

**INDIA'S
WAR CRIMES
IN KASHMIR**
**VIOLENCE, DISSENT
AND THE WAR ON TERROR**

INDIA'S WAR CRIMES IN KASHMIR

VIOLENCE, DISSENT AND THE WAR ON TERROR

“ Zia was found not guilty of any offence by Indian Courts. He was arbitrarily detained in different jails for 18 years of his life, since the age of 15. In October 2021 we were told that Zia [had been] killed by Indian forces. Multiple media channels reported that he was killed.

ZAHID ZIA, BROTHER OF ZIA MUSTAFA, EXTRAJUDICIALLY KILLED BY INDIAN FORCES

“ We just want the dead body of Zia to be handed over to us – the family members – so that we can bury him with our hands.

MUSLIM ZIA, COUSIN OF ZIA MUSTAFA, EXTRAJUDICIALLY KILLED BY INDIAN FORCES

“ I was tortured and interrogated by two white men – both spoke English. They wanted me to sign a confession stating that I was being supported and shared the same ‘ideology’ of mujahideen in Palestine and Afghanistan.

KARIM, TORTURED BY FOREIGN INTELLIGENCE AGENTS IN KASHMIR

“ The torture was so severe that many of my brother's body parts were broken – like a mutilation. When I held his right arm after we recovered his body, [it] felt as if the arm was boneless – the bones had been crushed from severe beating. Blood kept oozing out from his mouth for several hours before he was laid to rest. He had severe internal damage.

IMRAN SULTAN, BROTHER OF SHABIR WHO WAS TORTURED BY INDIAN POLICE

“ When I grabbed my injured mother, a bullet hit my arm and I too fell to the ground. While we were bleeding on the road, all I could hear was the loud shots of bullets.

DAUGHTER OF FAIZA, ELDERLY WOMAN SHOT BY INDIAN FORCES OUTSIDE HER HOUSE

“ There are hundreds of cases of absolute immunity, there are no criminal prosecution cases, and as a lawyer I feel frustrated when defending people's human rights here. Everything is controlled by the occupier; there is no independent judiciary in place. State violence has increased, journalists are targeted, doctors [are] restrained and there is complete censorship of reporting on what's is happening in Jammu and Kashmir. No human rights organisation can operate here. The Indian Counter Intelligence Kashmir (CIK) agency monitor us and prevent our lawyering in every process. They even sit inside the court rooms!

ADVOCATE NASIR QADRI, LEGAL FORUM FOR KASHMIR

“ I have lost faith in justice, *Gul told the SWI-unit*. Is journalism a crime? I keep thinking, how could I be charged for merely reporting on a demolition drive?

SAJAD GUL, JOURNALIST

AUTHOR

Khalil Dewan

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ABOUT STOKE WHITE INVESTIGATIONS

Stoke White Investigations or SWI-unit is an independent investigative unit based within the law firm, Stoke White Ltd. In 2021, Stoke White Ltd recognised the need to form a unit dedicated to investigations covering public interest matters and support the legal team for its complex international law cases.

For more information, please visit www.swiwunit.com

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STOKE WHITE
INVESTIGATIONS

INDIA'S WAR CRIMES IN KASHMIR

VIOLENCE, DISSENT AND THE WAR ON TERROR

Context Report **HUMAN RIGHTS, CONFLICT and JUSTICE PROGRAMME**

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Cover image

Three dead sons — Jana Begum — The Widow of Karim
by Syed Mujtaba Rizvi, who gifted the cover image to the SWI-unit.

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1 MAPS



Jammu and Kashmir Google Earth Pro



Jammu and Kashmir
Google Earth Pro

2 EXECUTIVE SUMMARY

- Following a year-long investigation into the conflict in Kashmir by Stoke White Investigations (SWI-unit), the unit instructed its in-house lawyers at Stoke White law firm in January 2022 to begin legal proceedings using the Principle of Universal Jurisdiction over war crimes and abuses committed by Indian authorities in Jammu and Kashmir (J&K).
- The United Kingdom (UK) has ‘universal jurisdiction’ on war crimes under the Geneva Conventions Act 1957 — including other grave offences — which enables the prosecution of those accused of committing international law violations in Kashmir, despite the offence taking place outside the UK and irrespective of nationality. Stoke White have a strong track record in submitting successful Universal Jurisdiction applications with world-class legal counsel in the United Kingdom and United States.
- The Universal Jurisdiction filing requests the United Kingdom’s Metropolitan Police to investigate the case of Zia Mustapha, a minor who has been detained by Indian authorities for 18 years without any successful charges or prosecution against him, and the systematic torture of a human rights defender, Muhammad Ahsan Untoo, by Indian authorities in J&K.
- The UK are requested to investigate and arrest senior officials from the Indian authorities for carrying out such war crimes and torture in J&K. This context report provides a snapshot of the human rights abuses in J&K and alleges based on strong evidence that they are perpetrated by Indian authorities.
- The SWI-unit is concerned that India’s long-standing occupation of J&K vis-a-vis its national army, paramilitary-troops, border security force, special task force and other defence committees has systematically violated international human rights law and international humanitarian law.
- In particular, the report focuses on war crimes and human rights violations in J&K including: extrajudicial killings, torture, pellet gun violence, enforced disappearance and arbitrary detention.
- The investigation finds a systematic nature to the crimes conducted by Indian authorities against Kashmiris, in terms of their violence, which includes the above violations as well as rape and the arrest and detainment of minors.
- The report also understands that there is a broader legal context that facilitates such abuse, in particular the use of law as a tool of war (‘lawfare’), combined with the adoption of common and violative security policies and rhetoric as part of the Global War on Terrorism (GWOT).

- This includes, but is not limited to, counter-terrorism legislation that facilitates policies that permit foreign agents to conduct interrogations in what, evidence suggests, is a security and defence partnership. So the 'War on Terror as an enabler of human rights abuses' section includes: 'India's counter-terrorism in practice', Israel's intelligence officers conducting torture in J&K under the pretext of counter-terrorism, 'Israel cashing in on India's emerging drone warfare', and 'Sports and counter-terrorism'.
- The last section of the report covers 'Dissent and structural violence: Harassment of NGOs, lawyers and human rights defenders' and 'Shutting down journalism'. The SWI-unit has documented cases of human rights lawyers and practitioners being subject to home/office raids, disruption of normal workflow, arrest while on fieldwork or malicious confiscation of travel documents to cause disruption. Since 2019 there has been an increase of raids on lawyers, human rights practitioners and journalists, creating a new layer of fear among Kashmiris.

3 INTRODUCTION

This context report focuses on unearthing human rights intelligence and traditional human rights testimony about India's war crimes, for public interest purposes. A snapshot of testimonies and cases covering some of the types of violations that are taking place in J&K are presented.

The region of J&K is commonly referred to as 'Kashmir'. In the mid-19th century the term equated to the Kashmir valley between the great Himalayas and the Pir Panjal Range. As it stands, it includes the Indian-administered territories of Jammu and Kashmir, Ladakh and Pakistani-administered territories of Azad Kashmir and Gilit-Baltistan.¹

Following the abrogation of Article 370 and 35A in 2019, Indian authorities increased their military might against Muslims in Kashmir. Even during the Covid-19 pandemic, the Indian authorities triggered violence in the region against civilians, which led to heightened frustration among Muslims in Kashmir.²

While Stoke White Investigations (SWI-unit) has documented over 2000 testimonies of war crimes and violence conducted by India in J&K, this figure is the result of a one year investigation only. Human rights organisations and lawyers have reported thousands of cases of each violation, in UN documents.³ This endeavour is thus not an exhaustive one, and it by no means covers all types of violence taking place in J&K. This is primarily due to difficulties put in place by the Indian authorities with regards to access to justice, surveillance, and violent threats to human rights investigators, including those among the SWI-unit fieldwork team.

The testimonies of the victims were observed and recorded by the SWI-unit because they do not have any legal recourse to justice where they are. Whether it is a rape, pellet gun violence, enforced disappearance or torture, Kashmiris are denied the basic right to report or receive equality before the law.

This structure of violence, instrumentalised by the use of war and law, makes way for a sophisticated 'lawfare' environment designed to degrade people considered as the 'other', by all possible means. Of particular concern is the use of the Unlawful Activities (Prevention) Act 1967, Jammu and Kashmir Public Safety Act 1978, the Armed Forces (Jammu and Kashmir) Special Powers Act 1990 (AFSPA) as well as the leveraging of the Global War on Terror (GWOT) to facilitate abuses against civilians in the name of 'counter terrorism', as found in this investigation.

The SWI-unit is concerned that India's military and police personnel enjoy full impunity in a legal environment that criminalises dissent, especially Muslim dissent.

Furthermore, this report notes that India's security and defence engagements with Israel mean that there is evidence that Israel's intelligence officers have conducted interrogation and torture in the name of 'research', in full acquiescence of the Indian authorities in J&K. This demands fuller investigation and is the subject of ongoing evidence gathering.

4 NOTES ON METHODOLOGY

The investigative research for this report was conducted between September 2020 and December 2021 using traditional human rights interviews, working with verified sources on the ground and extensive use of open source intelligence (HUMINT, OSINT and IMINT) tools and techniques. The Stoke White Investigations (SWI-unit) collected over 2000 testimonies on a range of abuses and violations under international human rights law, international humanitarian law and domestic law. The victims and clients gave permission to publish parts of their testimony in this context report.

For investigative casework gathering, a snowball methodology was adopted to acquire subjects for interviews, which permitted a triangulation and verification process. The names of the interviewees have been replaced with pseudonyms upon request by the interviewees. Due to security concerns for our interviewees and clients, information such as age, gender, time and current location have been omitted, unless these facts are already publicly available. The SWI-unit retains the names on file, however. We paid special attention to the trauma of victims and relatives during interviews. No remuneration was provided to any of the interviewees.

Any assessment of human rights violations documented in this report is based on testimony, triangulated with human rights NGOs, practitioners and journalists on the ground in Jammu and Kashmir. The legal argument is thus submitted by the Stoke White law firm and has been filed at the United Kingdom's Metropolitan Police unit which is specifically designated to investigate accusations of war crimes and human rights abuses. For this report, the SWI-unit conducted a review process of academic and practitioner briefings, as well as print and online media reporting from credible and reputable journalists. The author of the report made the utmost effort to contact any pre-existing research for corroboration purposes, and to ensure that this report offered new information.

In the conduct of this investigation, two members of our field team on the ground in Jammu and Kashmir were arrested, purely for interviewing victims' families. They were later released. Some of the individuals that the SWI-unit approached for corroboration purposes are now facing disruption, raids and threats of arrest by Indian forces for conducting their professional duties as human rights defenders. In particular, the Legal Forum for Kashmir, independent lawyers and journalists on the ground, provided extensive support for this report, and we are incredibly grateful to them for their courage and trust.

It is not the objective of this context report to document a comprehensive record of international human rights law and international humanitarian law violations by India in the Kashmir conflict. The SWI-unit acknowledge that all sides of the conflict are responsible for human rights abuses.

5 JAMMU AND KASHMIR

India and Pakistan have disputed the region of Jammu and Kashmir for decades, since the first war between the two countries in 1947, which followed 200 years of British rule over the region as a princely state under the Dutch East India Company and the Raj.

Since then, the international warring parties have engaged in two further wars in Jammu and Kashmir — the second in 1965 and third (Kargil war) in 1999. Since then, ceasefire violations and skirmishes have escalated, leaving the status of the international armed conflict between India and Pakistan as ‘ongoing’. This does not, however, take away from the fact that the people of Kashmir are entitled under international law to their own self-determination.

Under International law — or more specifically the Geneva Conventions and international humanitarian law — for an international armed conflict (IAC) to exist, there must be use of lethal force between at least two states in order to classify a conflict as an IAC. The threshold required to assume an IAC is thus very low and it generally does not require a pre-requisite intensity or duration to be considered to be ongoing.

To determine whether an international armed conflict exists, certain facts relevant to the conflict dynamics are taken into account. As a result, and considering such facts, it is clear that an international armed conflict exists over Jammu and Kashmir between India and Pakistan.⁴

While there is not a full-frontal war between India and Pakistan, frequent cross-border armed attacks mean hostilities have continued after an attempted 2015 ceasefire agreement.⁵

According to several NGOs active in the region, attacks have included the killing of 19 Indian soldiers in 2016 by non-state armed groups — it is likely these groups are linked to Pakistan. This 2016 violence led to intense shelling by both sides which displaced 35,000 people, with some 83 soldiers and civilians reportedly killed. In 2017, shelling continued and approximately 2000 people were ‘evacuated’. Despite another cease fire announcement made in mid-2018, armed attacks continued throughout the year, resulting in some 200 people killed and 315 injuries on both sides of the conflict.

Beyond the two state warring parties, non-state armed groups have been operating in and around J&K throughout the conflict. In 2019, a non-state armed group called ‘Jaish-e-Mohammed’ (JeM) allegedly conducted a vehicle borne Improvised Explosive Device (IED) attack against a bus which killed some 42 military forces belonging to India in the Pulwama district.⁶ India claimed that Pakistan had a hand in the attacks, though this was denied by Islamabad, as it claimed that it had proscribed JeM, the non-state armed group, in 2002 and that the accusation was propaganda against Islamabad.⁷ It was later confirmed that a young Kashmiri teenager, Adil Dar, conducted the attack against Indian forces.⁸

Diplomatic efforts during this period only led to further escalations in violence, with some of India’s warplanes entering Pakistan’s airspace — two of which were targeted and shot down in

Pakistan and the other in India's contested part of Kashmir. One of the pilots was captured by Pakistan, though he was later returned safely without any harm; this led to a de-escalation of hostilities.⁹

Hostilities between India and Pakistan in the region of J&K continued in 2019, with a significant event being the crossfire killing of three Pakistani soldiers and one civilian. India claimed that the incident also claimed the lives of five of its soldiers.¹⁰ In the summer, Prime Minister of Pakistan, Imran Khan offered to mediate the conflict, but the offer was rejected by India on the basis that they wanted to "free terror" in Kashmir.¹¹

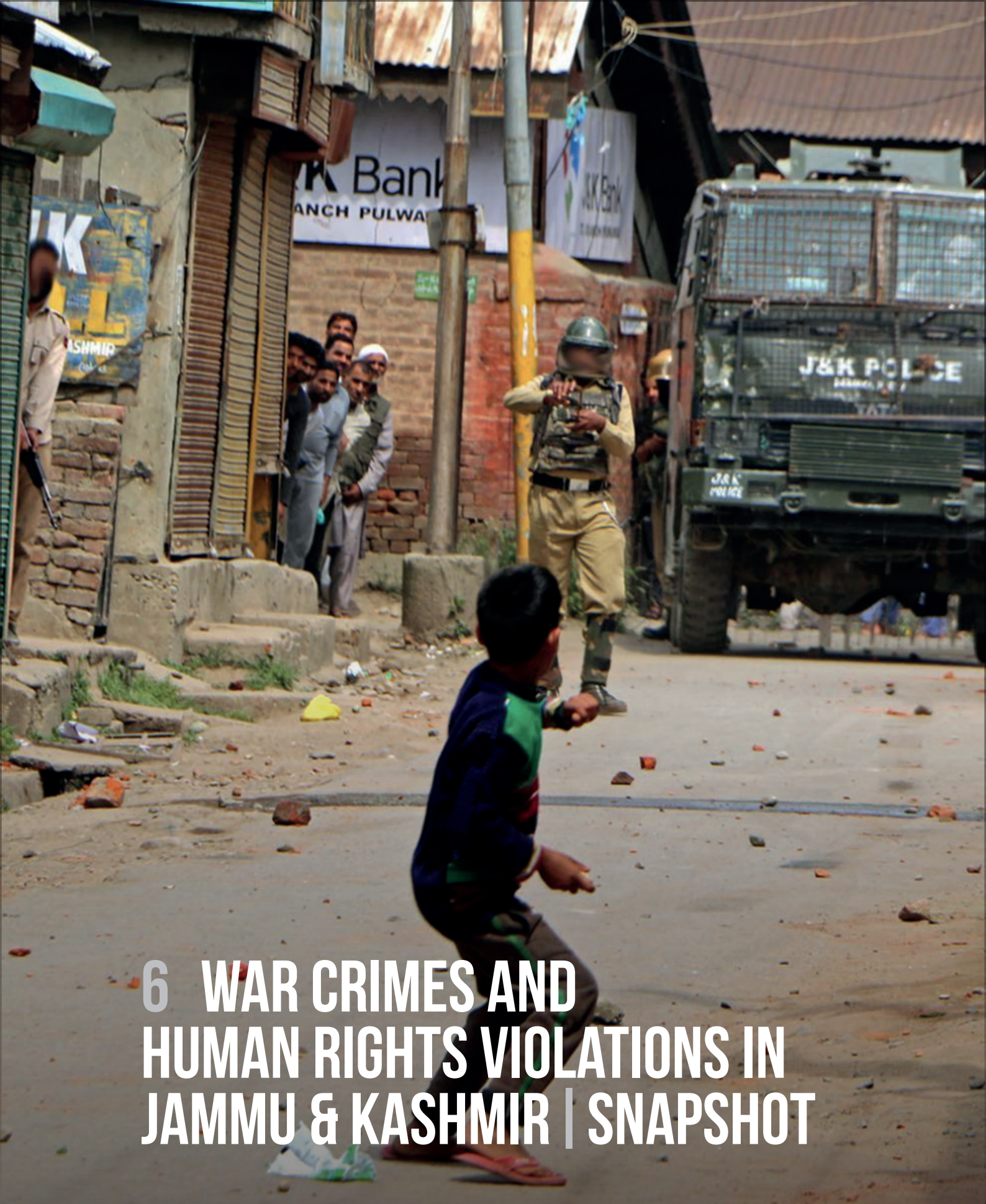
On 5 August 2019, the Indian government under Prime Minister Narendra Modi and Home Minister Amit Shah revoked Article 370 of the Indian Constitution.¹² Consequently, the state of Jammu and Kashmir ceased to have an autonomous status vis-à-vis the India Union that had been in place since 1947. This structural assault by the Indian government included a new amendment that reduced J&K to two Union Territories – effectively eradicating its statehood – one constituting Jammu and Kashmir valley, and the other the Ladakh region. This amendment has been in effect since 31 October 2019.

The abrogation of Article 370 also entailed the placement of the entire valley of Kashmir under indefinite curfew, which prohibited all movement and assembly. The Indian government enforced a communication blackout, with restricted internet use and telecommunications. This impacted all basic fundamental rights and freedoms as well as civil, political economic, social and cultural rights of Kashmiris.¹³

Despite the Covid-19 pandemic, clashes continued in 2020. A hostile media war has played out on both sides, while local media and NGOs have reported monthly, through protected means and methods, on clashes. It took a year for both international parties to come to an agreement to de-escalate the situation and open dialogue for peace. However, local NGOs and journalists continue to record a story of human rights abuses and structural violence against the people of Kashmir.

In addition to the international actors in the conflict in J&K, there are a small number of non-state armed groups or armed resistance groups that have emerged which allegedly hold support from both within Kashmir and from Pakistan. While most of the groups seek accession to Pakistan, some advocate for an autonomous region, solely for Kashmir.¹⁴

India claims that the non-state armed groups are supported by Pakistan, though Islamabad has denied this on the basis that it has no control over such groups. The armed groups include Hizb-ul-Mujahideen (HuM), founded in 1988 and led by Syed Salahuddin. HuM are overtly supportive of Pakistan in their rhetoric and are active in the southern Indian-administered Kashmir. The second group is Jaish-e-Muhammad, founded in 2000 and led by Masood Azhar. JeM are responsible for attacks in Indian-administered Kashmir and India. It allegedly runs religious schools in Pakistan, though it has been banned by Islamabad under recent counter-terrorism policies and laws.¹⁵ In 2019, JeM conducted the first 'suicide attack' which led to the killing of 42 individuals. Lastly, the group known as Lashkar-e-Tayyaba (LeT) was founded in 1990 and led by Hafiz Saeed. It is active in Indian-administered Kashmir and parts of India. It is reported that LeT claimed responsibility for the Mumbai attacks in 2008,¹⁶ which resulted in the killing of more than 160 people.



6 WAR CRIMES AND HUMAN RIGHTS VIOLATIONS IN JAMMU & KASHMIR | SNAPSHOT

Photo: Kamran Yousuf, journalist

INDIA'S WAR CRIMES IN KASHMIR
VIOLENCE, DISSENT AND THE WAR ON TERROR

SWI-UNIT BASIC FINDINGS

**450 CASES
OF TORTURE**

**1500 CASES
OF PELLET GUN
VICTIMS**

**100 CASES
OF ENFORCED
DISAPPEARANCE**

**30 CASES
OF SEXUAL
VIOLENCE**

Stoke White Investigations (SWI-unit) had sight of over 2000 testimonies during its fact-finding investigation on human rights abuses conducted in the Indian-occupied J&K. The SWI-unit went to great lengths to verify the cases as far as possible in the time frame allocated for this investigation. There was extensive corroboration of the findings with several lawyers, human rights defenders/practitioners, NGOs and journalists. Below is an outline of the type of cases and testimonies.

The Indian authorities continue to conduct several forms of violence and abuse against Muslims in J&K, particularly against those dissenting against Indian occupation, even if this means conducting peaceful protests or documenting human rights abuses. Lawyers operating in J&K have informed the SWI-unit that the Indian authorities have excessively used the Jammu and Kashmir Public Safety Act (PSA) 1978 to detain individuals arbitrarily in J&K — this type of detention is evident in the majority of testimonies documented by the SWI-unit.

The Indian authorities have paved the way for impunity for its military and law enforcement personnel vis-à-vis Section 7 of The Armed Forces (Jammu and Kashmir) Special Powers Act 1990 (AFSPA). It specifically allows its security personnel to sidestep any scrutiny for their conduct unless the Indian authorities grant prior permission for 'sanction' via the courts to prosecute its own forces. This also demonstrates the lack of impartiality and the rule of law. As a result, evidence suggests that Indian authorities implicitly encourage members of their armed forces to conduct themselves in violation of international human rights law, knowing that there will be little, if any, legal repercussions. The SWI-unit has obtained audio recordings of Indian forces — army and police — discussing interrogation tactics, detention of minors and other events which are kept on file for further investigation.

This culture of impunity is compounded by the lack of access to justice for victims of war crimes and/or human rights abuses. Nearly three decades have passed and not a single member of the Indian military has been prosecuted for unlawful conduct in J&K, despite growing evidence against the armed forces. To make matters worse, the police as well as the Indian army prevent victims from reporting crimes committed by their personnel to the local police station. Additionally, when a botched extrajudicial killing or an incident of sexual violence has taken place, the Indian authorities — via the police — have on occasion offered compensation. However, evidence suggests that this has not been in the spirit of apology, but rather serves as a bid to silence victims' families or relatives. In most of these cases, the relatives reject this compensation because they are never given access to the deceased family member for burial.

The following selected testimonies cover extrajudicial killings, torture, police night raids and other abuses endured in Jammu and Kashmir.

EXTRAJUDICIAL KILLINGS

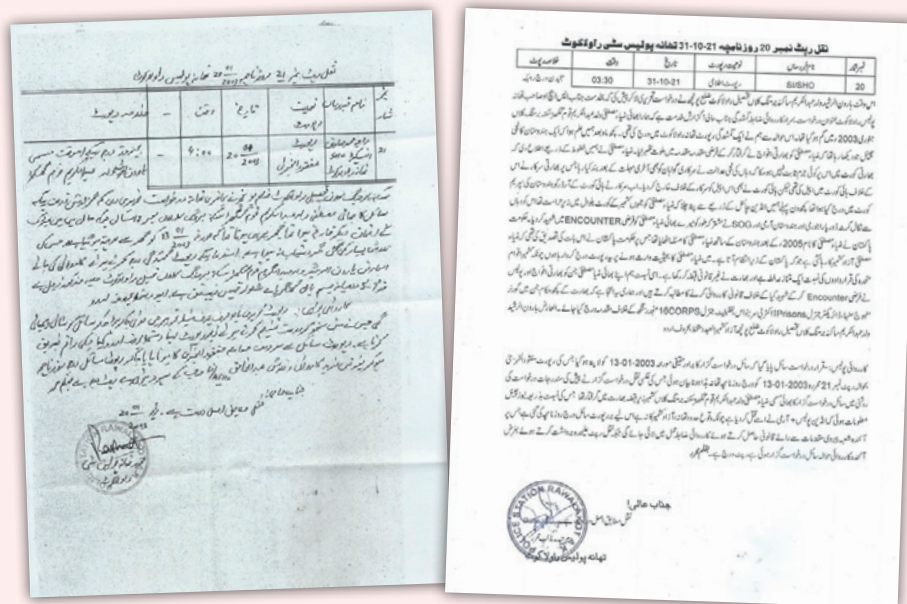
Extrajudicial killings are a recurring human rights violation across all of the testimonies gathered by SWI-unit — most of the testimonies documented for the Universal Jurisdiction application by Stoke White law firm told of a combination of such abuses. There is a systematic culture of extrajudicial killings against Kashmiris conducted by the Indian forces which has been documented by human rights groups.¹⁷ Instead of arresting ‘suspects’ or possible combatants and administering their cases through legal proceedings, suspects are extrajudicially killed without charge or trial in what is called a ‘fake encounter’ (the methods of which are detailed in case testimonies below).

The SWI-unit had the opportunity to engage with members of Zia Mustafa's family. This is a case that has been ongoing in J&K for 18 years and the abuses therein are emblematic of the J&K conflict.

CASE 1 | FEATURE CASE | IMPRISONMENT OF ZIA MUSTAFA FOR 18 YEARS WITHOUT EVIDENCE TURNS INTO AN EXTRAJUDICIAL KILLING BY INDIA'S FORCES

On 13 January 2003, **Zia Mustafa**, a 15-year-old child and resident of Pakistan-administered Kashmir was arrested in a joint operation by the Indian national army and J&K police for walking over the ‘Line of Control’, even though he was a minor at the time.¹⁸

On 20 January 2003, Zia's family submitted a ‘missing person's report’ at a local police station in Jammu and Kashmir. But Zia's arrest was only officially registered in March 2003 in South Kashmir's Anantnag District.



Missing person's report filed by the family of Zia Mustafa, obtained by SWI-unit.

Complaint filed by the family of Zia Mustafa regarding his extrajudicial killing on 31 October 2021, obtained by SWI-unit.

The Indian army alleged that Zia had been part of the 'Nadimarg incident', where 24 Hindu Pandits were allegedly killed by the non-state armed group Lashkar-e-Taiba (LeT). Subsequently, Zia underwent trial in a District Court in Soprian, Kashmir where the prosecution, acting on behalf of the government of India, failed to produce any credible evidence or witnesses to confirm that Zia had played any part in any such hostilities.

It took the Indian government nearly eight years to put forward the names of 38 witnesses for examination, and yet witnesses failed to provide statements for the court to assess. The District Court had no option but to close the evidence gathering process, as it had been prolonged unreasonably. However, despite the decision by the court, Zia remained detained.

In 2005, Zia was falsely convicted under the Jammu and Kashmir Public Safety Act (PSA) 1978 and awarded a two-year sentence; with no witnesses and no evidence in his case, this conviction was against all legal norms. Consular support was given to Zia ten days after his sentencing at the Central Jail Amritsar. It was only then that the full charge list was discovered. The charges against him were:

Section 302	Murder
Section 120B	Criminal conspiracy to commit an offence
Section 450	Trespassing in order to commit an offence
Section 395	Dacoity (violent robbery by an armed gang)
7/27 30 PACT	Possession of weapons
2/3 ET IMCO	Illegal crossing of border

In 2014, the Indian government applied for a Criminal Appeal to the Jammu and Kashmir High Court, Srinagar. It was dismissed as the government lawyers failed to provide their argument. In 2019 the Indian government filed a Criminal Appeal (39899/2018) with an application for 'condonation of delay in refiling', resulting in a delay of 79 days. Even though the Indian government were late in submitting the appeal for consideration, the Supreme Court declared that it would accept the case for decision.

After nearly 18 years in jail, Indian forces then hauled Zia out of prison and took him to a battle zone to identify non-state armed groups. The police claim that Zia was killed in "crossfire", but human rights defenders in Kashmir and lawyers counter-claim that this is typical of a 'fake encounter' — otherwise known as an extrajudicial killing.

On 1 July 2021, the Ministry of External Affairs of India shared a list of Pakistani prisoners, which listed Zia Mustafa to be 'under trial'. On 24 October, 2021, Zia was hauled out of prison by Indian forces after some 18 years in prison and taken to Bhata Durian forest in the Poonch region — in the Indian-occupied Jammu and Kashmir area — to 'identify' hideouts of fighters of a non-state armed group during an ongoing operation.

The official narrative by the Indian forces simply does not add up. Firstly, how would a prisoner who had been in remand for 18 years know anything about this attack, let alone which non-

state armed group was involved? Zia was then extrajudicially killed by the Indian forces,¹⁹ a common pattern documented in J&K. The police continue to claim that Zia was “killed in the crossfire” between them and fighters from the non-state armed group.

FAMILY COMMENTS ON ZIA’S EXTRAJUDICIAL KILLING

“ He was found not guilty of any offence by Indian Courts. He was arbitrarily detained in different jails for 18 years of his life, since the age of 15. In October 2021 we were told that Zia [had been] martyred by Indian forces. Multiple media channels reported that he was killed.

ZAHID ZIA, BROTHER OF ZIA MUSTAFA

“ We just want the dead body of Zia to be handed over to us — the family members — so that we can bury him with our hands.

MUSLIM ZIA, COUSIN OF ZIA MUSTAFA

“ We were neighbours and studied together in our childhood — we were very close friends. Zia aspired to be an engineer.

WAQAR YOUNIS, CHILDHOOD FRIEND OF ZIA MUSTAFA

CASE 2 | 12 YEAR OLD CHILD SHOT DEAD OUTSIDE FAMILY HOME WHILE WAITING FOR FATHER TO GO TO LOCAL MOSQUE

Murtaza Hussain, a 12-year-old child was shot-dead by India’s police force while waiting for his father outside his family home in Sidpora, Eidgah Srinagar.²⁰ This was an unprovoked attack. Murtaza’s family tried to file a complaint with the Indian police, but the police station refused to do so. Instead, the Indian authorities approached the family with a ‘compensation offer’ in an attempt to silence them for the extra-judicial killing, but Murtaza’s mother and family refused to take it. To this day, the family have not had any access to justice with regards to the loss of Murtaza, in any form.

CASE 3 | 14 YEAR OLD CHILD DROWNED BY INDIAN POLICE WHILE ATTEMPTING TO ESCAPE A (ROUTINE) BRUTAL POLICE PATROL

Khalil Haq, a 14-year-old child was among a crowd of locals attempting to flee from India’s regular patrols in Srinagar after Friday prayers.²¹ Khalil was among those running away in fear of police brutality. He was being shot at by police forces and, according to a witness, Khalil jumped into a river in fear to get away. The police forces continued to shoot bullets at Khalil in the water and followed him in the river where he was eventually physically drowned by police. The police

recorded the incident, but they refused to give a copy of the record to the family when they requested it. The family believe they have no chance of justice in Indian-occupied Jammu and Kashmir.

CASE 4 | LECTURER KILLED IN A POLICE NIGHT RAID ON HIS FAMILY HOME

Yaqoob Mir, a 31-year-old lecturer in J&K, had his family home raided by the police in the middle of the night.²² Yaqoob was severely beaten by the police, tortured and then shot dead in his family home. The police were violent towards other family members and threatened to launch another raid on their home, should they tell anyone about what had happened in the first raid. To this day, Yaqoob's family are living with the trauma of the violence and extrajudicial killing taking place in their family home. They are too scared to talk about it and feel there is nowhere to attain access to justice.

CASE 5 | POLICE RAID FAMILY HOME AND SHOOT DEAD NASIR MUHAMMAD IN FRONT OF SIBILINGS AND PARENTS

Nasir Muhammad, a 21-year-old, also had his family home raided by the police and was beaten in front of his younger siblings.²³ The police claimed that he was part of protests in Kashmir, but the police did not arrest him nor did they provide any evidence that he had been in the protests. The family and siblings confirmed that Nasir was not part of any protests. Despite their pleas, Nasir was shot dead in front of his family. To this day, the family have not approached any courts or local police station for justice and they live in fear for their lives.

CASE 6 | YOUNG MAN SHOT DEAD BY POLICE WEEKS BEFORE HIS WEDDING

Sohail Ahmed, a 26-year-old man, was shot on the highway on the way home from work.²⁴ He was killed by the police with a pellet gun at close range. Witnesses told his family that he was shot callously and he dropped to the floor instantly. He was supposed to get married two weeks from the moment he was killed and was preparing for wedding with his family. Sohail had not participated in any protests or pelting stones at the police to attract the police's attention. The family have not made any complaints in fear of retribution from the Indian authorities.

CASE 7 | KHURRAM DEEN SHOT DEAD FOR TRYING TO HELP AN INJURED VICTIM IN A PEACEFUL PROTEST

Khurram Deen, a 22-year-old young man, was shot dead for responding to an injured protester.²⁵ The police put forward a 'compensation offer' to the family, but they rejected it on the basis that the parents sought answers as to why their son had been killed for merely assisting an injured civilian. Khurram was not part of the protest and yet was killed for supporting a protester who had been shot by a pellet gun.

CASE 8 | BASHARAT QADRI KILLED BY POLICE WHILE EN ROUTE TO A FOOD MARKET

Basharat Qadri, a 22-year-old, was shot and killed by the police while en route to buying groceries at the local food market.²⁶ Basharat's family filed a legal complaint with the local police in Kashmir, but there was no acknowledgement or response. The family felt that the police did not want to acknowledge that their son had been killed, due to the unprovoked nature of the killing. Deaths like this case are commonplace in Jammu and Kashmir. The family have no other means of access to justice.

CASE 9 | ELDERLY WOMAN SHOT DEAD BY INDIAN MILITARY FOR STEPPING OUTSIDE HER HOME

Faiza Ali, an elderly 62-year-old mother, was shot by the Indian army. The police filed a First Incident Report but did not share it with the family.²⁷ The Indian authorities offered compensation for the killing, but the family refused to accept the money. Faiza was having tea with her family and heard screaming outside her home. She looked outside and saw people running away. Faiza decided to open her front door and see what was happening in case it was an emergency. According to family testimony, Faiza saw a military vehicle.

“Initially, it didn't look so scary and that's why I didn't stop my mother from going out to check what happened. But when the outside noise got louder, it worried me and I went out to look for her.

My mother was shot and laying on the ground, not moving as I ran towards her. When I grabbed my injured mother, a bullet hit my arm and I too fell to the ground. While we were bleeding on the road, all I could hear was the loud shots of bullets.

RABIA, FAIZA'S DAUGHTER

It took Rabia several months to recover from the bullet's injuries to her hand and she is still living with the trauma of the incident. A complaint was filed at the local police station, but there has been no response for months.

CASE 10 | CAROM BOARD PLAYERS WITNESS INDIA'S FORCES SHOOT TEAR GAS CANNISTER AT ELDERLY MAN'S HEAD

Bilal Khan, a 75-year-old man, met with friends in his local park. There were no protests in the park and it was relatively safe to socialise there.²⁸ A group of teenagers were also present inside the park, playing the 'carom' board game. A vehicle approached the elderly man at high speed and a military officer aimed his teargas weapon at Bilal's head and directly executed a couple of cannisters. Bilal was left with a critical injury and was rushed to a nearby hospital where he was given treatment for around two weeks but succumbed to his injuries and died.

“ They mistook teenagers that were playing carom board inside a park as stone-pelters and instead shot an elderly man in the head with a teargas cannister out of frustration. It's a murder, and the killers must be punished.

WITNESS

Bilal's son Shahzad filed a complaint at the local police station but did not hear back from them. After weeks, a special investigation was formed to investigate the killing, but nothing has been communicated to Shahzad.

“ I complained to the police officials and the home minister of India with an appeal to identify and punish the killers of my father, but no one helped me.

SHAHZAD KHAN, BILAL'S SON

TORTURE

CASE 11 | AZZAD SHAH'S FAMILY HOME RAIDED AND TORTURED TO DEATH BY INDIAN POLICE

Azzad Shah, a 50-year-old man, had his family home raided and was beaten by police and then taken away in a police patrol vehicle.²⁹ Azzad's family stated in testimony to us that he was tortured to death during interrogation. The family were threatened by the Indian police against filing any case. To this day, the family have feared to approach any lawyer or NGO to seek justice.

CASE 12 | 18 YEAR OLD TEENAGER ABDUCTED, TORTURED AND THROWN OUT OF A MOVING VEHICLE

Raheem Dar, an 18-year-old man, was abducted by the police and tortured in an unknown location and then thrown out of a moving van a few days later.³⁰ Raheem was sent to a local hospital, where he eventually died from his wounds a week later. His family made an official complaint to the police and requested information about his arrest and treatment, but they were denied the right to even complain. The family have no recourse to legal justice or entity.

CASE 13 | ZAHID MANU TORTURED TO DEATH WITH CLAIMS OF 'DROWNING'

Zahid Manu, a 33-year-old man, was arrested by the Indian police and tortured to death according to this family, though police reports claim that he drowned.³¹ Zahid's family attempted to file a complaint to the police, but it was refused. The police however filed a case in connection with the incident and the family received a copy claiming that he had accidentally drowned. The family deny this is true, but have no legal recourse to seek justice in an independent and impartial legal system.

PELLET GUN VIOLENCE

CASE 14 | SHABIR, 20 YEARS OLD, CHASED BY INDIAN POLICE AND SPRAYED WITH 300 PELLETS

Shabir Sultan, 20-years-old, was chased by Indian police, beaten and shot with approximately 300 pellets in an act of torture and mutilation.³²

“His body was laying on the floor — face down — and a large stone was placed on his neck. Leaves were spread all over his body. Police even later told us that it might be a case of man-animal conflict but the pellets, that almost were 300 in number, on his backside revealed who the murderers were.

SHABIR'S FAMILY

“The torture was so severe that many of my brother's body parts were broken — like a mutilation. When I held his right arm after we recovered his body, it felt as if the arm was boneless — the bones had been crushed from severe beating. Blood kept oozing out from his mouth for several hours before he was laid to rest; he had severe internal damage.

IMRAN SULTAN, SHABIR'S BROTHER

In an act of lawfare, the police denied allegations that they had tortured Shabir, by claiming that the family did not hand over the body for an autopsy to ascertain the reason for the death. But the family did not want to hand over the body as they knew their son had been tortured by the police.

CASE 15 | BANK OFFICER EN ROUTE HOME KILLED WITH PELLET GUN BY INDIAN POLICE

Shahan Ahmad, a 21-year-old boy from Srinagar who worked as a security guard in a bank in J&K, was killed while en route home after his shift.³³ Shahan's brother, Shakeel, was called by the administrator at a hospital in J&K requesting him to immediately come to the hospital. On arrival, Shakeel was told by the hospital that his brother Shahan had severe pellet gun injuries on his face, chest and stomach, and that he had succumbed to the injuries.

“We initially thought [he'd] had an accident. When we reached hospital, Shahan was dead. He had internal injuries in his abdomen. The nature of the injury indicated that he [had been] shot at very close range and an entire cartridge of pellets emptied on his abdomen.

SHAKEEL AHMAD, SHAHAN'S BROTHER

ENFORCED DISAPPEARANCES

Another crime observed systematically across Jammu and Kashmir is the use of enforced disappearance. While it is clear that enforced disappearances are illegal, efforts to trace people such habeas corpus petitions and mechanisms are rendered ineffective in Indian-occupied Kashmir, leading to mistrust and fear among Muslims in the region.

Liberty is not taken for granted in J&K, with numerous families still unaware of the fate or location of their loved ones. The victims of such kidnappings are denied the right to liberty, legal recourse to justice and are routinely subject to torture.

CASE 16 | ENFORCED DISAPPEARANCE OF MANZOOR KHAN SINCE 2017

Manzoor Khan, a resident of Devar Lolab in Kupwara, was detained by the Indian army along with another local man, Nasrullah Khan, in 2017.³⁴ While Nasrullah was released, Manzoor remains missing to this day.

This case stood out for the SWI-unit as it is emblematic of the way Indian authorities have been conducting enforced disappearances for decades in J&K. The Special Investigation Team (SIT) of the J&K police accused the Indian national army of not cooperating on a probe into enforced disappearance. Lawyers in J&K told the SWI-unit that several instances of communication had been made between the SIT and the Indian national army to formally question the military officers allegedly involved in Manzoor's case. However, the national army failed to send any military officers to the inquiry at the SIT. This indicates a cover up, which is all too familiar in J&K according to local human rights lawyers consulted by SWI-unit.

Members of Manzoor's family protested outside the army barracks on the same day he went missing, triggering a local protest shortly after in support of the family in Kupwara. His family also filed a complaint to the High Court seeking information and justice.

“

Manzoor went to the Army post to seek entry. However, Manzoor did not come out of the camp; he was taken inside by Major Nishant Kumar.

COMPLAINT TO THE HIGH COURT BY MANZOOR'S FAMILY

The lawyer working on this case told the SWI-unit that Manzoor is still missing to this day and the Indian national army is largely non-cooperative over the case.

RAPE AND SEXUAL VIOLENCE

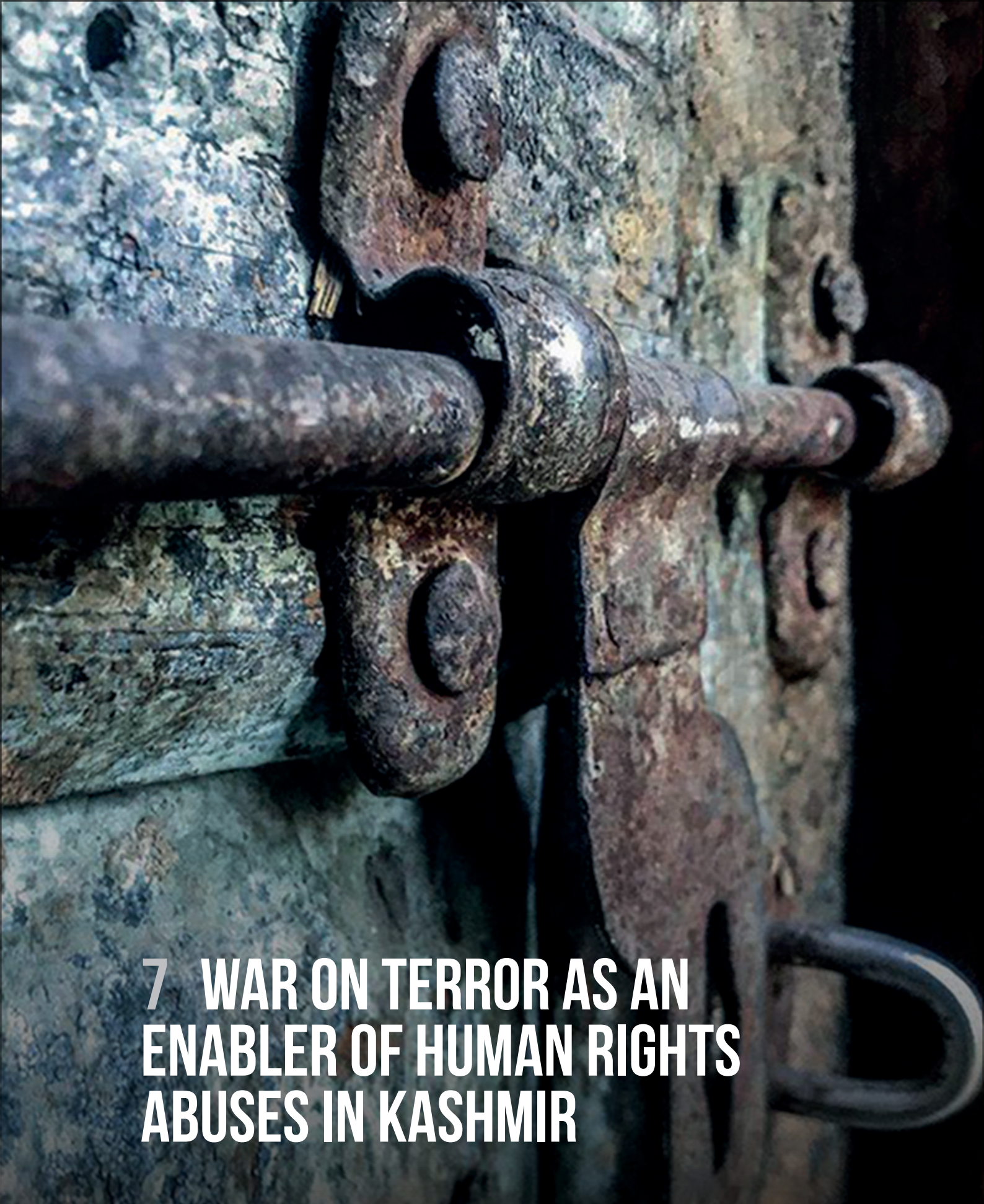
CASE 17 | MOTHER AND DAUGHTER GANG-RAPED BY EIGHT INDIAN ARMY PERSONNEL

Fatima and her daughter Nargis 15-year-old were gang-raped by Indian national army personnel in Hardatorora, a village in Anantnag district.³⁵ A unit of eight soldiers forcibly entered the home of Fatima and arrested her husband, who was then locked in one of the rooms in the house. The army officers took Fatima and her daughter Nargis to a different room where they were repeatedly raped. After the army officers left the family home, both the mother and daughter were found naked and unconscious in the room.

The local residents and relatives of the victims accused an army official — unnamed in this report — of the rapes. The local residents claim that the concerned army officer is responsible for many incidents of rape of this nature in the vicinity.

CASE 18 | WOMEN GANG-RAPED AND SEVERAL OTHERS MOLESTED BY NINE RASHTRIYA RIFLES UNIT PERSONNEL

Aafia, an 18-year-old woman, was gang-raped by Indian national army personnel — Rashtriya Rifles — and sexually molested by several others.³⁶ During the course of conducting a two day operation in Larve-Jagir village, armed forces groped and unlawfully put Aafia in an army truck. She was taken to a house-compound, where approximately twenty other women had been placed. They were all gang-raped, according to survivors. The women have not had any recourse to justice.



7 WAR ON TERROR AS AN ENABLER OF HUMAN RIGHTS ABUSES IN KASHMIR

Photo: Kamran Yousuf, journalist

INDIA'S WAR CRIMES IN KASHMIR
VIOLENCE, DISSSENT AND THE WAR ON TERROR

INDIA'S COUNTER-TERRORISM IN PRACTICE

As part of India's violence in J&K, the Bharatiya Janata Party (BJP) government led by the Prime Minister Narendra Modi has reframed the conflict in the region from being a conflict of land due to divisions exacerbated by and inherited from colonialism, to a fight "against terrorism".

Consequently, legislative and security measures of the Global War on Terror (GWOT) have been adopted by the Indian government, as has rhetoric against Muslims in Kashmir, and the impact of this is at its most violent.

In 2020 at the Raisina Dialogue panel discussion in New Delhi, India's late Chief of Defence Staff General Bipin Rawat said that the only way to put an end to terrorism was to follow the path taken by the United States after the September 11, 2001 attacks.

Rawat then went on to say that India is operating "de-radicalisation camps" for young Kashmiris. He claimed that "children as young as 10 or 12 years old" were being "radicalised". However, no definition of what "radicalised" referred to, or precisely why such narratives were being used. Referring to these children, he called for their isolation, saying, "These people can still be isolated from radicalisation in a gradual way. But there are people who have completely been radicalised."

The leveraging by India of the GWOT in Kashmir is made possible by a pre-existing anti-Muslim sentiment and the use of religion as a tool of identity politics by a nationalist ruling party. The violence espoused by several BJP government officials — and other entities in India — has further fuelled Indian nationalism. This has reached a point where hatred against Muslims in India as well as J&K has been normalised.

The SWI-unit has observed a direct causal link between the GWOT and India's violent strategy against Kashmiris. Although India's counter-terrorism efforts are found in its laws, policies, and security measures, it is seen most strikingly in its counter-insurgency strategy against Muslims in Kashmir.

The SWI-unit has come across several measures implemented under the façade of the GWOT against so-called 'terrorism suspects'. This includes house raids, arbitrary arrest, enforced disappearance, surveillance and 'fake encounters'.

In addition, the Indian government has adopted the same vague definition of terrorism as the United States, United Kingdom and others which includes a broad range of political activity. Thus, the work of civil society groups to highlight human rights abuses or seek justice for families, lawyers, and 'political' protests by minority groups — especially when they are supported by Muslims in J&K — are all considered 'terrorism'.

One of the most striking measures used against Kashmiris is the use of torture against 'terrorism suspects' by the Indian authorities. Since this measure has been evidently used throughout the course of the last 20 years of the GWOT by other nation states, including

governments of the West, this has created an enabling environment for torture internationally. Moreover, and as we have documented through Karim's case in this chapter, torture is also being conducted by a foreign intelligence agency in Kashmir, fully condoned by the Indian authorities.

The following case demonstrates how one of SWI-unit's clients was tortured in J&K by two Israeli intelligence officials — an act to which the Indian government evidently fully acquiesced. This snapshot testimony should be read in light of India's increasingly close relationship with Israel. The full testimony is held on file for future legal action — medical notes and corroboration with rights organisations have been made to verify the incident.

The SWI-unit will continue to investigate the pressing issue of the GWOT as an enabler of structural and physical violence in J&K.

CASE 19 | FEATURE CASE | “I WAS TORTURED BY ISRAELI INTELLIGENCE OFFICERS ACCUSING ME OF TERRORISM”

The SWI-unit documented a sensitive case of torture taken place under the pretext of the Global War on Terror.³⁷ The torture in this case, however, was not directly conducted by the Indian authorities, but Israel's intelligence officers in Jammu and Kashmir.

Karim, the torture victim, consented to the following part of his testimony being published by the SWI-unit in the public interest. The rest is of his account is being held on file for legal action and an on-going investigation into the GWOT in J&K.

Karim was detained without any reason in Pulwama by the Indian national army and transferred to Sheikh Ul Alam International Airport, near Badgam, Jammu and Kashmir. Karim was placed in a room where he saw two individuals he described as “white men” who spoke English. The Indian army personnel were not in the room during the interrogation.

On the first day of the interrogation, Karim told the SWI-unit that there were very few questions. The two men brutally tortured Karim and deprived him of sleep. Karim told the SWI-unit the following:

“ I was tortured and interrogated by two white men – both spoke English. They wanted me to sign a confession stating that I was being supported and shared the same ‘ideology’ of the mujahideen in Palestine and Afghanistan. I found this odd because they didn't once ask me about the Kashmir conflict.

I told them, that my problem is oppression by the Indian regime. Other mujahideen forces in Afghanistan and Palestine are fighting their own jihad against oppressive regimes.

They poured petrol in my rectum which burned my insides — I was screaming and in severe pain for weeks after that. They then used electric shocks on my penis and ears. They wanted

to know the location of other suspected fighters in Kashmir and showed me pictures, but I did not know who the individuals were. I was then moved to another interrogation room, where I was subjected to torture again. I was hanged by my hands from the ceiling, made to stand on a wooden stall and then pushed off it and left to hang for 10 hours at a time. They — the white guys — applied electric shocks to me again. A lighter was used to burn the hairs on my arm pits. The interrogators were not of Indian origin, they were white and had an American sounding accent. They wanted to know about my views on foreign affairs and were disinterested in the Kashmir conflict.

On the second day, the interrogators appeared “more cooperative” and communicated with Karim by asking questions in a calm and collected manner. They asked Karim about Al-Qaeda, several splinter non-state armed groups and his views on the conflicts in Palestine and in Afghanistan.

“

I think they were trying to see if I associated myself with the struggles in Palestine and Afghanistan.

One of the officers specifically asked me about Hamas, but I was shocked because they have nothing to do with Kashmir. I told them I have a problem with the Indian occupation of Kashmir, but they were trying to force me to say that I have a global agenda.

‘Who are you? Where are you from?’ I asked.

They responded: ‘Have you heard of Mossad? We’re from there — we’re on research’.

I didn’t give them what they wanted and denied all associations with other groups and they continued to torture me for three days. I was then moved to another location and left there for two-and-half months.

With India’s increasing security and defence partnership with Israel, this case is significant because it provides a first-hand testimony of how the inner-workings of this security alliance between India and Israel is manifesting on the ground in J&K.

Further evidence gathered finds foreign involvement in violence and other oppressive strategies against Muslims in J&K.

ISRAEL CASHES IN ON INDIA'S EMERGING DRONE WARFARE

In January 2021, the Indian army reportedly leased four Heron TP medium-altitude and long endurance (MALE) drones from the Israeli Defence Forces (ISF) as part of its emergency procurement programme.³⁸ The lease deal is costing approximately \$200 million and likely will be used for Intelligence, Reconnaissance and Surveillance (ISR) missions amid border tensions with China in the Ladakh area.³⁹ Both China and India have stationed thousands of soldiers backed by air and land weapon systems to secure the Line of Actual Control.

With India's military upgrade, it is likely that the drones will be used in Jammu and Kashmir for the same ISR purposes — particularly on the Line of Control (LoC) between Indian and Pakistan. According to open-source intelligence and defence analysts consulted on the matter, the lease of the Heron drones is for three years — with the option to extend for up to two years. This lease adds to Prime Minister Modi's increasing appetite for defence spending with Israel, which has doubled since the inception of his leadership. Currently, India's defence spending with Israel is approximately one-billion US dollars per year.

The Indian Air Force currently holds approximately 75 Heron drones, equipped with high-resolution ISR capabilities. However, the Indian National Army only have 10 Heron drones (likely purchased in 2015 by Modi), the latter of which cost up to US\$400 million.⁴⁰ Thus, it is likely that the new leases from Israel are for a possible upgrade or testing for new missions and ultimately for adding strike capability.

India's security and defence appetite is also reportedly extending to the US drone market, with a possible lease of two MQ-9 Predator armed drones from the United States.⁴¹ With both Israeli and American drones in usage by India in the medium to long-term, questions about the details of the service agreements, intelligence sharing, multi-theatre strike capability and ultimately the acquisition of targets in the conflict should be on the agenda. This possible addition to the Kashmir conflict in the long-term adds a new layer of complexity, abuse and indeed complicity.

SPORTS AND COUNTER-TERRORISM

CASE 20 | MEDICAL COLLEGE STUDENTS ARRESTED UNDER TERRORISM LAW FOR SUPPORTING A CRICKET MATCH

In October 2021, the Indian police in Jammu and Kashmir charged Kashmiri students at a medical college for supporting Pakistan's win over India in the T20 Cricket World Cup.⁴² The Unlawful Activities (Prevention) Act 1967, a counter-terrorism law to prevent individuals and associations from harming the integrity and sovereignty of India. The law, in this case, was used under the pretext of counter-terrorism to charge students for supporting an opposing cricket team. In 2014, some 60 Kashmiri students were suspended by a college during the Asia Cup tournament for celebrating Pakistan's victory over India.

While it is not illegal to support a cricket team, India's law enforcement are applying draconian counter-terrorism legislation to curtail any form of support for Pakistan. India's settler colonial project in Jammu and Kashmir means that any support for Pakistan is of interest under the broad banner of counter-terrorism, even if that means charging students with a terrorism law. Regardless of how enthusiastic the students may have been in their celebration — even if it was done in malice due the Indian occupation — it is lawful to display sentiments of victory in sport. In many other parts of the world, sport is used to facilitate understanding and encourage the reconciliation of differences. But, for India, defeat means using counter-terrorism laws to shut down narratives that are perceived to 'harm' the government, via the UAPA law.



8 DISSENT AND STRUCTURAL VIOLENCE

The Indian authorities have resorted to violent strategies to counter all forms of dissent, to the extent that human rights lawyers, practitioners and journalists have been routinely harassed, raided and in some cases even killed for their work. The SWI-unit has spoken to several Kashmiris who have had their work disrupted, ID and travel permits maliciously confiscated or threats made to their families.

The following section provides a snapshot of the counter dissent and disruption caused by the Indian authorities in J&K.

Photo: Kamran Yousuf, journalist

HARASSMENT OF NGOS, LAWYERS AND HUMAN RIGHTS DEFENDERS

The National Investigating Agency (NIA), India's primary counter-terrorism agency, specifically targets human rights work that reveals abuses and violence on the part of the Indian army and security services. India fears that the advocacy and publication of abuses conducted by the Indian authorities may reach the UN, its special rapporteurs or indeed Europe or United States. Thus, a counter dissent strategy has been employed to threaten human rights advocacy work done by Muslims in the region.

In 2020, Indian authorities raided the offices and family homes of prominent human rights lawyers and practitioners working in NGOs, including Jammu Kashmir Coalition of Civil Society (JKCCS), Legal Forum for Kashmir, Association of Parents of Disappeared Persons (APDP) and others. The following section provides a snapshot of some of the counter-dissent pressure and violence inflicted by the Indian authorities against NGOs through primary source testimony.

CASE 21 | KHURRAM PARVEZ: JAMMU KASHMIR COALITION OF CIVIL SOCIETY (JKCCS)

In November 2021, India's NIA, unlawfully raided the family home and office of Khurram Parvez, a 44-year-old prominent human rights defender, by invoking an abusive counter-terrorism law.⁴³ Parvez is the Program Coordinator of the Jammu Kashmir Coalition of Civil Society (JKCCS) based in Srinagar and the Chair of the Asian Federation Against Involuntary Disappearances (AFAD), a consortium of some 13 NGOs from ten Asian countries.

Parvez's personal electronic devices, books and JKCCS documents were seized. According to sources in touch with the SWI-unit, Parvez's family received a telephone call at approximately 6pm on the same day of the raid to bring his clothes to the station. The family were given the arrest memo under the case number 30/2021. He is currently being accused of "funding terrorism", "membership of a terrorist organisation" and "criminal conspiracy" against the Indian authorities.

Unlawful raids and detention are not new for Parvez; his office and family home was raided in 2020, and he was arrested in 2016 and held for over two months. Parvez was subsequently prevented from boarding a flight in Delhi to attend a United Nations Human Rights Council meeting in Geneva.⁴⁴

CASE 22 | LEGAL FORUM FOR KASHMIR (LFK)

In another testimony documented by the SWI-unit, it was observed that the Legal Forum for Kashmir (LFK) had been targeted in every way possible to undermine its human rights advocacy.⁴⁵ In primary source testimony provided to the SWI-unit by its director, Advocate Nasir Qadri spoke about the difficulties of practicing law, the harassment by the Indian army, and disruption caused by the Indian authorities. His testimony demonstrates how Indian authorities not only detain and raid human rights lawyers such as Khurram Parvez but also interrogate and sit inside the courts to monitor legal proceedings against its force's actions — rendering it almost impossible for victims of abuse to be assured a climate of justice to safely seek accountability.

The following testimony was provided by the director of Legal Forum for Kashmir, Advocate Nasir Qadri:

“ Indian-occupied Kashmir is the hardest [place] to live without any basic human rights in place. Everyone knows that the Indian occupation forces have crossed every limit of barbarity, despotism — there is no rule of law in place. The occupied territory is a lawless state. There are hundreds of cases of absolute immunity, there are no criminal prosecution cases, and as a lawyer we feel frustrated when we defend people's human rights here. Everything is controlled by the occupier, there is no independent judiciary in place. State violence has increased, journalists [are] targeted, doctors [are] restrained and [there is] complete censorship of reporting on what's is happening in Jammu and Kashmir. No human rights organisation can operate here.

I have been questioned and harassed multiple times by the Indian army. 'Why are you defending the detainees under the Public Safety Act?', they tell me. The Indian CIK (Counter-Intelligence Kashmir) agency monitor us and prevent our lawyering in every process. They even sit inside the court rooms!

When I was part of the High Court Bar Association — a 2000 member body — the Indian government gave us such a tedious time by harassment [and] family home raids, and [they] arrested us for just for advocating self-determination regarding Jammu and Kashmir in the courts.

Some of my colleagues were arrested and sent to notorious prisons for torture. This is how India disrupts and intimidates us lawyers for just practicing law. I started [the] Legal Forum for Kashmir and have faced the same level of structural violence. Our website is banned in India for merely reporting on international human rights law and international humanitarian law violations. They have blocked our Twitter and other social media accounts. I cannot write for my NGO or publish anything because of India's censorship.

The LFK continue to work under restricted conditions, and some of their members have undergone great personal sacrifices, choosing rather to be located away from family for months on end in order to document abuses and war crimes in J&K.

CASE 23 | LAWYERS ASSASSINATED

The Indian authorities have a track-record of disrupting lawyers from performing their duties, including assassinations. The SWI-unit has observed that the journey to assassination begins with surveillance, monitoring and then disruption which includes arrests, as seen recently with Khurram Parvez and others who have not been mentioned in this report for security reasons.

Consequently, it is important for those documenting human rights abuse in the region to note closely when lawyers are arrested, that such cases can then lead to prolonged detention without trial or even extrajudicial killings.

The killing of lawyers in J&K has occurred under the watch of the Indian authorities since as early as the 1990s according to the Legal Forum for Kashmir and there has been little to no attention to these abuses internationally.

“

Human rights organisations are not spared. Some lawyers have been assassinated, and in one case a lawyer was killed and thrown into the river by the Indian army. At least a dozen lawyers were assassinated for merely advocating for human rights or en route back from international conferences regarding violations in Kashmir.

NASIR QADRI, TO SWI-UNIT

With this in mind, the following snapshot cases are presented to demonstrate the extreme use of violence by the Indian authorities against lawyers working for accountability in J&K.

ADVOCATE JALLIL ANDRABI KILLED AND DUMPED IN A RIVER BEFORE TRAVELLING TO THE UN

On 8 March 1996, Advocate **Jallil Andrabi**, a 36-year-old human rights lawyer, was arrested in his family home in front of his wife who attempted to file a complaint at the local police station in Srinagar. The police station refused to permit Andrabi's wife to file a First Information Report with the names of the Indian army officers involved in her husband's arrest — a prevention tactic seen by the SWI-unit in most of the cases involving abuses conducted by Indian authorities in J&K.

Some 19 days later, Andrabi's body was found in Jhelum River with his hands tied up and his face mutilated. Andarbi had gunshot wounds and bruises all over his body. According to his family, Andarbi was scheduled to provide a testimony before the United Nations on 19 March 1996.

ADVOCATE ABDUL QADIR SAILANI SHOT DEAD EN ROUTE TO WORK

On 17 October 1995, Advocate **Abdul Qadir Sailani** was shot and killed whilst en route to see a Kashmiri human rights victim in Srinagar. The family immediately filed a First Information Report complaint to the local police station as well as to the Human Rights Commission which triggered a special investigation. However, lawyers familiar with the case said that the matter had been closed due to excessive impunity granted to the alleged perpetrators, who were never summoned for questioning about what happened to Abdul Qadir.

ADVOCATE HISSAMUDDIN SHOT DEAD AT HIS FAMILY HOME

On 15 October 2004, **Hissamuddin**, a lawyer in J&K, was called out of his family home at 4am, where he was shot multiple times and left dead. Hissamuddin used to work on cases involving alleged human rights abuses conducted by Indian authorities in J&K. Family members of Hissamuddin attempted to file a complaint with the local police and courts, but there was no formal response or undertaking by either authority.

For Kashmiris, lawyers in J&K are the last line of defence to attain their rights. For this reason, the Indian authorities target them and disrupt their work. However, this disruption tactic has also been seen against journalists.

“

We have lost the ray of hope of justice, it is useless to seek justice from the authorities at the helm.

HISSAMUDDIN'S SON TO SWI-UNIT

9 SHUTTING DOWN JOURNALISM

CASE 24 | AASIF SULTAN DETAINED FOR NEARLY 1200 DAYS

Aasif Sultan, a journalist from J&K and reporter for the news magazine *Kashmir Narrator*, has been detained by Indian authorities for nearly 1200 days in prison since his arrest in August 2018.⁴⁶ Indian authorities have charged Sultan under section 302 of the Indian Penal Code for Murder, section 120b for Conspiracy against the State and Section 326 for Causing Dislocation or Injury. Aasif is also charged under the Unlawful Activities (Prevention) Act.

In addition, Indian authorities accuse Sultan of “harbouring known militants” — an allegation he categorically denies. His family, as well as his colleagues at *Kashmir Narrator*, deny the allegations and claim the real reason was due to his impactful journalism. Sultan remains confident of his release and the last time he was seen in court, he was wearing a T-shirt with the slogan ‘Journalism is not a Crime’.

The Committee to Protect Journalists (CPJ, an NGO based in New York, United States) wrote a letter to Indian Prime Minister Modi in August 2020, demanding Sultan’s release. Nearly 400 journalists and members of civil society signed the letter.⁴⁷ In Sultan’s absence, he was awarded the Annual John Aubuchon Press Freedom Award from the US National Press Club.⁴⁸

CASE 25 | INDIAN POLICE THREATEN SAJAD GUL

On 9 February 2020, **Sajad Gul** reported a demolition campaign conducted by Indian authorities in Bandipora village, Kashmir.⁴⁹ Three days after Gul published his news report with *The Kashmir Walla* entitled “Residents aghast with demolition drives in Hajin”,⁵⁰ Gul received threatening phone calls from the Indian police regarding his publication.

“ I have lost faith in justice. Is journalism a crime? I keep thinking, how could I be charged for merely reporting on a demolition drive?

SAJAD GUL, TO SWI-UNIT

The local police visited Gul’s village in Shahgund and demolished his uncle’s fence and Gul’s property. As a result, Gul’s neighbours and village witnessed the criminal damage caused by the police and began a protest against their actions. The police filed a First Information Report, complaining against Gul and his family members. Gul was subsequently charged with “rioting”, “criminal trespassing” and “assaulting a public servant” under the Indian Penal Code. According to Gul’s lawyers, he was some 40 kilometres away from his home when the incident took place and the complaint against him remains in place under the FIR 12/2021.

Gul is currently in fear of his liberty and concerned that his studies in journalism are being disrupted on purpose to dissuade him from reporting crimes and abuses in Jammu and Kashmir.



10 CONCLUSION

Evidence gathered during the SWI-unit's investigation suggests that there is strong reason to believe that Indian authorities are conducting war crimes and other violence against civilians in Jammu and Kashmir.

In this report, the SWI-unit has extracted credible human rights intelligence on abuses endured in J&K. Moreover, it has shown that the Global War on Terror (GWOT) has been used as an enabler for human rights abuses, security co-operation and anti-Muslim rhetoric that excuses and even supports the actions of the Indian authorities.

The SWI-unit's investigation and successful legal action vis-à-vis the submission of a Universal Jurisdiction application in the United Kingdom undermines India's claim that there are no war crimes or violence taking place in Jammu and Kashmir. It is hoped that this effort will trigger a positive legal recourse to justice for the thousands of victims enduring abuse under occupation.

Through lawfare and in particular under cover of the Unlawful Activities (Prevention) Act, the Indian government has provided legal immunity via different legal loopholes and tactics to excuse and facilitate abuses in against civilians in the Kashmir conflict; it has especially used legislation and leveraged the GWOT to effectively criminalise dissent.

The definition of 'unlawful' within the Unlawful Activities (Prevention) Act, is largely vague and is being used to shut-down human rights work and journalism. Under the very same legislation, Kashmiris have been charged for expressing solidarity with Palestinians and holding protests against Israel's military offensive in Gaza.

Failing to call out human rights abuses and war crimes by India — or similar actions by any of its international allies — will only boost the confidence of such governments to continue violating international law. It is not an option to simply dismiss the abuses by India in J&K; this will only further agitate Kashmiris who are looking for legal ways to protect their rights and integrity.

Consequently, we encourage those campaigning to end the violence and seek accountability to continue their work. SWI-unit and legal firm is committed to supporting the further gathering of evidence for future legal actions.

For international actors cooperating with India over security and defence matters, it is time to act with caution, particularly when Indian authorities are continuing to act with impunity in the face of mounting evidence that could in future find them guilty of war crimes under international law.

11 ACKNOWLEDGEMENTS

The SWI-unit would like to thank all the families of the victims who agreed to be interviewed for this legal action and context report. This is a special act of bravery that permits the uncovering of human rights abuses by the Indian authorities. It is hoped that this endeavour will sow the seeds for additional future litigation beyond the Universal Jurisdiction application on part of the victims and transparency over the war crimes and violence endured in J&K.

It was the special attention of the fieldwork team that enabled this investigation to run smoothly. Additionally, we continue to value the frequent correspondence with local human rights organisations, with special thanks to the Legal Forum for Kashmir (LFK).

We acknowledge that some of the other human rights organisations, lawyers, practitioners and journalists have opted to remain unnamed in this endeavour. They are indeed the bastions of human rights defence in the J&K conflict landscape, working to uphold the rule of law and justice, often at great personal cost to their family lives. The SWI-unit thanks all external reviewers, counsel and advisory boards.

The SWI-unit is dedicated to continuing investigations on the thematic issues explored in this context report, with the gathering of new human rights intelligence already underway.

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INDIA'S WAR CRIMES IN KASHMIR

VIOLENCE, DISSENT AND THE WAR ON TERROR

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