awarded the Chief of Army Staff’s Commendation Card for his ‘sustained efforts in counter-insurgency operations’.<sup>45</sup> The award for Major Gogoi<sup>46</sup> was seen as a backing for the action of the officer belonging to the 53 Rashtriya Rifles even as the army maintained that a court of inquiry (CoI) into the incident is “under finalization.” Farooq was accused of being a leader of stone pelters

and the restitution recommended by SHRC to the victim was denied to him.<sup>47</sup> As *Padmapriy Govindaranjan* strongly pointed<sup>48</sup> out the use of human shields in armed conflict is synonymous to a war crime and against international standards of combat and the Geneva Conventions. Tactics like this fail to respect the personhood of the so-called human shield and dehumanize the ‘Kashmiri body’ into an instrument of war.

### *Case I*

The daily news outlet *News click* reported<sup>49</sup> one such case as under;

*“On May 16, 2019, the 10th day of Ramadan, the announcement for Sehri (breakfast before dawn) was made around 3 AM. In Pulwama, 27-year-old Rayees Jalal Dar was up by 2 o’clock to offer Tahajjud (an Arabic word for night prayer) and read the Holy Quran, which was his daily routine.*

*Living in a two-story house in Dalipora, a small village just 1.5 kilometres from Pulwama town, all the members of the Dar family, including Rayees’s father, Jalal-U-Din Dar (45), mother Mehmooda Begum (40), elder brother Younis Jalal (32), and their younger sister sat down for Sehri.*

*Before anyone could start eating, they heard noises in the courtyard. Within no time, the door of the house was banged upon, with someone shouting, “Darwaza Kholo (open the door)”. “I stood up quickly and rushed to check on the door,” said Younis. As soon as he opened the door, he encountered a few men in uniform, who had trespassed the main wall of the house to reach the door. Before anyone could figure out what was going on, one of the men from the platoon, asked Younis and Rayees to guide them to locate a house.*

*“We both resisted, as it was time to eat our Sehri, but they didn’t listen to us, they forced us to go along with them. After arguing for a couple of minutes they took us away,” said Younis. He added, “I was walking followed by Rayees. Behind him, there were 9 armed forces personnel. I thought they had come to detain someone.”*

*It was a joint team of 44 Rashtriya Rifles (RR) (a wing of Indian Army) and a Special Officers Group (SOG) of Jammu and Kashmir police who were carrying out cordon and search operation (CASO) to ambush the militants present in the village.*

*Unaware about army strategy, Younis reached the gate and opened it, as one of the armed men ordered both the brothers to go inside to check if there was any militant in the house.*

*“The situation was tensed; they were abusing us. If I wouldn’t have listened to them, they could have beaten or killed me, as one of the armed men was holding the barrel of his gun on my neck,” Younis recalled. Rayees was immediately behind Younis actively listening to the orders.*

*Both brothers were pushed inside the gate while the forces remained outside in the lane. “I could hear my heart beat loudly, while walking towards the house,” said Younis. He said that he kept shouting that he is a civilian with every step he took. Before he reached the house, the forces behind him started firing indiscriminately, one piercing Younis’s right thigh.*

*“I wasn’t able to decide where to go. I thought I have bullets all over my stomach, I crawled and reached a nearby house. I found my family and neighbours were there. But no one had any idea where Rayees was,” he said. He tied a piece of cloth on his leg to stop the bleeding.*

*“They saved themselves and used us as human shields. We were under threat, there was no option apart from following their orders,” he added.*

*Militants who were hiding in the house, managed to escape but they were trapped in a paddy field, a few metres away from the house. Younis’s maternal uncle, Mohammad Yaqoob Dar who was also present in the house, managed to take him out after fighting with the policemen. They scrambled into the police jeep and requested them to drive to the Sub District Hospital (SDH) Pulwama.*

*At around 7:30 AM, a few more civilians were asked to check if there is any militant in the house. No militant was there, but they found Rayees in a room lying in a pool of blood. An eyewitness, R\* (name withheld), said, “I saw a few locals carrying Rayees on their shoulders. They placed him near a shop where an armed vehicle was placed.”*

*Jalal recalled, “Within no time, firing between forces and militants started in the fields. One of the army personnel was shot dead. Forces didn’t go to pick the body of their colleague. I, along with one of my neighbours were dragged out of the house and were asked to pick up the body. He didn’t have any idea that his son who was famous in the locality for being religious and modest, had been killed. The gunfight intensified.*

*Keeping Rayees under the rusted tin sheet for an hour, a neighbour reached Jalal and told him about Rayees. All of them rushed to the spot and retrieved his body.”*

*Younis who was admitted in the hospital, left as soon as he learned about the killing of his brother, to see him for the last time and attend his last rites. His freshly bullet-injured hand held the other uninjured hand to place his brother Rayees in the grave. At the end of the ambush, three militants were killed and three troopers*

*were injured. “I don’t understand why armed forces involve civilians in their operation. In these gunfights, civilians have no role to play,” said Younis.*

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<sup>2</sup> Ibid.

<sup>3</sup> Zain Bin Shabir, Random Frisking Returns To Srinagar, (November 11, 2021) <https://kashmirobserver.net/2021/11/11/random-frisking-returns-to-srinagar/>

<sup>4</sup> Outlook India, Days After Deploying 10,000 Central Forces Personnel, Centre Rushes 28,000 More Troops To Kashmir, (August 2, 2019) <https://www.outlookindia.com/website/story/india-news-days-after-deploying-10000-troops-centre-to-rush-28000-more-soldiers-to-kashmir-valley/335343>

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<sup>6</sup> Imran Ahmed Siddiqui, 5,000 more troops reveal Jammu and Kashmir’s real status, (November 2, 2021) <https://www.telegraphindia.com/india/5000-more-troops-of-central-paramilitary-forces-reveal-kashmirs-real-status/cid/1836908>

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<sup>9</sup> Shabir Ibn Yusuf, Speculative CASOs, random frisking part of additional security measures in Kashmir, (November 12, 2021) <https://www.greaterkashmir.com/todays-paper/front-page/speculative-casos-random-frisking-part-of-additional-security-measures-in-kashmir>

<sup>10</sup> Ibid.

<sup>11</sup> Auqib Javeed, Dotted with security bunkers and frisking points, Kashmir has ‘returned to the nineties’, (November 16, 2021) <https://www.moneycontrol.com/news/politics/dotted-with-security-bunkers-and-frisking-points-kashmir-has-returned-to-the-nineties-7727531.html>

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<sup>12</sup> Junaid Kathju, In Kashmir, govt forces frisking children raises concern, (October 22, 2021) <https://thekashmirwalla.com/in-kashmir-govt-forces-frisking-children-raises-concern/>

<sup>13</sup> The Wire, Pegasus Project: 174 Individuals Revealed By The Wire On Snoop List So Far, (August 4, 2021) <https://thewire.in/rights/project-pegasus-list-of-names-uncovered-spyware-surveillance>

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<sup>17</sup> Ibid.

<sup>18</sup> Junaid Kathju, In Kashmir, govt forces frisking children raises concern, (October 22, 2021) <https://thekashmirwalla.com/in-kashmir-govt-forces-frisking-children-raises-concern/>

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## Chapter 3

### State Agencies – Architecture of Fear and Suppression



India's National Investigating Agency raids house of a prominent political activist in Srinagar, Jammu and Kashmir.

### 3.1. Functioning of State Agencies: NIA & SIA

National Investigation Agency (NIA) is functioning as the Central Counter Terrorism Law Enforcement Agency in India since 2000<sup>1</sup> While as State Investigation Agency (SIA) was created in November 2021 to probe terrorism-related cases in Jammu and Kashmir.<sup>2</sup> The Home Minister of India, Amit Shah while announcing the creation of SIA stated that SIA will be a nodal agency for coordinating with the NIA and other Central Agencies to take measures for speedy investigation and prosecution of terrorism-related cases in the UT of Jammu and Kashmir.<sup>3</sup> SIA functions separately from the criminal investigation department and allied agencies working in Jammu and Kashmir.<sup>4</sup> The daily newspaper *Indian Express* reported<sup>5</sup> that “all the officers in charge of the police stations have to mandatorily intimate the SIA immediately on registration of terrorism-related cases and about such cases where any terrorism linkage surfaces during the investigation.” These agencies are aided by other investigative or intelligence gathering agencies like Criminal Investigation Department (CID) and Intelligence Bureau (IB).

NIA’s jurisdiction was extended to the erstwhile state of Jammu and Kashmir in 2008 and it has since then opened multiple offices in J&K.<sup>6</sup> As per the report<sup>7</sup> carried out by daily news outlet *The Wire*, NIA started its operation in Kashmir after Naeem Khan, a senior Hurriyat Conference leader allegedly confessed – in a sting operation by the India Today news channel on May 21, 2017 – to receiving funds from Pakistan to create unrest in the Valley. Khan has since termed the video “doctored and fake”, a charge the channel denies.” The report further noted that on May 30, 2017, the agency also registered a case against the Pakistan-based Jamaat-ud-Dawah, Lashkar-e-Tayyaba and Hizb-ul-Mujahideen,

and against the Duktaran-e-Millat of Aasiya Andrabi as well as other Hurriyat leaders in the Valley “for raising, receiving and collecting funds for funding separatist and “terrorist activities” in the state. On July 24, 2017, the NIA arrested seven Kashmiri separatist leaders, including Naeem Khan, in relation to the “terror” funding case.<sup>8</sup> Besides Naeem, other arrestees include Hurriyat leader Syed Ali Shah Geelani’s son-in-law Altaf Ahmed Shah (also known as Altaf Fantoosh), Mehraj-Ud-Din Kalwal and Pir Saifulla, Tehreek-e-Hurriyat spokesman Ayaz Akbar, and Mirwaiz Umer Farooq’s close aide and spokesperson Shahid-ul-Islam. They were shifted to New Delhi and have been behind bars since then. Since then, numerous raids have been carried out by NIA and arrests have been ranging from pro-Indian political parties in Kashmir, pro-freedom leaders, human rights organizations, individuals, Jammāt-e-Islami to journalists.<sup>9</sup>

The Government of India (GoI) banned JeI for five years on 28 February 2019 for having close association with militant outfits and supporting a “secessionist movement” in the erstwhile state. The Home Ministry of India declared the Jamaat-e-Islami (JeI), Jammu and Kashmir as an unlawful association under Section 3(1) & 3(3) of the Unlawful Activities (Prevention) Act, 1967.<sup>10</sup> In a notification, the government said the JeI “has been indulging in activities which are prejudicial to internal security and public order and have the potential of disrupting the unity and integrity of the country.” The notification said that JeI “propagates anti-national and separatist sentiments prejudicial to the integrity and security of the country; and escalate secessionist movements, support militancy and incite violence in the country”<sup>11</sup> and declared Kashmir-based group, Jamaat-i-Islami (JeI), as “an unlawful association” under Section 3 of the Unlawful Activities (Prevention) Act, 1967. In a petition submitted to the Delhi High

Court, the Jamaat-e-Islami Jammu and Kashmir denied all links to separatist politics. The petition, filed in January 2020 and accessed by *Scroll*, challenges the Union Home Ministry's ban on the Jamaat. In February 2019, it banned the Jamaat for five years under the Unlawful Activities (Prevention) Act. Declaring it an "unlawful association", the Centre accused the Jamaat of "indulging in activities, which are prejudicial to internal security and public order, and have the potential of disrupting the unity and integrity of the country".<sup>12</sup>

While addressing the 13th Raising Day celebrations of the National Investigation Agency (NIA) as the Chief Guest on 21 April 2022, Home Minister of India, Amit Shah said that "due to NIA's alertness, financial routes of terrorists have been shut down, NIA has registered a number of cases against the over ground workers (OGWs) in Jammu and Kashmir and done well in destroying their sleeper cells. 105 cases related to terror funding were registered, 94 charge sheets were filed against 876 accused, 796 accused have been arrested, out of which 100 accused have also been convicted, which is a major achievement."<sup>13</sup>

In a written reply filed in the Upper House of the Parliament of India, the Minister of State (MoS) for Home Niyand Rai, stated that a total of 41 cases were investigated, 28 charge sheets filed and 105 people charge-sheeted besides six persons were convicted by the National Investigation Agency (NIA) in the Union Territory of Jammu and Kashmir between 2016 to 29-07-2021.<sup>14</sup> The conviction rates of these cases signify that these agencies are used to instill fear in the masses and are meant curb the political resentment against the state.

### 3.2. Chronology of Raids

Multiple raids (more than 100)<sup>15</sup> took place in the valley in 2020. Some of them include:

**On 28 October 2020:** The NIA raided as many as ten locations in the Valley in relation to a case which, the agency said, is connected to various NGOs and trusts allegedly raising funds in the name of charitable activities and then “using them for carrying out secessionist and separatist activities in Jammu and Kashmir.” The raids were conducted on Human rights organisation including Jammu Kashmir Civil Society - headed by Khurram Parvez and Association of Parents of Disappeared Persons - headed by Parveena Ahanger, Human Welfare Foundation in Anantnag-headed by Shabir Ahmed Baba, Falah-e-Aam Trust, a subsidiary of banned Jammu and Kashmir Jamaat-e-Islami, J&K Yateem Foundation, Salvation Movement, and J&K Voice of Victims.<sup>16</sup>

**On 31 July 2021:** NIA raided 14 locations in J&K in connection with cases related to the recovery of IED and the arrest of Lashkar-e-Mustafa top commander Hidayatullah Malik.<sup>17</sup>

**On 08 August 2021:** NIA conducted raids at over 50 locations in 14 Districts of J&K in connection with a terror funding case. The raids were conducted at the residences of office bearers of banned Jammat-e-Islami outfit.<sup>18</sup>

**On 10 October 2021:** NIA carried out searches at 16 places in J and K in connection with two cases- ‘ISIS – Voice of Hind’ and the ‘Bathindi IED recovery’ case.<sup>19</sup>

**On 22 October 2021:** NIA arrested 8 more persons in connection with a conspiracy to carry out terrorist activities in Jammu and Kashmir and other places, taking the total number of arrests in the case to 13. They conducted searches at 10 locations in Srinagar, Kulgam, Shopian, Pulwama, Anantnag and Baramulla. Those arrested included Sobhia, sister of Mugees Mir, the ISIS militant who was killed in an encounter in 2017. The case was registered on October 10 against those associated with LeT, JeM, HM, Al Badr and their affiliates like TRF and people against Indian forces.<sup>20</sup>

**On 27 October 2021:** NIA raids 17 locations in 7 Districts in a case related to ‘terror funding’ against Jamaat e Islami (JeI). After the ban on JeI, hundreds of its members and sympathizers were arrested, questioned and detained.<sup>21</sup> Searches were made at locations in Anantnag, Kulgam, Ganderbal, Bandipora, Budgam, Kishtwar and Jammu districts. A case was registered by NIA on Feb 5, 2021 in connection with ‘separatist and secessionist activities’ of the JeI, a socio-religious group that was banned under the UAPA Act on February 28, 2019.<sup>22</sup>

**On 29 October 2021:** NIA arrested 2 people in “terrorism conspiracy case”. After the registration of the case on 10 October 2021, the NIA carried out searches at 18 locations in Kashmir valley and arrested nine terror associates. Four more arrests were made during searches at 11 locations on October 20. On October 22, 8 more terror operatives were arrested during searches at 10 locations, while two more arrests were made on October 29.<sup>23</sup>

**On 23 November 2021:** NIA arrested Human Rights Activist Khurram Parveez in Srinagar. The NIA Spokesperson said, “The Human Rights Activist was in touch with OGW of a Pak Based

banned organization.” The case pertains to FIR RC-30/2021/NIA/DLI. The NIA also raided at least three locations; two of these were in Srinagar, at Mr. Parvez’s residence in Sonwar and his office in Amira Kadal. Searches were also carried out in Kinnaur district of Himachal Pradesh. India Today reported that simultaneous searches were carried out at the residence of a former NIA officer.<sup>24</sup>

**On 16 December 2021:** NIA teams raided 4 locations in Srinagar and Sopore in connection with a terrorism conspiracy case involving several “Pakistan based terror groups”. According to agency spokesperson, the case relates to a conspiracy to carry out violent attacks in Jammu and Kashmir and other major cities including Delhi etc. NIA had registered the case as RC29/2021/NIA/DLI on October 10, 2021 and arrested 28 persons.<sup>25</sup>

**16 February 2022:** SIA, a newly formed investigative agency on the lines of the NIA has carried out multiple raids in Kashmir valley and arrested 10 alleged militant supporters of the Jaish-e-Muhammad (JeM). The investigative agency said these members of the sub modules were painstakingly discovered through discreet surveillance and corroborative intelligence “capable of being converted to admissible evidence in the court”. In the searches besides making arrests, cell phones, SIM Cards, records to show use of banking channels and even a dummy pistol were seized. Among the arrested persons, there is one at whose house four militants had been killed on 4<sup>th</sup> April 2020.<sup>26</sup>

**18 February 2022:** NIA arrested a former officer of the agency in connection with the Lashkar-e-Toiba (LeT), OGW case. The anti-terror agency arrested Arvind Digvijay Negi from Shimla based

on some evidences proving his link with Let Supporters. Negi is an IPS Officer and is currently posted as SP Shimla. This case was registered on 06 November 2021 pertaining to the spread of a widespread network of over ground workers (OGWs) of LeT. Earlier NIA had arrested 6 accused persons in the case. It was also found that official secret documents of NIA were leaked by AD Negi to another accused person who is an OGW of LeT in the case. Arrests were made in connection with the investigation of NIA case RC30/2021/NIA/DLI.<sup>27</sup>

**14 May 2022:** NIA conducted searches at 4 locations in Kashmir Valley in connection with a ‘terror conspiracy case’ and arrested two OGWs of the TRF, a front of Lashkar-e-Toiba (LeT). The searches were carried out at 4 locations- one each in North Kashmir’s Baramulla and Kupwara districts and South Kashmir’s Pulwama and Shopian districts. The case registered by the NIA on November 18 last year, relates to the activities of TRF and its commander Sajad Gul.<sup>28</sup>

**26 May 2022:** NIA arrested ‘JeM OGW’ Abid Ahmad Mir from South Kashmir’s Pulwama in the case number RC-03/2022/NIA/JMU. The arrest was made in connection with the Sunjwan attack in which a CISF officer was killed and several others injured on April 22. The case was initially registered in PS Bahu Fort, Jammu as FIR (No. 115/2022) dated 22 April 2022 and re-registered by NIA on 26 April 2022.<sup>29</sup>

**16 June 2022:** NIA conducted multiple raids in Jammu and Kashmir’s Baramulla and Kupwara districts. The raids were conducted in connection<sup>30</sup> with “cross LoC trade and terror financing case.”The cross LoC trade was started in the year 2008 via two trade facilitation Centres at Salamabad Uri, in Baramulla

District and Chakan Da Bagh in Poonch District. The trade has been suspended since April 2019.<sup>31</sup>

**16 June 2022:** NIA conducted searches at six locations across Jammu and Kashmir, at the premises of JeI in a case under number RC-03/2021/NIA/DLI. Searches were conducted at six locations in Baramullah, Budgam and Srinagar. The case pertains to the activities of members of JeI who have been “collecting funds domestically and abroad through donations” particularly in the form of Zakat, Mowda and Bait-ul-Maal purportedly to further charity and other welfare activities but are using funds so collected for “violent and secessionist activities”.<sup>32</sup>

**21 July 2022:** NIA on Wednesday raided 9 locations in a “terror conspiracy case”.<sup>33</sup>

**08 August 2022:** NIA raided premises of 7 Jammat-e-Islami members in ‘terror funding’ case. Searches were conducted in Sunjuwan area of Jammu and many places of mountainous Doda district. Sleuths of the NIA, along with local policemen and CRPF personnel, reached the premises of Jamaat members early in the morning. The areas were cordoned off.<sup>34</sup>

**09 August 2022:** In Jammu district, a team of NIA officials accompanied by local police and paramilitary personnel searched the residence of a retired DFO of the forest department at Firdousabad Sunjwan in a terror funding case.<sup>35</sup> The retired DFO is originally a resident of DODA. These searches were conducted as a part of the J&K “terror financing case RC 03/2021/NIA/DLI”.<sup>36</sup>

**06 September 2022:** SIA carried out raids<sup>37</sup> at multiple locations in 4 districts of Kashmir valley in a “terrorism network case filed this year which has identified Pakistani Masterminds, the agency claimed.” SIA carried out raids on suspected OGWs at several locations in North and South Kashmir. The coordinated search operation in Awantipora, Shopian, Pulwama, Anantnag and Baramulla was aimed at dismantling the terror ecosystem in the valley by identifying OGWs aiding and abetting militancy, the agency said. The raids were planned after the agency registered<sup>38a</sup> a case under “the UAPA and IPC sections 120-B and 121 for criminal conspiracy and waging war against the state.”

**14 September 2022:** SIA raids carried out in J&K over digital currency use “to fund terror”. SIA conducted raids at multiple locations across J&K in connection with alleged financing of militant networks in the region through Bitcoin trade. The agency conducted searches in Kupwara, Handwara and Baramulla in Northern Kashmir and Mendhar and Poonch in Jammu. Searches were conducted to investigate a case registered under sections 18, 38, 39 of UAPA and sections 120-B, 121 and 121-A of the IPC in Counter Intelligence Police Station in Srinagar. During searches “incriminating material believed to be hidden in SIM cards, mobile phones and documents was recovered” according to the agency.<sup>39</sup>

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## Chapter 4

### Arbitrary Detentions and Torture

The arbitrary detentions have been rampantly used by authorities in Kashmir to curb dissent and stifle the resistance movement in Kashmir. Since 5 August 2019, Indian authorities have intensified the use of the draconian 1978 – Jammu & Kashmir Public Safety Act (PSA)<sup>1</sup> to place Kashmiris under preventive detention. The PSA allows the authorities to arbitrarily detain people for up to two years without charge or trial. *Amnesty International* in its 2011 report described that PSA has become precisely such a “lawless law”, largely supplanting the regular criminal justice system in J&K.<sup>2</sup> It has been used to target human rights defenders, journalists, pro-freedom political leaders, suspected members of armed opposition groups and people involved in protests, including minors.<sup>3</sup>

Various International rights organizations including the *UN Special Rapporteur on Human Rights Defenders*<sup>4</sup> have called for the repeal of PSA as it “directly affects the work of human rights defenders.” *Amnesty International* in a report<sup>5</sup> “*We Are Being Punished by Law*” 2022 reported that in the lack of any publicly accessible data on the use of administrative and pre-trial detention in Jammu & Kashmir, “Amnesty International reviewed 1346 cases available on the website of the High Court of Jammu & Kashmir and Ladakh. It found that as on 1 August 2022, the number of habeas corpus petitions has increased by 32% in Jammu & Kashmir, indicating an increase in allegations of unlawful detention.” Interestingly the data available on Jammu and Kashmir and Ladakh High Court websites<sup>6</sup> shows an emerging

trend of using UAPA in addition to PSA. Of 569 PSA cases filed in the first seven months of 2022, UAPA was invoked in 179 cases (31%). However, the use of UAPA, as reported by Amnesty International, was only limited to the petitions filed with the Srinagar wing of the High Court. Even generally, a higher number of habeas corpus petitions were filed with the Srinagar wing (556) of the Court than the Jammu Wing (29).<sup>7</sup> Srinagar wing has jurisdiction over the Kashmir valley which has a majority Muslim population whereas the Jammu wing oversees the matters related to Hindu-dominated Jammu region, indicating increased use of unlawful detention in the Muslim-dominated area of Jammu & Kashmir. At least 1,003 persons had been detained under PSA across the state between March 2016 and August 2017 – a period that included several months of turmoil.<sup>8</sup> In its 2011 report, *Amnesty International* said that the government statistics on the PSA were “often inconsistent”. This inconsistency could be found in the government’s response to the erstwhile J&K assembly in January 2018 when it said only 525 persons were detained under the stringent law in 2016, almost half the number quoted in the 2019 media report. The government reply also said 201 persons were booked in 2017 while the official data shows that more than double, 410 persons were booked under the law. The number of detentions went up to 510 in 2018.<sup>9</sup>

Quoting the official police data, *The Indian Express* reported<sup>10</sup> as per the report, in 2019, 699 people were detained under PSA, and 160 people in 2020. In 2021, 95 people were detained under PSA till July-end. Of these, 284 continue to remain under detention. In the first 30 days after the abrogation of the special status on 5 August 2019, at least 290 people were booked under PSA among which 250 people booked under this law were from Kashmir according to the government sources, as per the

newspaper. Meanwhile, over 5,500 people were taken into preventive custody under section 107 of the CrPC in 2019; *The Indian Express* quoted<sup>11</sup> the official sources. As per the report, out of the total 2,364 people arrested under UAPA, 918 were held in 437 cases in 2019, 953 people in 557 cases in 2020, and 493 in 257 cases till July- end of the year 2020 (249 cases at Kashmir, 26 in Jammu). Among these, 1,100 continue to remain in custody, it further reported. The PSA is in clear contravention of provisions of the International Covenant on Civil and Political Rights (ICCPR), and fails to guard and espouse the inherent dignity of an individual. By authorizing administrative detention under these rigorous provisions, it violates the right to a fair trial, the right against arbitrary detentions, and other procedural as well as substantive safeguards established in ICCPR.<sup>12</sup>

The Unlawful Activities (Prevention) Act<sup>13</sup> (UAPA) 1967 is India's foremost anti-terror law. The aforesaid legislation allows the Indian government to prevent terror-related activities, unlawful associations, and activities. With several amendments – the latest being in August 2019 – this legislation has become so rigorous that it allows the government to jail for six months, without a trial or bail, anyone they might consider capable of committing a crime in the future.<sup>14</sup> The legislation, described by many as draconian, is in contrast to the principle of “innocent until proven guilty” as it designates an individual as a “terrorist” – and it is not specified whether the individual can be declared a terrorist at the time of filing a charge or only after conviction in terrorism-related cases.<sup>15</sup> UAPA not only dilutes the provisions of bail but it also authorizes police to conduct warrantless searches, arrest individuals, and keep them in custody for up to 6 months without formally filing any charges. One of the primary criticisms of this legislation is that it criminalizes dissent, a particular set of beliefs

or opinions that the government might deem unlawful.<sup>16</sup> There were at least 346 persons arrested in 2020 while 177 and 247 were held in 2018 and 2019 respectively, according to Nityanand Rai, Minister of State MHA, a written reply to a question in Lok Sabha. The highest number of Unlawful Activities (Prevention) Act (UAPA) cases under the ‘special and local laws’ in the country were filed in Jammu and Kashmir in 2021, as per the latest report by National Crime Records Bureau (NCRB). As per the report 289 cases were registered in J&K in 2021.<sup>17</sup>

Former CMs Farooq Abdullah, Omar Abdullah, and Mehbooba Mufti were detained ahead of Article 370 abrogation. Besides the detentions ranging from, pro-India political leaders, and pro-freedom leaders to individuals, journalists, and Human rights defenders were done under these “lawless laws”. For instance, since 2016, 49 journalists have been arrested of which eight have been arrested under the Unlawful Activities (Prevention) Act (UAPA) – India’s primary anti-terror law (Indian Express, “Government Curbs Choking Media in J&K: Press Council Panel”, 14 March 2022).<sup>18</sup>

#### **4.1. Case Studies**

##### ***Human Rights Defender: Khurram Parvez***

On November 22, 2021 officials of the NIA, India’s federal Counter-terrorism agency raided Parvez’s home and office seized several electronic devices and documents, and arrested him on allegations<sup>19</sup> of ‘terrorism funding, being a member of a terrorist organization, criminal conspiracy and waging war against the state’. He was detained earlier for over 2 months in 2016 and blocked from traveling to the United Nations Human Rights

Council in Geneva. He was amongst those targeted in counter-terrorism raids in October 2020 when several NGOs, activists, and a newspaper faced investigations for their work or for being outspoken about government abuses. In October 2020, *UN High Commissioner for Human Rights* raised concerns<sup>20</sup> over the mounting use of the UAPA law against HRDs and peaceful protestors and urged the authorities to release people arrested” for simply exercising basic human rights that India is obliged to protect.”

***Ph.D. Scholar: Ala Fazili***

Kashmiri Scholar, Ala Fazili was detained for a 2011 article. The detention of Abdul Aala Fazili, a PhD scholar at the Kashmir University, Pharmaceutical Department comes days after a prominent law professor, Sheikh Showkat Hussain, was sacked as the Principal of Kashmir Law College on charges of being a hard-line ideologue of Pakistan Based separatist organizations. In a statement, SIA said Aala was arrested in connection with FIR No.01/2022 filed at JIC Police Station of SIA Jammu wing under section 13 (advocating, abetting, advising or inciting unlawful activity) and section 18 (sets out the quantum of punishment for involvement in such activity) of UAPA Act. Aala, who was a vocal voice in the Kashmir Human rights circuit before the abrogation of Article 370 had authored a piece titled, “*The shackles of slavery will break*”, which was published by the *Kashmir Walla* on November 6, 2011.<sup>21</sup>

Since 2002 there was a ban on residents of J&K being detained under the PSA in jails outside the State – that was removed by an amendment in 2018, ostensibly to deal with overcrowding and allow “up gradation of infrastructure, particularly for improving

the living conditions of the jail inmates.”Umer Maqbool, *PSA detainees can now be jailed outside Jammu and Kashmir* (31 July 2018).<sup>22</sup> Over the past two years, significant numbers of detainees have been moved to prisons in Uttar Pradesh, Haryana and Punjab<sup>23</sup> prisoners in Uttar Pradesh and 27 in Haryana, see G. Kishan Reddy, Minister of State, MHA, *Reply to Rajya Sabha question no 1818*, (4 December 2019).<sup>23</sup> On 4 December 2019, the Government of India acknowledged that at least 261 detainees – approximately one-quarter of all held under the PSA – were held outside Kashmir since August 2019<sup>24</sup> Scroll staff, *J&K: Kashmiri man dies in Allahabad jail after being detained under Public Safety Act* (23 December 2019).<sup>24</sup> Torture has also been carried on children and women in Kashmir. In 2018, the Jammu & Kashmir Coalition of Civil Society (JKCCS) found through Right to Information applications that hundreds of children had been detained under the PSA between 1990 and 2013. In many of these cases, the police/magistrates had no procedure to verify the age of the detainees, and minors were kept in custody along with adult criminals and released only after the judicial intervention. About 80% of these detentions were held illegal by courts.<sup>25</sup> After visiting Kashmir, Delhi-based activists found around 13,000 boys have been detained since its autonomous status was revoked on Aug 5. The report, led by the National Federation of Indian Women, detailed claims that boys - some as young as 14 - had been imprisoned for up to 45 days.<sup>26</sup>

## **4.2. Torture**

Torture is when somebody in an official capacity inflicts severe mental or physical pain or suffering on somebody else for a specific purpose. Sometimes authorities torture a person to extract a confession for a crime, or to get information from them.



A victim of torture shows the images of his different body parts brutally tortured by Indian military forces.

Sometimes torture is simply used as a punishment that spreads fear in society. There are varied forms of torture including physical nature, like beatings and electric shocks. It can be of a sexual nature, like rape or sexual humiliation.<sup>27</sup> Or they can be of a psychological nature, like sleep deprivation or prolonged solitary confinement. Torture qualifies as a war crime as per the International Criminal Court (ICC) and the Geneva Conventions.<sup>28</sup> Torture has a long history in J&K, with documentation over the past three decades by the International Committee of the Red Cross (ICRC) (US Embassy-New Delhi, ICRC frustrated with Indian Government (6 April 2005),<sup>29</sup> the United Nations and various international and local organizations.<sup>30</sup> Such concerns have become even more urgent following the August 2019 lockdown and the increased restrictions on movement and communications. Despite the

crackdown, which adversely impacted journalists' and human rights groups' capacity to report, concerns of torture and other ill-treatment have been raised. The Office of the High Commissioner for Human Rights (OHCHR) has also reported receiving a number of allegations of torture and other ill-treatment of people held in detention High Commissioner for Human Rights, press briefing note on Indian-Administered Kashmir (29 October 2019).<sup>31</sup> In May 2020, the UN Special Rapporteur on Torture and three other UN experts highlighted cases of torture or other ill-treatment in a communication to the Government of India – no response was received by them. Lost eyesight, dislocated joints, fractures, stomach ailments, nephrological problems, impotency, sexual problems, internal organ injury, cardiac problems, hypertension, urinary incontinence, complete/partial paralysis, amputations, deformity, nerve damage are some of the impacts on health of 1,200 torture survivors from four districts of Kashmir, a study carried out in February 2019 by the Jammu Kashmir Coalition of Civil Society (JKCCS) found.<sup>32</sup> The report endorsed by former UN special rapporteur Juan E Mendez says<sup>33</sup> “torture emerges as part of a routine (which is) intrinsic to the very existence of the Indian State in Kashmir.” The use of shotguns in Kashmir has caused deaths as well as injuries. While there is no accurate data on casualties from shotgun-fired pellets, the Home Affairs Ministry told Parliament in February 2018<sup>34</sup> that 17 people had died from pellets between 2015 and 2017. According to the data journalism website *India Spend*, pellets fired from shotguns blinded 139 people<sup>35</sup> between July 2016 and February 2019. In January 2018, Jammu and Kashmir Chief Minister Mehbooba Mufti told the state assembly that 6,221 people had been injured by pellets<sup>36</sup> between July 2016 and February 2017, and among them, 782 people had eye injuries.

## *Case Studies*

On March 19, 2019, a teacher, Rizwan Assad Pandit (29), resident of Awantipora died in the J&K Police Special Operations Group (or SOG) custody in Air Cargo SOG camp Haft Chinar, Srinagar. The preliminary post-mortem report found that Rizwan died due to “extravasation of blood” caused by multiple injuries. His family claimed that there were torture marks visible on his dead body. While the preliminary autopsy report found its way into the local media, the final findings were not made public.<sup>37</sup>

A 30-year-old man, Riyaz Ahmad Tikrey, a resident of Bandi Nandpora in the Kupwara district of North Kashmir, died in police custody on September 6, 2019. While the police tried to pass it as suicide, his family strongly refuted this theory. Their claim was that there were visible torture marks on his dead body and that led to his death. On September 7, a magisterial inquiry was ordered to probe his custodial death but so far no inquiry has been conducted.<sup>38</sup>

### **4.3. Custodial Killings**

Custodial killings have also been repeatedly reported since 1990s. However, since 05 August 2019, three Hurriyat activists have died in state custody.

Altaf Shah is the third Hurriyat activist from India-controlled Kashmir to have died in police custody in the last three years.<sup>39</sup>

In October 2022, Altaf Ahmad Shah, a prominent pro-freedom leader from Indian-administered Kashmir, has died in custody fighting renal cancer, his family said. Shah, 66, was being held in

the high-security Tihar prison in the Indian capital New Delhi for the past five years.

In December 2019, Ghulam Muhammad Bhat, 65, a resident of North Kashmir's Kupwara district, died in jail in Uttar Pradesh state's Prayagraj city, after five months in custody.<sup>40</sup> He had already been suffering from a number of ailments when he was arrested earlier. In 2020, Indian authorities also imprisoned the group's chairman Muhammad Ashraf Sehrai. The party leader died in custody last year aged 77.<sup>41</sup>

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<sup>1</sup> Amnesty International, 'A 'Lawless Law': Detentions under the Jammu and Kashmir Public Safety Act', (Index: ASA 20/001/2011), <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa200122011en.pdf>

<sup>2</sup> Ibid.

<sup>3</sup> UNHR, Report on Situation of Human Rights in Kashmir, (June 14, 2018) <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf>

<sup>4</sup> OHCHR, "Statement of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, as she concludes her visit to India", January 21, 2011, <https://www.ohchr.org/en/statements/2011/01/statement-special-rapporteur-situation-human-rights-defenders-margaret-sekaggya>

<sup>5</sup> Amnesty International, India: "We are Being Punished By The Law" – Three Years of Abrogation of Article 370 in Jammu & Kashmir, (September 2, 2022) <https://www.amnesty.org/en/documents/asa20/5959/2022/en/>

<sup>6</sup> High Court of Jammu & Kashmir and Ladakh, <https://www.jkhighcourt.nic.in/>

<sup>7</sup> Ibid.

<sup>8</sup> Greater Kashmir, Lawless Law? No rules, procedures for detaining a person under PSA: Reveals RTI, (January 5, 2018) <https://www.greaterkashmir.com/kashmir/lawless-law-no-rules-procedures-for-detaining-a-person-under-psa-reveals-rti>

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<sup>9</sup> Mudasir Ahmad, How the Public Safety Act Continues to Haunt Kashmir, (January 28, 2020) <https://thewire.in/rights/psa-detentions-kashmir>

<sup>10</sup> Naveed Iqbal, 2,300 booked under UAPA in J&K since 2019, nearly half still in jail, (August 5, 2021) <https://indianexpress.com/article/india/2300-booked-under-uapa-in-jk-since-2019-nearly-half-still-in-jail-7438806/#>

<sup>11</sup> Ibid.

<sup>12</sup> Mohammad Zayaan, The Jammu and Kashmir Public Safety: A Gross Violation of the ICCPR, (August 30, 2021) <http://opiniojuris.org/2021/08/30/the-jammu-and-kashmir-public-safety-a-gross-violation-of-the-iccpr/>

<sup>13</sup> MHA, UAPA 1967, [https://www.mha.gov.in/sites/default/files/A1967-37\\_0.pdf](https://www.mha.gov.in/sites/default/files/A1967-37_0.pdf)

<sup>14</sup> PRS India, The Unlawful Activities (Prevention) Amendment Bill, 2019 (August 2019) <https://prsindia.org/billtrack/the-unlawful-activities-prevention-amendment-bill-2019>

<sup>15</sup> Qadri Inzamam, Mohammad Haziq, Empty Fields: The Use (and Abuse) of UAPA in Kashmir, (September 25, 2020) <https://thediplomat.com/2020/09/empty-fields-the-use-and-abuse-of-uapa-in-kashmir/>

<sup>16</sup> HRW, Back to the Future India's 2008 Counterterrorism Laws, (July 27, 2010) <https://www.hrw.org/report/2010/07/27/back-future/indias-2008-counterterrorism-laws>

<sup>17</sup> HT, J&K saw highest number of cases registered under UAPA in 2021: NCRB report, (August 30, 2022) <https://www.hindustantimes.com/cities/chandigarh-news/jk-saw-highest-number-of-cases-registered-under-uapa-in-2021-ncrb-report-101661812770954.html>

<sup>18</sup> Krishn Kaushik, Government curbs choking media in J&K: Press Council panel, (March 14, 2022) <https://indianexpress.com/article/%20india/govt-curbs-choking-media-in-jk-press-council-panel-7818409/>

<sup>19</sup> Amnesty International, India: Kashmiri Activist Held Under Abusive Law, (November 26, 2021) <https://www.amnesty.org/en/latest/news/2021/11/india-kashmiri-activist-held-under-abusive-law/>

<sup>20</sup> Ibid.

<sup>21</sup> Jehangir Ali, Kashmir: Scholar Arrested for 2011 Article; Fresh Charges on 'Kashmir Walla' Editor, (April 18, 2022) <https://thewire.in/rights/kashmir-scholar-arrested-2011-article-fahad-shah-fresh-charges>

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<sup>23</sup> MHA GoI, Reply to Rajya Sabha question no 1818, (December 4, 2019) <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2019-pdfs/rs-04122019/1818.pdf>

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- <sup>29</sup> ICRC Frustrated With Indian Government, (April 6, 2005) [https://wikileaks.org/plusd/cables/05NEWDELHI2606\\_a.html](https://wikileaks.org/plusd/cables/05NEWDELHI2606_a.html)
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- <sup>31</sup> OHCHR, High Commissioner updates the Human Rights Council on human rights concerns, and progress, across the world, (February 27, 2020) <https://www.ohchr.org/en/statements/2020/02/high-commissioner-updates-human-rights-council-human-rights-concerns-and>
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## Chapter 5

### Communication Blockade

Among the various conventional forms of counter-insurgency measures the restriction on right to access information has been one of the major additions to already functioning multi-pronged strategies employed by the Indian state in Kashmir. Such attacks on civil liberties further increase the already present humiliating strategies thereby emanating more space for a violent environment. This proposition was reiterated by Indian External Affairs Minister S. Jaishankar, when questioned on the communication blackout, saying<sup>1</sup> that *“this was the most effective way to curtail misuse and nip potential violence and stone pelting in the valley. How do I can cut off the communication between the terrorists and their masters on one hand, but keep the internet open for other people? I would be delighted to know.”* Experts have defined<sup>2</sup> Internet shutdown as an “intentional disruption of internet or electronic communications, rendering them inaccessible or effectively unusable, for a specific population or within the location, often to exert control over the flow of information.”

The major communication tools include **landlines (fixed lines), mobile phones, cable TV networks, and the internet (including social media)**. The Kashmiri populace has faced frequent communication blockades over the years which include the shutdown of cellular networks (mobile phones) and internet-blockade. With a population of around 7 million, there are 2.6 million prepaid cell phone subscribers & 4 million prepaid subscribers.<sup>3</sup> According to *Indian Express*, there are a total of

around 50,000 active landline connections across 10 districts of the valley, meaning that mobile services remain the most widely used means of communication.<sup>4</sup> Internet shutdowns have been frequently put in place during encounters, independence and republic day of India since 2005<sup>5</sup> and other incidents like the death of separatist leaders(Syed Ali Shah Geelani, Mohammad Ashraf Sehrai etc.) and rebel commanders<sup>6</sup> (Burhan Wani, Reyaz Naiko, Manaan Wani etc to curb the assembly of people and restrict the flow of information.<sup>7</sup> Suspension of mobile phone & internet services as a “precautionary measure” on Republic Day and Independence Day of India has been a part of the security drill in the valley since 2005.<sup>8</sup> These events set precedence for suspending internet on other incidental issues as well.

### **5.1. Clampdown After the revocation of Article 370**

After the abrogation of Article 370 on 5 August 2019, a complete communication blockade was imposed along with a curfew in Jammu and Kashmir which took away the people's access to phone lines and the internet.<sup>9</sup> Besides revoking the special status of Jammu and Kashmir, these restrictions clearly impeded the peoples’ fundamental rights including the right to freedom of speech and expression.<sup>10</sup> The lack of access to phone lines and the internet due to this imposed blackout has had a major impact on various rights of people including hindering the daily lives of Kashmiris, affecting education, relationships, jobs, medical accessibility, press freedom, and freedom of expression. A total of 88 lakh mobile phone numbers were blocked on August 5, 2019, and 43,000 landlines were also blocked. Later on, around 5,000-6,000 numbers were whitelisted or unlocked mostly belonging to state administration, JKP & paramilitary forces.<sup>11</sup>

The first internet shutdown recorded in the erstwhile state of Jammu and Kashmir was on 26<sup>th</sup> January 2012. One of the longest internet shutdowns in the world was imposed in August 2019 after Article 370, granting Special Status to the state, of the Constitution of India was abrogated. The UT of Jammu and Kashmir regained a 4G internet connection on 6<sup>th</sup> February 2021 after 552 days of no to low internet. The erstwhile state of J&K faced the longest shutdown on earth which went for almost 172 days of absolute digital blackout<sup>12</sup> and 378 days of speed throttling.<sup>13</sup> There were 42 internet shutdowns recorded in the year 2017 followed by 108 internet shutdowns in 2018, 55 in the year 2019 (the longest as well).<sup>14</sup>

Year	Number of Internet Shutdowns
2017	42 Internet Shutdowns
2018	108 Internet Shutdowns
2019	55 Internet Shutdowns (Last Internet Shutdown for 18 months)
2020	116 Internet Shutdowns
2021	79 Internet Shutdowns
2022	39 Shutdowns till 9 September

**Table 5.1: The above table is a year wise compilation of internet shutdowns from 2017.**

*Source: Access Now and Internet Shutdown*

Another report<sup>15</sup> noted that India tops the world in internet shutdowns and J&K accounts for about two-thirds (63%) of the total shutdowns in India, both in terms of frequency and duration. In the entire Jammu and Kashmir region, the Southern part of Kashmir suffered the most number of Internet shutdowns, which comprises; Pulwama (20.4%), Kulgam (14.1%), Shopian (13.8%), Anantnag (13.4%), Srinagar (10.5%) has the most number of cases of internet shutdowns.<sup>16</sup>

The Jammu and Kashmir Coalition Civil Society (JKCCS) called the communication blockade in the Union territory “digital apartheid” and a form of collective punishment unleashed by the Indian government on the people.<sup>17</sup> The rights group further stated that “the internet siege enacts a digital apartheid a form of systematic and pervasive discriminatory treatment & collective punishment. This siege is means of political repression that serves as a deliberate means of severing, social economic and political connections between Kashmir, while isolating from the whole world.”

Date	Events in Order Since the Clampdown of Communication
04 August 2019	Clampdown on land line networks, mobile phone networks and internet.
14 October 2019	Restrictions on BSNL postpaid mobile phones were lifted. Prepaid phone, broadband, mobile phone internet & messaging service remained blocked.
27 December 2019	Mobile internet shutdown in Kargil (Muslim dominated area) is lifted after 145 days.
15 January 2020	2G mobile services were restored in 5 out of 10 districts in Jammu. Broadband services were available only for hospitals, banks and Govt. offices.
25 January 2020	Ban on 2G mobile internet services lifted but restricted to 301 white listed sites.
2 February 2020	Local authorities file a case against hundreds of VPN users.
3 April 2020	Ban on 4G mobile internet extended amid corona lockdown.
February 2021	Internet ban completely lifted.

**Table 5.2** The above table is a compilation of events in a chronological order in the aftermath of Abrogation of Article 370.

*Source: Internet Shutdown<sup>18</sup>*

## 5.2. Impact of Clampdown

Deployment of additional Indian paramilitary forces in the streets, travel restrictions, and prolonged curfew impeded people's access to health care which was particularly difficult for elderly people & women. Curfew passes were often declined and delays at checkpoints prevented people from receiving timely medical attention. This, aided by, a lack of internet and communication services meant medicines, emergency helplines, and the electronic lased government-funded insurance scheme, were all unavailable to patients and health workers. A petition filed by the Private School Association of J&K, which demanded the restoration of 4G internet to resume online classes during the Covid-19 lockdown was rejected by the Supreme Court of India. After an eighteen-month ban, 4G service was finally resumed in February 2021.<sup>19</sup> Moreover, this clampdown had a major impact on media, journalists, and Human Right Defenders. To access the internet, 150 journalists had to rely on 3 desktop computers installed in one of the rooms of the J&K Department of Information under the complete surveillance of government agencies.<sup>20</sup> On 3 October 2019, the 60th day of the shutdown, journalists held demonstrations inside the press club.<sup>21</sup> In an affidavit, filed in the apex court, Anuradha Basin Executive Editor of *Kashmir Times* said<sup>22</sup> *“constant monitoring of news reports sent through a makeshift media center in Srinagar, disregard for press cards and movement passes and deletion of photos and videos shot by scribes was causing fear and anxiety among them. This fear was generating a dulling effect on journalists who have been very careful not to annoy the authorities and forces with their reportage, even though the same constitutes honest and impartial reporting. Due to restriction newspapers have reduced their publications from 12 to 16 pages to 2 to 4 pages.”* Various

Supreme Court judgments and orders, instead of ending this digital siege, have brought about a new regime of mass surveillance, limitations, and filtering on the internet speed.<sup>23</sup> Moreover, human rights organizations, therefore, were also unable to report on violations and communicate about the happenings in the region. Even though various rights organizations including FORUM-ASIA, CIVICUS, FIDH & OMCT urged the government of India to restore the internet and mobile phone services in the valley.

Education was another vital victim of the internet ban. Teachers, students, and researchers faced problems in teaching, scholarships, admissions, and submission of research papers to journals respectively.<sup>24</sup> Moreover, access health sector was adversely hit by these restrictions during the eruption of the Covid-19 pandemic. A positive case was detected on 18 March 2019 in the valley. Since communication across Kashmir was limited, mobile phones were often disrupted and internet speeds were stuck at a plodding 2G, therefore government health instructions could not reach people.<sup>25</sup> Kashmir police used a similar militaristic approach in the case of the Covid epidemic with the Police registering 337 First Information Reports (FIRs) and arresting 627 within the first fifteen days to enforce a lockdown in the region.<sup>26</sup>

### **5.3. Economic Losses**

The communication blockade and subsequent Covid pandemic lockdown had a huge impact on businesses in the valley. According to the leading trade body, the Kashmir Chamber of Commerce & Industry (KCCI), the J&K UT reported losses worth over Rs 40,000 crore (USD 5.3 billion) just after the government abrogated Article 370 in August 2019. The traders struggled under severe clampdowns, followed by back-to-back lockdowns

imposed in the wake of the coronavirus outbreak.<sup>27</sup> Online businesses were severely hit by the clampdown of the internet. For instance, *The Hindu* reported how communication blackouts forced young entrepreneurs out of Kashmir valley or shut down.<sup>28</sup> While talking to one of the owners of the online courier service Fast beetle, the owner lamented that:<sup>29</sup>

*“Fast beetle online courier service, up with 6 employees & 8 delivery boys were shut down. As per the owner, the internet is oxygen for startups. It has tie ups with local brands and was in negotiation with Flip kart, Amazon etc.*

*Similarly, two women, Omania and Beenish, with their start-up named as Craft World Kashmir created a niche market for itself, not in J&K only, but also in Delhi, Punjab & Mumbai having 44.1K followers on Instagram, having 14 more girls as their employees, selling crochet items like, babysits, table covers, jeweler items etc. If the internet stays off no women will dare to dream big, says Omania.”*

#### **5.4. Lack of Access to social media and VPN Saga**

Social media used widely, as to articulate dissent in the absence of independent media has been the primary target of the shutdown. Social media functioned as an alternative media in Kashmir to counter state propaganda and narratives.<sup>30</sup> However, this clampdown and repeated network disruptions created a communication vacuum. Hence, the digital blackout was one of many myriad forms of oppressive mechanisms deployed by the state, depriving the Kashmiris of the hope of communication, until or unless they subserviently acclimatize with the 'new normal'.

Moreover, after the restoration of 2G internet services in February 2020, the ban on social media platforms and applications that offered peer-to-peer communication continued.<sup>31</sup> People in the region managed access to social media services through Virtual Private Networks (VPN) apps, which allowed the users to mask their location.<sup>32</sup> According to a report<sup>33</sup> by *Scroll*, security forces initially “resorted to physical checks of smartphones (to ascertain VPN)”, subsequently the police filed an open FIR under the stringent Unlawful Activities (Prevention) Act (UAPA) “on the alleged misuse of social media through VPNs” and those found guilty could be jailed up to seven years. Various media reports<sup>34</sup> noted that there have been cases where local police and special operation groups’ personnel, mostly on national highways, were frisking people and checking their phones for VPNs. *The Wire* while quoting victims of such violence reported<sup>35</sup> a few cases:

*Fayaz Mohammad\*, a 27-year-old, young man, from South Kashmir, was stopped near Khanabal while traveling to Srinagar. “My car was stopped by the police and I took it as a normal routine check, but instead of my identity card they asked me for my cell phone. Without asking for the reason, I handed them my phone, as in Kashmir you don’t want to argue with the police. So, I was made to unlock my phone and they kept on scrolling through my applications for any VPNs. suddenly one of them shouted ‘We found one’, and I was dragged out of the car and slapped,” Fayaz told The Wire.*

*The suspicious app that police had mistaken for a VPN service was in fact ‘YONO’; the State Bank of India’s mobile banking application. “They mistook YONO as VPN and it took me five minutes to convince them it’s not a VPN while I was being slapped and abused,” recounted an angry Fayaz.*

*Sanam Wani\*, a medical representative from Hawal, a locality in downtown Srinagar, was stopped on the Baramulla-Srinagar highway. "I was on my routine visit to a hospital in Baramulla when suddenly on the highway; Special Operation Group officials had put up barricades and were stopping only two wheelers. As I was on a motorbike, I was also stopped. On the spot, two teenage boys were caught and ruthlessly slapped by the SOG personnel as VPN was found on their phones. My heart was trembling from inside as I had around 17 VPNs in my phone and two in my laptop, but to my luck the officer first enquired about my profession I guess because of my attire and when I responded back, I am a medical representative he said to his fellow official, 'Let him pass the barricade, he is a doctor', " said Wani, who fears what would have happened if he had been caught.*

Similar tension between civilians and Indian Forces was witnessed in South Kashmir. According to a report<sup>36</sup> by scroll "several residents in Kulgam villages alleged that Army was checking the phones of youth for VPN apps, if such apps are found the youth are allegedly thrashed or asked to collect their phones from the Army Camp, wherein no one dared to go."

Another way in which VPN users were harassed was through written undertakings taken from broadband users. These undertakings came to light after 80 internet connections were restored to various outlets including hotels, tour and travel operators, guest houses and government offices in Kashmir.<sup>37</sup> Lawyers termed these undertakings<sup>38</sup> as one having "no legal precedents or justification" and the reflection of "executives' overwhelming dominance over the judiciary and the legislature."

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<sup>3</sup> Ahmad Adil, Communication blockade cripples media in Kashmir, (September 9, 2019) <https://www.aa.com.tr/en/asia-pacific/communication-blockade-cripples-media-in-kashmir/1576813>

<sup>4</sup> JKCCS, Kashmir group calls India’s internet ban ‘digital apartheid’, (August 25 2020) <https://www.aljazeera.co>

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<sup>11</sup> Azaan Javaid, J&K has 2 sets of cellphone numbers — those on ‘white list’ work, ones on ‘black list’ don’t, (September 26, 2019)

<https://theprint.in/india/jk-has-2-sets-of-cellphone-numbers-those-on-white-list-work-ones-on-black-list-dont/297182/>

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<sup>15</sup> Jammu Kashmir Coalition of Civil Society, Srinagar, Kashmir's Internet Siege, (August 2020)

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## Chapter 6

### Media Censorship, Policy and Persecution

#### 6.1. Media under Visible and Invisible Censorship

Journalists in Indian-administered Kashmir operate in one of the world's most intricate and restrictive environments. The Indian state has used every possible tool, from arbitrary arrests and detentions to communications blackouts, Public Safety Act (PSA) and the Unlawful Activities (Prevention) Act (UAPA), to suppress press freedom in Kashmir valley.<sup>1</sup> The decline on freedom of the press has been more rampant under the Hindutva-nationalist government, who revoked the Article 370 and Article 35A of the Indian Constitution on 5<sup>th</sup> August 2019.<sup>2</sup> Since then the intensity of detentions, coercion, harassment, a ban on travel and arrests of journalists have not only increased but also prevented them from publishing their work.<sup>3</sup> *Human Rights Watch*, a New York-based advocacy group, reported<sup>4</sup> that Journalists, since 2019, have been routinely summoned to police stations for “questions on their work and their social media posts, threatened with jail if their work criticizes the authorities, and pressured to self-censor. The *Hindu* correspondent Peerzada Ashiq, the *Economic Times* correspondent Hakeem Irfan, Basharat Masood of the *Indian Express*, and the *Outlook* correspondent Naseer Ganai are among those who have been summoned and questioned.” Journalists were left with no choice but to censor themselves. Some have left Kashmir and others are looking for opportunities in other areas.<sup>5</sup> *Amnesty International* in its report<sup>6</sup> “We are Being Punished by Law” (2022) reported that “between 5 August 2019 and 5 August 2022, at least six individuals including journalists,

human rights activists, and academics were stopped from traveling abroad without any reason.” The report<sup>7</sup> further noted that “at least 60 instances in which journalists and human rights defenders have been subjected to interrogations, criminal investigations, arbitrary arrest, detention, and surveillance since August 2019” Since 5 August 2019, at least 180 journalists have been called by the Jammu & Kashmir police for interrogation.<sup>8</sup> According to New York Based Advocacy Group Human Rights Watch<sup>9</sup> since 2019, at least 35 journalists in Kashmir have faced police interrogation, raids, threats, physical assault, or fabricated criminal cases for their reporting. In 2019, the J&K government stopped advertisements to two major newspapers, Greater Kashmir and the Kashmir Reader.<sup>10</sup> It expelled 30 newspapers from a list of outlets approved for state ad revenue in 2021 for violating the 2020 media policy.<sup>11</sup> The stoppage of government advertisements, an important revenue source, is a cost many media outlets can’t afford. In December 2021, in an interview<sup>12</sup> to *The Economic Times*, Inspector General of Police Vijay Kumar said that since 2016, “police have registered 49 cases against journalists, including 17 cases of criminal intimidation, 24 cases of extortion and eight cases of UAPA for glorifying or participating in terrorist activity.” According to the online media outlet *The Kashmiriyat*,<sup>13</sup> as many as 49 Kashmiri journalists experienced incidents of harassment, arrests, or intimidation in 2021. These arrests have marked an unprecedented level of fear and escalation in the intimidation of journalists, with raids on homes, regular questioning, and pressure on families. The persecution<sup>14</sup> is emotionally and financially draining for young reporters. A report<sup>15</sup> by the *Free Speech Collective* in September 2019 recounts the restrictions and challenges faced by Kashmiri journalists during the communications blockade. Due to the denial

of access to information, local journalists were unable to gather, verify or publish news. Limited internet access was available at a Media Facilitation Centre (MFC) equipped with five computers.<sup>16</sup> The journalists who were able to publish stories faced surveillance, questioning, and harassment by authorities. Fear of retribution and harassment has led most reporters to self-censor.<sup>17</sup>

## 6.2. Chronology of Harassment and Detention of Journalists

**September 2017:** Photojournalist Kamran Yousuf, detained by NIA, was the first Kashmiri journalist charged under the UAPA. He was released on bail six months later. The case against him was dropped in March 2022 due to lack of evidence. In September 2020, he was assaulted<sup>18</sup> by police when he was covering a gunfight.



Asif Sultan, a renowned journalist being arrested after the authorities termed his reportage as “anti-national”

**August 2018:** Asif Sultan, a journalist with the independent monthly magazine Kashmir Narrator, was also detained<sup>19</sup> under the UAPA for “harboring known militants.” He was granted bail

in April 2022 but was re-arrested a few days later under the PSA after already spending almost four years in jail. Asif Sultan's daughter, Areeba was just 6 months old when her father was illegally arrested in the middle of the night in August 2018. She is now two and half years old, and asks about him every day. On Eid-ul-Adha day 01 August 2020, Areeba has painted a message requesting to release her father. "Free My Baba" the paint reads.<sup>20</sup>

**July 2019:** Kashmiri journalist Qazi Shibli was detained and charged under the PSA for reporting on the deployment of troops before the Indian government took control of Jammu and Kashmir. He spent nine months in jail without trial.<sup>21</sup>

**19 December 2019:** J&K police thrashed two journalists—Anees Zargar and Azaan Javaid—when they were covering a student protest in Srinagar.<sup>22</sup>

**19 April 2020:** Cyber police in Srinagar called in Peerzada Ashiq, senior journalist of *The Hindu*, for questioning<sup>23</sup> about a report described as "fake news."

**22 April 2020:** J&K police booked Kashmiri photojournalist Masrat Zahra and independent journalist and author Gowhar Geelani under the UAPA for their social media posts.<sup>24</sup>

**18 September 2020:** Srinagar-based independent journalist Auqib Javeed was assaulted<sup>25</sup>, abused and threatened inside "Cargo"—an infamous interrogation centre in Srinagar—for his report on the intimidation of social media users critical of the government by the police.

**20 October 2020:** Jammu and Kashmir government sealed the Srinagar office of the outspoken newspaper *Kashmir Times* in an apparent appraisal against its Executive Editor, Anuradha Bhasin, who filed a SC petition challenging the governments telecommunication shut down. The same month, the Jammu and Kashmir authorities also shut down KNS, a local news agency.<sup>26</sup>

**07 September 2021:** Jammu and Kashmir police concurrently raided the residences of four Kashmiri journalists — Showkat Motta (Editor in *Kashmir Narrator*), Azhar Qadri (Associate Editor in *Kashmir Wallah*), Abbas Shah (Freelance Journalist) and Hilal Mir (*Hindustan Times*) — seizing documents and electronic devices.<sup>27</sup>

**10 October 2021:** NIA raided photojournalist Manan Gulzar Dar’s residence and arrested him for allegedly working with ‘terrorist organizations’ under the UAPA.<sup>28</sup>

**13-21 October 2021:** Five journalists were summoned and detained by the police and investigating agencies, including Salman Shah, editor of the *Kashmir First*; Sajad Gul, a freelance journalist; Suhail Dar, a freelance journalist who had previously detained under the UAPA in 2020; Mukhtar Zahoor, a stringer with the BBC; and Majid Hyderi, a freelance journalist.<sup>29</sup>

**7 January 2022:** J&K police arrested Sajad Gul, journalist at the *Kashmir Walla*, on charges of “criminal conspiracy” after he reported on a protest against Indian Authorities. But after Gull was granted bail, the police charged him under the draconian PSA to keep him in custody.<sup>30</sup>

**5 February 2022:** Jammu and Kashmir police detained Fahad Shah, Editor of *Kashmir Wallah*, on charges of “terrorism and sedition”.<sup>31</sup> Fahad Shah was held by police at Police Station Pulwama under the FIR 19/2022 and remanded to 10 days of custody by the Judicial Magistrate of Pulwama. On March 14, 2022, he was charged under the Jammu and Kashmir PSA, a stringent legislation that allows for detention for up to 2 years without trial. Shah was booked under sections of the law related to sedition and Unlawful Activities (Prevention) Act and is at present in police remand.<sup>32</sup>

**17 February 2022:** J&K court issued an arrest warrant against journalist Gowhar Nazir Geelani. An Executive Magistrate directed the Station House Officer (SHO), Heepora, Shopian, in South Kashmir, to produce Mr. Geelani before the court by February 19.<sup>33</sup>

**08 June 2022:** Journalist Shahid Tantray, from *The Caravan* magazine, said police harassed and questioned him and his family about his reports on Kashmir this year. Tantray was summoned by J&K police in June 2022 over a “mischievous” article he published in *The Caravan* magazine.<sup>34</sup>

These repressive measures and methods of silencing the critical voices in Kashmir were heavily criticized by international organizations and journalist bodies. The **United Nations Special Rapporteur on freedom of expression and the UN Working Group on Arbitrary Detention** expressed<sup>35</sup> concerns over the “alleged arbitrary detention and intimidation of journalists covering the situation in Jammu and Kashmir.” They noted that these violations “may be part of a broader pattern of silencing of independent reporting in Jammu and Kashmir, which in turn may

ultimately deter other journalists and civil society more broadly from reporting on issues of public interest and human rights in the region.” Shah’s arrest impelled condemnation from several journalism organizations in and outside Kashmir. *The Editors Guild of India*<sup>36</sup> said Shah’s arrest was “part of a larger trend in Kashmir of security forces calling journalists for questioning and often detaining them, because of their critical reporting of the establishment.” Digipub, an association of several media bodies, said there was no indication that Shah was involved in anything unlawful and that the police had a record of intimidating Shah.<sup>37</sup> The US-based Committee to Protect Journalists<sup>38</sup> also called for his release, saying his arrest “shows Jammu and Kashmir authorities’ utter disregard for press freedom and the fundamental right of journalists to report freely and safely.”

### **6.3. Ban on Travel**

Over 450 people including businessmen, journalists, lawyers, and political activists were put on a ‘No Fly List’ without any judicial order, right before Jammu & Kashmir was dismantled into union territories.<sup>39</sup> Since 2019, at least six Kashmiri journalists, human rights activists, academics, and politicians including Gowhar Geelani, Shah Faesal, Bilal Bashir, Zahid Rafiq, Sanna Mattoo and Aakash Hassan have been barred from flying outside India without any explanation in an arbitrary manner.<sup>40</sup>

Pulitzer Prize-winning Kashmiri photojournalist Sanna Irshad Mattoo, invited to the International Photography festival *Arles Rencontres* after winning a *Serendipity Arles Grant 2020*, was set to fly to Paris for a book launch and a photography exhibition on 28 June 2022. Just before she could board the flight, Mattoo was

stopped by the immigration officials at the New Delhi airport and told she could not fly.<sup>41</sup>

Journalist Akash Hassan (reports for the *Guardian*), who hails from the Anantnag district of South Kashmir, was on his way to Sri Lanka on 27 July 2022 evening when his boarding pass was canceled and he was offloaded from the aircraft.<sup>42</sup>

#### **6.4. Repressive Media Policy 2020 and shutting down of Kashmir Press Club**

In supersession of all the previous orders, the Union Territory of Jammu and Kashmir issued a “revised Media Policy” of the Information and Public Relations Department vide order General Administration Department OM. No. GDC-89/CM/2020 dated, May 12, 2020. The policy approval came under Administrative Council Decision No. 61/8/2020 on April 29, 2020.<sup>43</sup> On June 2, The Jammu and Kashmir government approved a new media policy<sup>44</sup> titled **Media Policy 2020** in order to “ensure a synchronized and effective use of all forms of media to build public trust, foster a genuinely positive image of the government based on the performance and strengthen the relationship with key stakeholders.” The policy seeks to create a “sustained narrative” on the functioning of the government in the media and promote the highest standard of journalism in the Union Territory.<sup>45</sup> However, the policy was criticized on various platforms by journalists and media houses. This policy, as stated by a member of the *Kashmir Editors Guild*, was formulated without any communication or discussion with the editors and journalists of the valley.<sup>46</sup> The new media policy has taken away the basic principle of a free press and systematically stifled all forms of dissent.

As reported<sup>47</sup> by *The Wire* the “Media Policy-2020” authorizes the Directorate of Information and Publication Relations (DIPR) J&K government to “examine” content of print, electronic and other forms of media for “fake news, plagiarism, and unethical or anti-national activities.” The 50-page policy reads:

*“Any individual or group indulging in fake news, unethical or anti-national activities or in plagiarism shall be de-impaneled besides being proceeded against under the law.*

*“There shall be no release of advertisements to any media which incite or tends to incite violence, question the sovereignty and the integrity of India or violate the accepted norms of public decency and behavior,”*

The policy document authorizes the officers of the J&K government to decide on what is “fake news” and proceed against journalists and media organizations.<sup>48</sup>

*“Any fake news or any news inciting hatred or disturbing communal harmony shall be proceeded against under IPC/Cyber laws. A suitable mechanism with specific TORS shall be set up by the DIPR for monitoring the above and ensuring adherence to the guidelines,” reads the policy document.*

Similarly, it would also do a “robust background check including verification of antecedents of each journalist.”<sup>49</sup>

The policy document unequivocally states:<sup>50</sup>

*“DIPR shall examine the content of the print, electronic, and other media for fake news, plagiarism, and unethical or anti-national*

*activities. Any individual or group indulging in fake news, unethical or anti-national activities or in plagiarism shall be de-impelled besides being proceeded against under law. There shall be no release of advertisements to any media which incite or tend to incite violence, question sovereignty and integrity of India or violate the accepted norms of public decency and behavior.”*

This new media policy is in clear violation of the freedom of speech and the freedom of the press. The policy would cripple journalism in the Valley, and that it empowers the government to become the editor, printer, and publisher of newspapers in the Union Territory.<sup>51</sup>

*The Indian Express* criticized the new media policy. Its editorial titled "Ministry of Truth," said:<sup>52</sup>

*“Clearly, the J&K administration’s ideas of democratic governance are very different from what the Constitution of India promises...At a time when democratic political voices remain missing in J&K, the “new media policy” is a further affront, intended to keep control of the narrative of J&K.”*

*The Telegraph* has also expressed<sup>53</sup> concern over the policy as;

*“Such an intervention could distort truth and silence voices critical of the administration. Indeed, controlling the nature and the dissemination of news seems to be the underlying motive of an administration that has been criticized for harassing journalists in Kashmir. It must also be remembered that the Union territory is now without an elected government. Choking the voice of an independent media would go a long way in widening the chasm between the people and the Centre. This could have ominous*

*repercussions on security in the region that remains fragile in spite of a muscular government at the Centre.”*

*The wire* reported<sup>54</sup> that many journalists in J&K believe that the government, before rolling out the new media policy, was anyway muzzling the press one way or the other, now it has become more official.

### **6.5. Kashmir Press Club and its Subjugation**

With an already unprecedented level of criminalization and intimidation of journalism and journalists since August 5, 2019, the shutting down of Kashmir Press Club has only made it worse for journalists in Kashmir. The Kashmir Press Club (KPC), formed in 2018, is the largest independent media body in the Himalayan region, with at least 300 journalists as its members.<sup>55</sup>

On January 15, 2022; in what the *Editors Guild of India* termed as armed “coup”, a group of journalists, led by *The Times of India*’s Saleem Pandit with at least 10 more journalists and newspaper owners with the assistance of armed police over the weekend, allegedly threatening its ruling body, and locked up the building, preventing journalists from entering<sup>56</sup>, some of them widely perceived to be government-friendly, had taken over the KPC office, naming Saleem as their interim president.”<sup>57</sup>

Delhi-based news outlet *The Wire* reported<sup>58</sup> “*the J&K administration led by Lieutenant Manoj Sinha on January 17, 2022 said that the press club, which was registered as a society in J&K, has “ceased to exist” after it “failed to reregister” under the Societies of Registration Act, a central law which was extended to Jammu and Kashmir after the revocation of Article 370. The*

*Press Club's existing managing body "too has come to a legal closure on 14 July 2021, the date on which its tenure came to an end", the administration said in a statement, effectively seizing control of an institution which was set up to look after the welfare of journalists in Kashmir. The development took place barely hours after a group of independent journalists associated with the national and international news organisations, including the BBC, Associated Press and others announced that they had nominated a committee "to hold the elections" for the new managing body, the second such committee in as many days."*

The decision was widely condemned by International Journalist Organisations such as International Federation of Journalists (IFJ), Indian Journalist Union (IJU) and local media outlets. The International Federation of Journalists (IFJ) said; *"The unconstitutional closure of the Kashmir Press Club violates the democratic principles of the organization and is a blatant attempt by the Indian government to silence critical journalism in Jammu and Kashmir region. The IFJ urges authorities to immediately reinstate the KPC and allow its members to elect a new managing body unhindered."*

The IJU said: *"The Indian Journalists Union condemns the Jammu and Kashmir Registrar of Society for putting in abeyance the KPC's registration and the forcible takeover of the club by a group of journalists, aided by the J and K administration and the police. The KPC said the Union has been vocal on media issues, sustained harassment and intimidation of journalists in the valley and the twin actions smack of vendetta and brazen attempt to silence dissenting voices. The Union demands immediate restoration of the Clubs registration as a society and that elections be held at the earliest"*

Many local journalists lamented that the club had emerged as a space for critical thought and intellectual exchange between journalists during its short existence.<sup>59</sup> By shutting down the space authorities have only re-enforced the suppressive tactics used against critical journalism in Kashmir.

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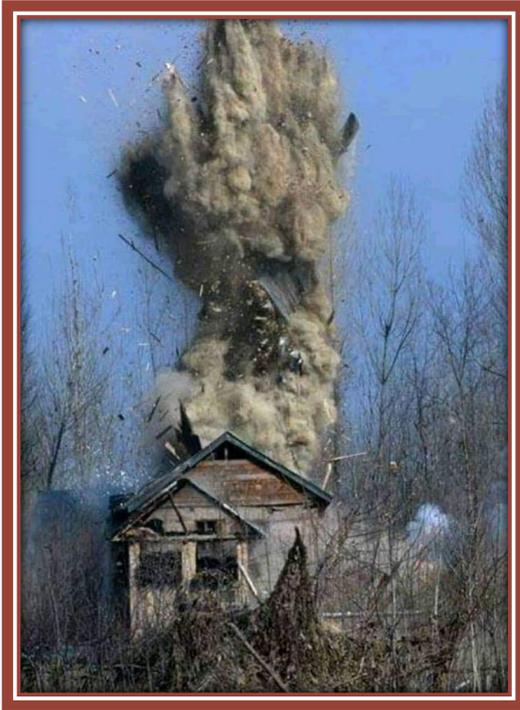
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## Chapter 7

### Property Destruction and Denial of Burials



Indian armed forces blow up a house using an Improvised Explosive Device (IED) in the disputed territory of Indian illegally occupied Jammu and Kashmir.

#### 7.1. Destruction of Civilian Property

In J&K, the destruction of civilian properties by armed forces personnel - during encounters, CASOs, and CADOs or while dealing with the protestors - has been one of the key counter-insurgency strategies since the inception of the armed resistance against Indian rule in the 1990s. For example, during the height of militancy in Kashmir in the early 1990s – several houses or even entire colonies were burnt down by the Indian Armed forces. Similarly, in January 1993, after a convoy of the Border Security

Force (BSF) was ambushed by militants in north Kashmir's Sopore town, the BSF<sup>1</sup> set the town on fire. More than 45 people were killed that day. In another case, several shops and houses were set on fire by the security forces in Baramulla's Pattan town on August 1, 1990.<sup>2</sup>

Moreover, the repressive tactics of the state have escalated, since the revocation of Article 370, in the valley. The Jammu and Kashmir Coalition of Civil Society (JKCCS), which works in Jammu and Kashmir, said in its bi-annual report<sup>3</sup> that from January 01 to June 30 in J&K, the destruction of civilian properties by security forces during encounters or while dealing with the protestors saw an uptick in the first six months of 2020. From January 1 to June 30 of 2020, at least 48 cases of destruction of civilian properties were reported in Jammu and Kashmir. The destruction of civilian properties during encounters saw an increase during the COVID-19 lockdown enforced by the government, rendering many families homeless and without shelter. The vandalism and destruction of window panes and parked vehicles are generally done to impose collective punishment and to dissuade people from protesting. A total of 114 homes were destroyed during military operations in 2020.<sup>4</sup> In May 2020, 22 homes were burnt down in Srinagar during a 12-hour gunfight between Indian police and paramilitary forces and rebels, leaving dozens of families homeless during the coronavirus outbreak.<sup>5</sup> According to data collected by India Spend, at least 105 homes were destroyed following gunfights between 2015 and March 2018 in Kashmir's Pulwama district.<sup>6</sup>

In recent years Indian armed forces in Kashmir have burnt down civilian property (by JCB, cans of oil) during and after gunfights between government forces and rebels. This policy change marks

a change in approach whereby security personnel now opt to burn down homes when they suspect militants are hiding rather than holding prolonged gunfights. In all the cases of destruction of civilian properties, armed forces, in direct violation of the Geneva Conventions and International Humanitarian Law, use disproportionate force to inflict damage on the civilian property.<sup>7</sup> The practice of destroying civilian homes has accompanied military operations in Kashmir for decades, much like home demolitions by Israel targeting Palestinians.

Moreover, Jammu and Kashmir Police on 24 March 2022 warned that properties of people providing shelter to militants or their associates will be attached under the Unlawful Activities (Prevention) Act (UAPA).<sup>8</sup> SSP, Srinagar, Rakesh Balwal told reporters<sup>9</sup> that “the houses where encounters took place, and houses where militants took shelter and planned attacks on the security forces and the civilians will be attached. So far, **during 2020-2021, over one dozen such houses have been identified** in downtown, Soura, Pantha Chowk, Batmaloo, Nowgam, Harwan, etc. The process of attachment of such properties is being started from Srinagar district in the Valley.” In February 2021, a total of 61 vehicles, 5 houses, and 6 shops, besides land and cash were subsequently seized or attached under the Unlawful Activities (Prevention) Act. The properties included that of separatist leaders and their associates. The permission was granted in 46 cases to restrict terror activities.<sup>10</sup>

Similarly, on 21 July 2022, the Jammu and Kashmir Police, in the exercise of powers conferred by section 25 of the Unlawful Activities (Prevention) Act, 1967, the DGP J&K, accorded sanction<sup>11</sup> for the attachment of four residential houses (Three residential houses in Parimpora area of the city and one house

belonging to Abdul Rehman Bhat at Darbagh in Harwan area of the city) and seizure of three vehicles (three vehicles, including an SUV, were seized in Pulwama district) used for providing “assistance in terror activities.”

## **7.2. Treatment of Dead & Denial of Burials**

Indian authorities, under a vague policy started in 2020, have buried scores of Kashmiri rebels in unmarked graves, denying their families proper funerals. While citing COVID concerns, a top-ranking police official, in an interview, said that the burial of militants in isolated locations “stopped glamorizing terrorists and avoided potential law and order problems,” calling the action “historic”.<sup>12</sup> Since April 2020, the government stopped handing over the bodies of armed militants to their families and has, instead, been burying them in remote locations, citing COVID-19 concerns. In 2020, around 158 militants were buried in isolated locations in Baramulla, Ganderbal, and Handwara areas, mostly in Northern Kashmir. The number of such burials crossed more than 100 till 31 December 2021.<sup>13</sup> Consequently, the Indian state seems to be engaged in a systematic effort to subject the deceased to symbolic indignity in death and to collectively punish and stigmatize the remaining relatives of the deceased. On April 6, 2020, five Kashmiris were killed in a gunfight with Indian security forces. They were then buried at an undisclosed location.<sup>14</sup> A relative of one of the men killed in the gunfight stated that the authorities were “snatching our rights of mourning”.<sup>15</sup> Some of the family members have even been charged under India’s anti-terror law, the Unlawful Activities (Prevention) Act (1967) for seeking their relative’s dead bodies.<sup>16</sup> Mothers in Kashmir are unable to bear the pain of not seeing their sons for the last time. Shakeela suffered a heart attack 12 days after her son Adil Ahmad Wani was

killed in an encounter in the Pulwama district of South Kashmir on May 6, 2021.<sup>17</sup> Middle East Eye reported there is a clear resemblance<sup>18</sup> of such practices to the Israeli tactic of holding Palestinian bodies, refusing families the right to mourn, and ensuring its control not only over the living but also over the dead.

### *Case Studies*

**Mushtaq Ahmad Wani** cried out for public support after Indian forces refused to return the body of his teenage son, who was killed in a controversial operation on the outskirts of Srinagar, “Today it’s about my son. Tomorrow it will be your son as well.” Wani shouted while being taken away by Indian Police during a protest at the Lal Chowk Square in Srinagar, the region's summer capital. On December 30, Wani’s son 16-year-old Ather Mushtaq was killed along with two other local youths. Ather’s body was buried by Indian authorities in the Northern Kashmir’s Sonmarg area nearly 150 km (93 miles) away from his home in Southern Kashmir. His father has been calling for the return of Ather Mushtaq’s body.<sup>19</sup>

### **The Case of SAS Geelani**

By 10:30 pm on Wednesday evening on 01 September 2021, news had leaked from the heavily guarded residence of Syed Ali Shah Geelani, located on the outskirts of Srinagar that the Hurriyat and pro-freedom leader had passed away.<sup>20</sup> A communication blackout was imposed in Kashmir. Outside Geelani’s residence and across the Valley, thousands of police and paramilitary personnel took control of the roads to prevent people from reaching his residence. The Wire reported<sup>21</sup> quoting the Geelani family; the police had initially agreed to allow them and their

neighbors to perform the last rites. “Instead, they raided the residence, trampled on everything, thrashed family members, and took away the body. They were not even carrying a stretcher and the body had to be dragged on the floor,” A team of police forcibly entered the house and made their way into the room, where a green cloth emblazoned with a white crescent and star, resembling Pakistan’s national flag, was draped on Geelani’s cold body. The report further noted that “police officials kept switching on and off the light inside the room and chaos broke out, during which Geelani’s body was snatched and pulled out into the courtyard.” Senior pro-freedom leader Syed Ali Shah Geelani, 92, was finally laid to rest in a pre-dawn quiet burial (4:30 AM) monitored by police in Srinagar’s Hyderpora area. Barricades were set up and mobile telephony snapped across the Valley to keep his supporters at bay.<sup>22</sup>

### **Mohammad Ashraf Sehrai**

Sehrai was one of the staunchest supporters of Kashmir’s merger with Pakistan.<sup>23</sup> The 77-year-old pro-freedom leader had been lodged in KotBalwal Jail in Jammu since he was booked under the Public Safety Act (PSA). Sehrai is from the Tekipora village in the Lolab valley. He was considered the shadow of Syed Ali Geelani, with whom he galvanized Kashmir’s top socio-political organization, the now-banned Jama’at-e-Islami. The two built it into a party recognized as the frontline of resistance in Kashmir. At the age of 16, when he was in Class 10, started teaching at a darsgah (religious seminary) in Sopore. Since then, Sehrai has spent over 16 years of his life in various jails across India. At Jama’at-e-Islami, he held various positions including General Secretary, Naib Ameer (deputy chairman), and also headed its political division. In 2003, however, Sehrai’s longtime friend

Geelani decided to form Tehreek-e-Hurriyat and parted ways with the Jama'at. Sehrai followed Geelani. Geelani remained the chairman of Tehreek-e-Hurriyat till 2018. On March 19, 2018, Geelani passed on the charge of Tehreek-e-Hurriyat to Sehrai, during a small ceremony held inside his Hyderpora residence. Geelani, after passing on the baton said in an interview that Sehrai's experience and political acumen, and a long illustrious life full of hardships, will come in handy in running the affairs of a "resistance movement". "I am sure he will prove to be an able leader if he is supported by the Tehreek-e-Hurriyat cadre," Geelani had said.<sup>24</sup>

Detained<sup>25</sup> since July 2020, Kashmiri separatist leader and Tehreek-e-Hurriyat chairman Muhammad Ashraf Khan Sehrai passed away at a government hospital in Jammu on Wednesday, 5 May 2021. Sehrai was booked and arrested nearly two months after his son Junaid Sehrai,<sup>26</sup> a militant commander in the Hizbul Mujahideen outfit, was killed in a gun battle in Srinagar. Sehrai had a number of health problems, including hearing impairment and walking difficulties. He underwent cataract surgery a few months before his arrest. The family regularly sent him medicines for hypertension, high levels of uric acid, hyperthyroidism, post-surgery eye issues, and an enlarged prostate.

*The online news outlet The Wire reported<sup>27</sup> "popular as 'Sehrai', the leader was shifted to the hospital after he complained of breathlessness in Udhampur jail, where he has been since July 12, 2020 under the Public Safety Act. Sehrai's son Raashid said he called home 10 days ago and said, "I am ill, have grown weak, feel dizzy and cannot move. The jail authorities are not providing me any treatment." On Tuesday evening, another relative of Sehrai's said; the family received a call from police informing*

*them that Sehrai had been shifted to hospital after complaining of breathlessness. There was no news of whether he was COVID-19 positive. The relative said that on Wednesday Mujahid Ashraf flew to Jammu. Once there, he was informed that Sehrai had passed away.” Sources at Government Medical College, Jammu, told The Wire that Sehrai’s oxygen levels had decreased to 65 and he had developed bilateral pneumonia in the jail. Although Sehrai’s rapid antigen test came negative for COVID-19, the results of the RT-PCR test have yet not reached. Harish Kotwal, the superintendent of the Udhampur jail told The Wire that Sehrai had grown weak. “He had developed some minor health issues due to fasting. He was on medication, but suddenly his condition started deteriorating on Tuesday morning after which he was shifted to hospital for treatment,” Kotwal said.”*

Sehrai’s family had filed three applications before the high court seeking his medical examination and treatment, requesting that he be shifted to Jammu or Srinagar jails for proper care, and requesting that his family be allowed to meet him.

*However, Raashid said, the judge kept delaying the review of the petitions. “We had filed the petitions primarily seeking his shifting from the Udhampur jail to Srinagar jail. My father would often complain of the jail officials who did not allow anyone to meet him and acted very tough against him,” Raashid said.*

*“My father has been murdered,” he added. The family had also filed a habeas corpus petition before the high court seeking the quashing of the Public Safety Act which is yet to be heard by the court.*

*A senior official in the Jammu and Kashmir Prisons department told The Wire that the department had written to the home department apprising them of Sehrai's health condition and the available resources in the jail. "We do not know what happened to the file," the official said.*

Sehrai's body was handed over to his son Mujahid Ashraf at 7:10 pm in Jammu. "Family members, waiting for the body in Srinagar, were asked to reach Kupwara to receive the body," Raashid said. He said that the police informed the family that only 20-25 people would be allowed to participate in funeral prayers."

Days after veteran separatist leader Muhammad Ashraf Sehrai died in preventive detention, the Jammu and Kashmir police arrested his two sons under the Unlawful Activities (Prevention) Act (UAPA) for "raising anti-national slogans" during their father's funeral.<sup>28</sup> Family members of the deceased leader told<sup>29</sup> The Wire that "35-year-old Rashid Sehrai and 33-year-old Mujahid Sehrai were picked up by the police on Saturday night from their residence in Barzulla, Srinagar. "At around 11 pm, the cops scaled the walls of our house and entered the premises. They first told us that they want to question Rashid and Mujahid and would release them after half an hour. But they did not release them," said Ishraque Khalid, the separatist leader's grandson. He said both his uncles have later whisked away in a police vehicle to an unknown destination.

*"We don't know where they are lodged or what the charges are against them," he said, adding that the family was shocked to learn in Sunday morning from social media posts that they that have been arrested for raising slogans during the funeral. He said both his paternal aunts have tested positive for COVID-19 and the*

*entire family is in isolation. "One of them was admitted to SKIMS for treatment. My grandmother has also gone into isolation," he said, adding that both his uncles' children have been crying out for their fathers. "How can I make them understand that their parents have been arrested by the police?" he asked. Meanwhile, the Jammu and Kashmir police said that Rashid, Mujahid and others were arrested for raising anti-national slogans during Ashraf Sehrai's funeral. "They have not been booked under PSA. People are appealed to not to pay heed to rumours," the police said. When contacted, superintendent of police, Kupwara G.V. Sundeeep Chakravarthy said they have booked the two under UAPA for raising anti-national slogans."*<sup>30</sup>

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<sup>1</sup> Sopore Massacre When 57 Civilians were Shot Dead, <https://greaterkashmir.com/news/kashmir/sopore-massacre-when-57-civilians-were-shot-dead-on-jan-6-1993/271284.html>

<sup>2</sup> August 1, 1990 When Pattan Market was Painted Red, <https://www.greaterkashmir.com/news/kashmir/august-1-1990--when-pattan-market-was-painted-red/193129.html>

<sup>3</sup> JKCCS, Annual Human Rights Review of Human Rights in Jammu & Kashmir (December 31, 2019) <https://kashmirscholars.files.wordpress.com/2019/12/jkccs-2019-human-rights-report.pdf>

<sup>4</sup> Nusrat Sidiq, Military operations rendering people homeless, hopeless in Kashmir, (June 22, 2022) <https://www.aa.com.tr/en/asia-pacific/military-operations-rendering-people-homeless-hopeless-in-kashmir/2281499>

<sup>5</sup> TRT World, Indian forces set ablaze a Kashmiri neighbourhood, (May 20, 2020) <https://www.trtworld.com/magazine/in-pictures-indian-forces-set-ablaze-a-kashmiri-neighbourhood-locals-36470>

<sup>6</sup> Haziq Qadri, In Kashmir, No Door to Knock for Occupants When Encounters Reduce Homes to Rubble, (June 13, 2018) <https://thewire.in/rights/in-kashmir-no-door-to-knock-for-occupants-when-encounters-reduce-homes-to-rubble>

<sup>7</sup> Ibid.

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<sup>8</sup> Greater Kashmir, Police to attach properties of those providing shelter to militants, (March 25, 2022) <https://www.greaterkashmir.com/todays-paper/front-page/police-to-attach-properties-of-those-providing-shelter-to-militants>

<sup>9</sup> Auqib Javeed, Police in J&K to Attach Properties Used in Militant Activities, (March 24, 2022) <https://kashmirobsvr.net/2022/03/24/police-to-attach-properties-of-those-providing-shelter-to-militants/>

<sup>10</sup> Op.Cit.

<sup>11</sup> The Print, J&K Police accords sanction for attachment of properties under UAPA, (July 10, 2022) <https://theprint.in/india/jk-police-accords-sanction-for-attachment-of-properties-under-uapa/1033397/>

<sup>12</sup> Siddiqa Ahmed, Secret Burials in Faraway Places: Slain Kashmiri Militants' Kin Are Denied Right to Grieve, (December 23, 2021) <https://thewire.in/rights/secret-burials-in-faraway-places-slain-kashmiri-militants-kin-are-denied-right-to-grieve>

<sup>13</sup> Peerzada Ashiq, Burying 158 militants in far off places stopped glamourisation this year, forces have upper hand: Kashmir IGP Vijay Kumar, (December 29, 2020) <https://www.thehindu.com/news/national/other-states/burying-158-militants-in-far-off-places-stopped-glamourisation-this-year-forces-have-upper-hand-igp-vijay-kumar/article33447151.ece>

<sup>14</sup> Safwat Zargar, Kashmir: Amid lockdown, militants' bodies are buried discreetly, not handed to families, (April 28, 2020) <https://scroll.in/article/960369/kashmir-amid-lockdown-militants-bodies-are-buried-discreetly-not-handed-to-families>

<sup>15</sup> Junaid Dar, Muheet Ul Islam, Kashmir's Empty Graves & The Criminalisation of a Father's Grief, (February 10, 2021) <https://article-14.com/post/kashmir-s-empty-graves-the-criminalisation-of-a-father-s-grief>

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<https://indianexpress.com/article/india/syed-ali-shah-geelani-laid-to-rest-police-deny-familys-claims-of-being-kept-out-7485650/>

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<sup>25</sup> Srinagar: Tehreek-e-Hurriyat Chairman Ashraf Sehrai Detained Under J&K PSA, (July 10, 2020) <https://thewire.in/government/srinagar-tehreek-e-hurriyat-chairman-ashraf-sehrai-detained-under-jk-psa>

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<sup>28</sup> Bashaarat Masood, Separatist leader Sehrai's two sons arrested for raising slogans at his funeral, (May 17, 2021) <https://indianexpress.com/article/cities/srinagar/separatist-leader-sehrais-two-sons-arrested-for-raising-slogans-at-his-funeral-7317942/>

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<sup>30</sup> Op.Cit.

## Chapter 8

### Destruction of civilian properties

The Indian counter insurgency operations in IOJK has no legal framework based on customary international law rules regulating the conduct of hostilities. The Counter insurgency operations is military advantage to use force against combatant, non-combatant and Protected objects with the aim to stifle the UN guaranteed Right of self determination to the people of Kashmir. In previous section we have discussed the excessive use of force under the pretext of Counter insurgency operations against combatant and non-combatant and protected persons, the section below enunciates the Counter insurgency as vandalism and destruction of residential houses.

According to Jammu and Kashmir Coalition of Civil Society (JKCCS) the destruction of civilian property by the Indian armed forces has become normalized.<sup>1</sup> Other than destroying homes, Indian forces have often been accused of looting valuables including cash and jewellery from the homes around the military operation site.<sup>2</sup>

In the year, 2020 Indian armed forces destroyed 657<sup>3</sup> civilian properties. Year 2021 recorded 126<sup>4</sup> destruction of civilian properties in IOJK which left many families without shelter. As per the data collected by Legal forum for Kashmir, the trend shows no decline. Last year 2022 between January and December, 116 encounters were recorded in which 212<sup>5</sup> civilian properties were destroyed.

### *Case I*

In the year 2020, 42-hour long operation which started at around 10pm on May 4 and ended around 2:30pm on May 6, the operational commander of largest indigenous liberation group Hizbul Mujahideen Riyaz Naikoo, and his close associate Adil Bhat were also killed and three houses were raised to ground completely with explosives. Locals informed that around 15 other houses were damaged partially and seven cows were injured seriously during the military operation. One of the houses damaged in encounter also lost gold jewellery and valuables bought for the upcoming marriage of their daughter.<sup>6</sup>

### *Case II*

On May 19, 2020 at least 15 families were rendered homeless after 13 residential houses got damaged in a military operation between freedom fighters and Indian occupying troops in a densely populated area of downtown Srinagar. The counter insurgency forces used different explosives like IED, UGBL etc. The eye witnesses reported that “To blow-up the houses, the Government forces. Sometimes use gun powder sprinkle around the house to put it on fire.”<sup>7</sup>

Civilian properties are protected under International Humanitarian Law (IHL). Attacks on civilians and their property are prohibited under Articles 33 and 53 of the Geneva Conventions and under Article 52 of Protocol I, regardless of who they belong to.

In addition, the Fourth Geneva Convention was designed to protect property to save civilians from the suffering that could result from the destruction of their homes, clothing, food, and livelihoods Article 18 prohibits attacks on civil hospitals or medical care facilities at any time. According to article 8 (2) (b) (ii) of the 1998 Rome Statute, intentional attacks against civilians and civilian objects are prohibited and constitute war crimes. The Hague Convention of 1907 initially provided a financial obligation to states whose armed forces intentionally destroy civil property during the war. In addition, a similar liability to widespread destruction and seizure of property that is not justified by military necessity is viewed as a grave violation of all common articles of Geneva Conventions of 1949 as well as two Additional Protocols (AP) 1977.

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<sup>3</sup> LFK. Annual Human Rights Review 2020, (December 30, 2020)

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