

KASHMIR BACKGROUND MATERIALS

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Introduction to Kashmir: “The Most Dangerous Place on Earth”

Kashmir, as a result of tensions between India and Pakistan and a political conflict centered on the issue of Kashmiri self-determination espoused by major sections of the Kashmir population and contested by the Indian government, has come to be known as the “Most Dangerous Place on Earth” in recent years.

This nomenclature has emerged since the tit-for-tat nuclear tests conducted by India and Pakistan in 1998. The conflict presents a serious threat to international security, as there is danger that tensions can spiral into a nuclear war, threatening the future of the people of Kashmir, India, and Pakistan. To put the combined population of South Asia into context, one of out of every five human beings on the planet is living under the shadow of this conflict. The risks are high, but even the current costs of war are terrible. India and Pakistan continue to spend massive amounts on an arms race as poverty, illiteracy, and illness face hundreds of millions of people.

With various armed groups clashing with the Indian military and two opposing armies caught in constant artillery shelling across the Line of Control that divides the former state of Jammu & Kashmir, Kashmir has become a war zone. The Indian government has continued to maintain a presence of half a million troops in Kashmir following a local uprising by Kashmiris seeking independence in 1989.

Thousands of people have been killed in Kashmir as the fighting has raged on and as human rights abuses have continued unabated. The Kashmir conflict not only continues to raise the specter of war between India and Pakistan, but it also continues to produce serious human rights violations against Kashmiri civilians: summary executions, rape, and torture. Both the Indian military and armed groups commit human rights abuses. There is a systematic pattern of human rights abuses and a regime of impunity that the Indian government has used to eliminate what it views as a security threat by any means necessary.

A humanitarian crisis of sorts exists in Kashmir. Kashmiri civil society seeking to address urgent issues and nonviolent Kashmiri groups that have eschewed violence, but continue to politically campaign for independence, have found an ever-narrowing space to work within. Their situation has rarely been covered by international media, and 13 millions Kashmiris are isolated from the world as their society continues to be torn apart by the ravages of the conflict.

Documentation and Work Undertaken

The past 14 years of armed conflict in Jammu & Kashmir has affected the entire society. There has been no let up in the situation. The armed groups and more than half a million Indian Security personnel engaged against each other in the valley have resulted in unprecedented massive human right violations which are continuing unabatedly.

Before the onset of conflict in Kashmir, the term Human Rights was not popularly known but, when the conflict started in the early 90's, human rights became a major issue in Kashmir and all sections of the Kashmiri society got involved in Human Rights issues.

They sent memorandums to the United Nations for humanitarian intervention in Kashmir. Overnight, groups like Amnesty International became a household name. Professionals like doctors, lawyers, social activists, bureaucrats and retired judges constituted District and local level committees.

Physicians for Human Rights, Human Rights Watch, Amnesty International, and other international human rights groups began reporting on human rights in Kashmir. A number of reports were published expressing deep concern at human rights abuses committed on all sides, particularly a systematic pattern of human rights abuses and impunity by the Indian government.

But the Indian government has banned international human rights groups like Amnesty International from visiting. Even the ICRC was banned for a number of years and was only permitted limited access to officially listed prisons and Joint Interrogation centers to ensure the fair and humane treatment of the thousands of imprisoned Kashmiris. ICRC operations in Kashmir are severely curtailed by a very restrictive Memorandum of Understanding with the Indian government which does not permit unfettered access, unannounced visits to detention centers, or access to the “unofficial” prisons and detention centers.

Given that international human rights groups have not been permitted to visit Kashmir, the primary responsibility of human rights documentation, research and advocacy has fallen on local Kashmiri actors. It has been a lonely and dangerous endeavor those who have taken up this important work.

For the most part, Kashmiri society was not adequately prepared to contend with the crisis of human rights issues that has dominated life in Kashmir since the early 1990's. Proper Human Rights work has not been properly addressed and understood by Kashmiri political groupings involved in an independence struggle. At the beginning of the 1990's, Indian human rights organizations visited Kashmir and reported human rights situation through their reports. Groups from South India, such as the Andhra Pradesh Civil Liberty Council (APCLC), also documented the human rights situation in Kashmir, but these reports were dismissed by the government of India as misleading and intended to “demoralize” the army.

In Kashmir, the Kashmir Bar Association and the Jammu Bar association also did some documentation but it was not done in a professional manner. The only organization, which documented the human right violations in Kashmir in an organized manner, was the Institute of Kashmir Studies (IKS). The Institute of Kashmir Studies (IKS) was founded in the year 1992. The IKS emerged as an organized institute and, according to its commitment, it was to provide intellectual impetus, assist and coordinate research on issues and problems relevant to Kashmir. It had many objectives but most of its activities remained confined to human right documentation. The human right division of the IKS, under the name and style of Jammu and Kashmir Human Rights Awareness and Documentation Centre (J&K HRADC), undertook studies on human rights, to highlight the human right violations perpetrated on the people of J&K.

IKS published almost 40 publications mostly relating to human rights violations. The information by IKS was disseminated to more than 400 organizations in India and internationally. Since the IKS office bearers were also affiliated with a right-wing political party, they had a lot of human and financial resources which enabled their work. But independent observers questioned the reports of the IKS as it was accused of politicizing human right issues. After the detention of its chairman in November 2002, who was detained under the Public Safety Act, the president of

Jamaat –e- Islami took over the responsibility of IKS. Soon after the detention of its chairman, the president of Jamaat suspended the activities of IKS. Thus, political forces interfered in the human rights work of the IKS, while the credibility of the well-researched IKS reports were impacted by perceived involvement of the very same.

Recent efforts to initiate objective well-founded human rights documentation work in Kashmir have graduated to a higher level as Kashmir civil society has stepped in. At present, the Public Commission on Human Rights (PCHR), an independent organization of Jammu and Kashmir Coalition of Civil Society (CCS), is documenting human right situation on a monthly basis through its publication “Informative Missive” which is also available on the website: <http://geocities.com/informativemissive>. Besides the Informative Missive, the Kashmiri Women’s Initiative for Peace and Disarmament (KWIPD), a constituent of CCS, through its quarterly magazine “Voices Unheard” is documenting and disseminating violations against women and children. Please see <http://www.geocities.com/kwipd2002>).

The CCS also monitored the Jammu & Kashmir assembly elections last year in November 2002, through its report Independent Election Observer’s Team Report. Besides CCS, the Department of Sociology from the University of Kashmir has written reports regarding the effect of violence on Kashmiri society.

Thousands of people have been the victims of enforced disappearances by the government. Another CCS member, the Association of Parents of Disappeared Persons (APDP), has brought together hundreds of Kashmiri families whose members have been the victims of Enforced or Involuntary Disappearances (EID) by the Indian government. The APDP is a collective campaigning organization that seeks truth and justice on this severe human rights issue in Kashmir. Recently, in April 2003, APDP organized a worldwide hunger strike, coordinated in different cities across the world, pressing for an end to disappearances, prosecution of perpetrators, and appointment of a commission to probe into all enforced disappearances. The APDP, along with other CCS member organizations, has helped families pursue legal cases as well as highlight this issue through reports, videos, and seminars.

Major Obstacles in Continuing Advocacy Work

- Human right defenders all over the world have always faced difficulties in treading the path of justice and history bears testimony to this fact. The situation in Kashmir is no different. Many eminent human right defenders lost their lives while espousing the cause of human rights. After the assassination of human right activists H.N. Wanchoo, Dr. Ashai, Dr. Guroo, things became more difficult. It caused a setback for the human right defenders working in Kashmir. People who had joined the human rights efforts in early 90’s disassociated themselves from the campaign feeling intimidation from the government and other groups. The human rights movement was neutralized after the assassination of Jaleel Andrabi on 23rd March 1996 with the likely involvement of Indian counter-insurgency squads. It was at that time Washington based Asia Watch (Human Right Watch), a**

world wide human right organization, described Kashmir as the most dangerous place in the world for human right defenders.

- **The major problem in Kashmir was the weak civil society as a result of the lack of democratic space. There has been no tolerance of dissent in Kashmir. People against the government have been dubbed as “anti Indians” and Pakistani agents. Groups speaking against the excesses of law enforcement agencies have been accused of being militant sympathizers and, while highlighting the excesses of militants, they have been accused of being anti-movement and Indian collaborators. Since both the government and militants have their extensions masquerading as civil society and have used human rights as war and political propaganda, it has been a gigantic task for genuine and independent groups to appear independent.**
- **Another major obstacle for human right activists is the distrust amongst the people, including the elite. The distrust is so deep that it will take a long time to gain the confidence of the people. People’s expectations from the human rights groups in early 90’s were very high, particularly from the international monitoring organizations like Amnesty International (AI), hoping that the international humanitarian concern would pressurize the government of India to stop human right violations in Kashmir. But as nothing of the sort happened and disappointment set in, this left a perception of Kashmiri HR groups as ineffective. Even now the victims of human right violations hesitate to seek help from the human rights groups.**

Ideas for Future Strategies and Explorations of Directions in Advocacy Work

- **The primary task is how to rejuvenate the civil society of Kashmir. A strong and powerful civil society is needed to influence the governments and political parties. Public opinion is the only weapon of civil society that could mount pressure on state and non-state actors to respect the international humanitarian law.**
- **There needs to be training and imparting of human rights education and technical expertise to civil society actors and victims for realizing their objectives and empowering them with the latest experience from the advanced global civil society. Actors also need to learn skills for lobbying with press, legislators and other sections of society.**
- **Kashmiri civil society needs engage in alliance building with Indian civil society. While the Indian civil society has mostly failed the people of Kashmir, a section of civil society in India has dared to tell the Indian people the truth about Kashmir and the human rights violations. These Kashmir watchers in India are spread throughout India and are genuinely concerned about the crimes against humanity committed by the law enforcement agencies and about the Kashmir imbroglio. They are concerned that, unless the causes and sources of the violence are not rooted out, peace cannot be ensured in South Asia and the impending dispute between the two countries of**

India and Pakistan will have catastrophic effects, particularly after 1998, when the two countries became nuclear powers. But Indian civil society would be more effective to question the government's commissions and omissions in Kashmir.

- **We must involve the global civil society for humanitarian intervention in Kashmir. The global civil society has emerged as super power as observed by the daily "The Economist" and, due to globalization, the peace and human rights are the major concern today. Besides involving the global civil society for exerting external pressure on the government of India, the civil society groups in Kashmir will evolve a sense of protection while aligning with them. It is vulnerable to work in isolation. The CCS has engaged in alliance building with the European Civil Society and Asian Civil Society. Recently the hunger strike observed by APDP, constituent of CCS, was supported by many organizations in Asian countries, which left a impact on the Government of India. They have started doing some damage controlling measures as far as disappearances in Kashmir are concerned.**
- **Ignorance of rights: the most important task is to make people aware of their rights. Since the illiteracy rate is very high and often the victims belong to the down trodden section of society, they are unable to agitate for rights. A massive literacy drive is needed to educate people about their basic human rights.**

Information on Impunity Issues

Impunity is granted to the security forces under Section 6 of the Armed Forces (Special Powers) Act (AFSPA) which reads as, *no prosecution, suit or other legal proceedings shall be instituted except with the prior sanction of centre, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.* There are innumerable cases in which the army officials have carried out liquidations and assassinations of non-combatant Kashmiris, but no action has been taken against them. This has occurred not withstanding the Supreme Court's directive that, while deciding the legal validity of AFSPA, the complaints against armed forces must be investigated.

The whole system of human right violations functions on the basis of impunity, and legal impunity is one of the facets. The other facets are political impunity which sustains itself on an institutionalized lie. When it comes to political assassinations, the perpetrators are convinced they have better served their country by torturing, killing, or making the enemy disappear, and all this convinces the perpetrators that they are unaccountable and have license to do anything in the name of patriotism and the territorial integrity of India.

Challenges Faced by Activists:

- **Threat and fear of persecution and death**

The major challenge that human right activists face in this conflict area is fear. Fear as a weapon of war has been successfully used by the Indian government to intimidate people. Fear and insecurity has paralyzed the society. There is internal and external fear; internal fear was greater in the early 90's when people were afraid of expressing themselves and external fear still exists because people, due to their political beliefs, expect harm from the law enforcement agencies, particularly in the far flung areas where *de facto* army is ruling the roost. It was because of this fear that people in Kashmir have chosen individual options rather than collective options. There has been a large scale exodus of Kashmiri professionals to other countries and to Indian states. People staying in Kashmir, particularly the elite, are here because they have no other choice. The tragedy of Kashmir has been that intellectuals, instead of rising to occasion at the historical juncture and engaging themselves in carrying a national liberation movement, have been sucked in by government jobs and have become the part of establishment which is anti people and promotes the Indian interests in Kashmir.

- **Lack of Human Resources**

Most of the human right violations are committed in far-flung areas where accessibility of media and human right defenders is almost negligible. The people living in these areas do not report atrocities due to fear. Hardly 10% of the human right violations are reported in media and other organizations. Lack of local contact in far areas is also a big hurdle in reaching out to these people. Due to huge deployment of troops in the area, these areas are totally controlled by security personnel, even to the extent that civil/municipal activities are controlled by the security forces. But there seems to be change, the students are more interested in joining the civil society and working for human rights, as there is a growing realization that to remain silent is no security or safety.

- **Lack of Financial Resources**

Documenting and agitating on behalf of human rights is a very expensive activity, and independent human right groups lack the financial resources. People hesitate to contribute overtly and covertly to human rights organizations for the fear of reprisal from the government. Independent Human right groups are unable to generate funds from the public and are unable to get funding from the international funding agencies because of the Foreign Contribution Regulation Act (FCRA). Independent voluntary organizations questioning the malfeasance of the government are unlikely to get approved for registration under the Registration Society Act, let alone FCRA. Funding agencies contribute millions of dollars to civil society groups working for humanitarian and human right work in India but hardly any of that money is received by any independent

group in Kashmir. The government has allowed some NGOs working for humanitarian work.

Source—Background Materials, International Conference on Impunity to Mass Crimes