

International report documents repression in Indian-controlled Kashmir

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A recent report by the US-based Human Rights Watch (HRW) documents the systematic human rights abuses carried out by the Indian security forces in the state of Jammu and Kashmir with the protection of the Indian government and legal system.

HRW conducted research for the report, entitled "Everyone Lives in Fear: Patterns of Impunity in Jammu and Kashmir," from 2004 to February 2006 in Indian-controlled Kashmir. It was the first time since 1989 that the Indian government had allowed an international human rights body to visit and report on the state. HRW also conducted research in Pakistani-controlled Kashmir in 2005 and 2006.

The report provides detailed accounts and interviews implicating the Indian security forces in torture, disappearances, arbitrary detentions and summary executions, which are concealed as "encounter killings".

The report stressed that the estimated 700,000 Indian soldiers and paramilitaries in Kashmir carry out widespread repression with impunity. Indian laws protect members of the armed forces and civilian officials involved in crimes against Kashmiris. Soldiers responsible for murders and torture are rarely investigated or held accountable for their crimes.

The Asian director of Human Rights Watch, Brad Adams, told the press in September: "Human rights abuses have been a cause as well as a consequence of the insurgency in Kashmir.... Kashmiris continue to live in constant fear because perpetrators of abuses are not punished. Unless the Indian authorities address the human rights crisis in Jammu and Kashmir, a political settlement of the conflict will remain illusory."

The report also covers in significant detail the massacres, bombings and political killings committed by various armed groups opposed to Indian rule of Kashmir. While HRW equates the violence of the Indian military and that of the militants, the outbreak of the armed conflict in the late 1980s resulted from decades of oppressive, anti-democratic Indian rule of the majority Muslim state.

The continuing conflict in Kashmir underlines the

inherently reactionary character of the 1947 partition of British India into the current Muslim Pakistan and a Hindu-dominated India. The division of the subcontinent along artificial boundaries that cut across national, ethnic and language groupings laid the groundwork for future conflicts and wars that resulted in some 2 million deaths, turned millions more into refugees and divided the Kashmiri region into Indian and Pakistani-held areas.

Subsequently, successive Indian governments have proved incapable of meeting the aspirations of the Kashmiri Muslims for genuine democratic rights and decent living standards. Seeking to ensure Indian domination over Kashmir, the Indian elite rescinded an agreement to give more autonomy to the state. Kashmiris began to take up arms in the late 1980s after the Indian government blatantly rigged state elections in Jammu and Kashmir.

Since 1989, at least 20,000 Kashmiri civilians have been killed as a result of the armed conflict and tens of thousands more have been injured according to the HRW report. About 300,000 Hindu Kashmiris have been internally displaced and another 30,000 Muslim Kashmiris have fled to neighbouring Pakistan as refugees.

The report cited evidence of summary killings of suspected militants. Police and army officials told HRW that detained suspects were often executed rather than being brought to jail, on the grounds that "keeping hardcore militants in gaol is a security risk". The deaths were often falsely recorded as the result of "encounter killings". One example was the case of five men shot supposedly in an armed "encounter". While the army and police claimed the men were responsible for the massacre of 36 Kashmiri Sikhs in 2000, forensic tests later showed the men to be innocent local villagers.

Indian security forces have extensive powers under the Jammu and Kashmir Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Act to use lethal force against anyone "who is acting in contravention of any law or order for the time being in force in the disturbed area". The report cited an incident on February 23, 2006 in which soldiers in Handawara shot at a group of

people playing cricket because they suspected that a Kashmiri separatist was among them. Four boys, including an eight-year-old, were killed.

Kashmiri human rights defenders estimate that over 8,000 Kashmiris have simply “disappeared” since 1989. Most were last seen in the custody of Indian troops, who in turn denied holding the person. Many were tortured and then executed.

One case involved Manzoor Ahmed Mir, a 37-year-old state employee. A group of soldiers accompanied by three masked men took him away on September 12, 2004. Manzoor’s brother recognised the men as a police sub-inspector, with whom Manzoor had quarrelled, and the sub-inspector’s two sons. Manzoor’s family filed a habeas corpus petition in the Srinagar High Court but by February 2006 the police and army had not responded.

The HRW report stated that thousands of Kashmiris have been arbitrarily and illegally detained. One of India’s Additional Advocate Generals recently stated there were 4,500 suspected militants awaiting trial in jail. Many have been held for 10 years or more without being brought before a court. Indian authorities often detain Kashmiris under the Jammu and Kashmir Public Safety Act, which allows for detention without trial for up to two years, because they have no evidence of guilt.

Many people have been detained beyond two years by simply rolling over preventative detention orders. Amnesty International reported on the case of Farooq Ahmad Dar, who was detained in November last year under his ninth consecutive PSA order. He has been in continuous detention since 1991.

Based on information from Mian Abdul Qayoom, president of the Jammu and Kashmir High Court Bar Association, HRW reported that individuals had filed at least 60,000 habeas corpus petitions since 1990 to contest detentions or “disappearances”. However, according to HRW, there are few, if any, cases in which “officials have been held responsible for failing to respond in a timely manner to a court order in a habeas corpus case or for failing to release a detainee pursuant to a court order in Jammu and Kashmir”.

Those in state custody are commonly tortured. “Relatives of militants are also taken into custody and tortured, either to discover the whereabouts of a suspect, or as a way of forcing the militant to surrender,” the report stated. The brother of a wanted Kashmiri told HRW that Indian forces had beaten him and given him electric shocks while in custody to try to force his brother to surrender. The torture only stopped when soldiers killed his brother.

Most cases of serious human rights abuse in the Jammu and Kashmir region are not officially investigated. In the

rare instances where abuses are probed, there has not been a single individual in the Indian army, paramilitary or the police convicted of a criminal offence. In fact, since 1989 only 134 army personnel, 79 members of the Border Security Force and 60 policemen have been subjected to “disciplinary action”.

There is no civilian control over the proceedings of the military justice system. In addition, the provisions of the Criminal Procedure Code of 1973 protect any member of the armed forces from arrest for “anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the central government”.

Section 197(2) of the Criminal Procedure Code is a sweeping immunity provision that applies throughout India. In the words of the HRW report, this code “makes it mandatory for a prosecutor to obtain permission from the federal government to initiate criminal proceedings against public servants, including armed forces personnel”. According to Amnesty International, the Jammu and Kashmir government had made almost 300 requests for permission to prosecute last year, but none were granted.

Security forces have used the Jammu and Kashmir Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Act to justify firing indiscriminately on peaceful demonstrations, including protests in January and October 1990 in Srinagar and in 1993 in Bejjbehara.

The HRW report is one more account of the widespread and sustained use of repression for over a decade in Jammu and Kashmir. There is no reason to believe that the current Congress-led government in New Delhi will take any more notice of its recommendations than any of the previous calls for justice.

The report underscores the fact that in India, which is commonly referred to as the world’s largest democracy, the systematic abuse of basic democratic rights is widespread.



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