

Physicians for
Human Rights

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Blind to Justice:
Excessive Use of Force and
Attacks on Health Care in
Jammu and Kashmir, India

PHR

Physicians for
Human Rights



About PHR

For more than 30 years, Physicians for Human Rights (PHR) has used science and medicine to document and call attention to mass atrocities and severe human rights violations.

PHR is a global organization founded on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to stop human rights violations.

PHR's investigations and expertise are used to advocate for persecuted health workers and medical facilities under attack, prevent torture, document mass atrocities, and hold those who violate human rights accountable.

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Cover: A Kashmiri youth with an eye injury lies in a hospital after being hit by pellets fired by Indian security forces during a protest in Srinagar, Jammu and Kashmir, in August 2016.

Photo: Tauseef Mustafa/AFP/Getty Images

Executive Summary

Since July 8, 2016, Indian authorities have used indiscriminate and excessive force in responding to widespread protests across Jammu and Kashmir, India's northernmost state. This has included repeatedly firing on protesters killing at least 87 people and injuring more than 9,000 others, not including injuries sustained by security forces during protests. In seeking to quell the protests, security forces deployed an arsenal of weaponry that they reported to be "less than lethal," but these weapons in fact caused deaths and serious, often permanently debilitating injuries. The weapons, which security forces used against both peaceful and stone-pelting protesters, included tear gas grenades, pepper gas shells, 12-gauge shotguns firing "birdshot," and live ammunition.

To investigate the impact of the use of force against protesters in Jammu and Kashmir, Physicians for Human Rights (PHR) conducted interviews with a wide range of medical professionals, lawyers, and injured protesters. Accounts from doctors and media reports show that Indian security forces deliberately obstructed access to urgent medical care for protesters, and harassed medical workers attempting to treat protesters, including by preventing doctors

from reaching the hospitals where they work. Further, every doctor interviewed by PHR stated that police, both uniformed and in plainclothes, were present at hospitals and monitored protesters being admitted for treatment. They said police sometimes asked for the names and registers of patients admitted at the end of the day, and used the information to arrest those injured on the grounds that they had participated in "unlawful assemblies."

The indiscriminate and excessive use of force by Jammu and Kashmir police and the Central Reserve Police Forces against protesters in Kashmir violates India's obligation to protect the rights to life and health, and the country's obligation to uphold and facilitate freedom of expression and assembly. A failure to distinguish between legitimate exercises of freedom of expression and "unlawful" assemblies, as well as legal protections for police against prosecution for the use of force, have contributed to a lack of accountability for security forces who use unnecessary and excessive force on protesters, including where the use of force results in death or serious injury.

The level of violence in Jammu and Kashmir drew fierce criticism from the international community; however, the use by security forces of the purported "less than lethal" 12-gauge shotguns, misleadingly



Indian police fired tear smoke shells towards Kashmiri protesters in Srinagar during a protest in August 2016 against civilian killings.

Photo: Tauseef Mustafa/AFP/Getty Images



Kashmiri mourners holding the body of 12-year-old Junaid Ahmad, who was killed during protests, are fired on with tear gas by Indian police during his funeral procession in Srinagar in October 2016.

Photo: Tauseef Mustafa/AFP/Getty Images

referred to as “pellet guns,” drew particular scrutiny. Media reports, doctors working in Jammu and Kashmir, and civil society organizations monitoring the numbers of injuries and deaths reported that an estimated 12 to 15 deaths and an estimated 5,208 injuries could be attributed to the use of 12-gauge shotguns. The rest of the deaths and injuries are attributed to gunshot wounds or blunt trauma from batons, tear gas canisters, or other types of crowd-control weapons.¹

PHR experts, along with other independent policing experts, conducted a review and analysis of the use of the 12-gauge shotgun and the standard operating procedures regulating their deployment in the field. The experts found that the 12-gauge shotgun is inherently inaccurate, indiscriminate, and capable of penetrating soft tissue even at a distance. In general, kinetic impact projectiles – a class of weapon that includes the 12-gauge shotgun firing cartridges of pellets – should not be used for crowd management or for crowd dispersal, as most of these weapons cannot be used safely or effectively against crowds. At close range, the lethality and patterns of injuries of weapons firing cartridges of pellets or rubber bullets become similar to those of live ammunition.²

In this report, PHR documents the excessive use of force by security forces, deaths and injuries to protesters, and lack of investigations and accountability in Kashmir for human rights violations committed between July 8 and the end of October 2016. PHR also documents obstructions to accessing medical care for those injured by police actions during protests.

Methodology

Physicians for Human Rights (PHR) conducted interviews, both in person and remotely, with medical professionals, lawyers, and protesters injured during demonstrations that began on July 8, 2016. Researchers based in New York conducted semi-structured phone interviews with medical professionals, lawyers, and human rights defenders based in Jammu and Kashmir, while an independent researcher based in Jammu and Kashmir conducted semi-structured interviews with medical staff, lawyers, and injured protesters and their families on behalf of PHR, and according to PHR ethical standards. The findings of this report are based both on witness testimony of human rights violations and violations of medical neutrality³ during the unrest beginning in July 2016, and a review of documentation gathered by civil society groups working in Jammu and Kashmir, including media reports. These interviews are supplemented by a review of materials submitted to the Jammu and Kashmir High Court in response to a writ petition filed by the Jammu and Kashmir Bar Association against 28 separate respondents, including the Government Medical College, Srinagar, the Central Reserve Police Forces, and the Indian Ordnance Factory Board.

Interviews were conducted in English and Kashmiri. The names of people interviewed during the course of research have been withheld for reasons of security and confidentiality, except where the family member or health professional has specifically requested to be named in the report, and PHR has evaluated the level of acceptable risk to the individual and family.

For all interviews, the PHR team obtained informed oral consent from each interview subject following a detailed explanation of PHR, the purpose of the investigation, and the potential benefits and risks of participation.

Interviews were conducted using semi-structured interview instruments developed by PHR medical and legal experts, and approved by PHR's Ethics Review Board, a body established by PHR in 1996 to ensure the protection of individual witnesses interviewed during the course of investigations and research. PHR's ERB regulations are based on Title 45 CRF Part 46 provisions, which are used by academic Institutional Review Boards. All of PHR's research and investigations involving human subjects must be approved by the ERB and conducted in accordance with the Declaration of Helsinki as revised in 2000.

Background

Jammu and Kashmir is a state in northern India comprised of three regions: Jammu, Ladakh, and the Kashmir Valley. A territorial dispute between India and Pakistan and persistent calls for self-determination by the people living in the Kashmir Valley have been the main source of simmering tensions between the Kashmiri people and the Government of India since the region gained independence from Britain in 1948. In 1989, strains in the Kashmir Valley boiled over into an armed uprising, spearheaded by the popular Jammu and Kashmir Liberation Front (JKLF). This group was later supplanted by the Hizbul Mujahideen, a loosely organized militant group of fewer than 100 fighters currently operating in Jammu and Kashmir.⁴ By the mid-2000s, the armed uprising had dwindled to a low-level insurgency comprised of foreign and Kashmiri fighters that persists to the present day. Jammu and Kashmir, and in particular the Kashmir Valley, also hosts a permanent Indian military presence, making it one of the most highly militarized regions in the world.

The armed struggle, particularly from 1990 to the mid-2000s, was characterized by thousands of human rights abuses, including indiscriminate or extrajudicial killings and ill-treatment, perpetrated both by the Indian security forces and armed groups fighting in Kashmir. According to the Jammu and Kashmir state government, from 1990 to 2011, the conflict claimed a total of 43,460 lives, including residents not engaged in the fighting, members of armed groups, and security forces. Indian authorities report that 13,226 civilians were killed in the fighting during that period, although human rights groups

operating in Kashmir in the 1990s and 2000s say that the actual numbers may be much higher.⁵

Lack of accountability for these human rights violations has led to entrenched alienation from India on the part of Kashmiris, and has contributed to continued unrest and protests against the Indian state by residents of the Kashmir Valley. In fact, since 2008, protests in the form of peaceful marches, and at times stone-pelting by Kashmiri youth, have become an almost daily feature in Kashmir. Widespread demonstrations have most often occurred in response to alleged human rights violations perpetrated by Indian security forces. The 2010 summer of protests arose in response to a "fake encounter," the extrajudicial execution of three young Kashmiri men in Machil by members of the Indian army, who then claimed that the men died in an armed confrontation.⁶ In 2013, protests were sparked in response to the state execution of a former member of the JKLF, Afzal Guru – an application of the death penalty that Kashmiris, and the international community, viewed as unlawful.⁷ On July 8, 2016, protests once again erupted in reaction to the killing of a popular militant leader, Burhan Wani, by the Indian army in a firefight. Wani was the 22-year-old charismatic leader of the Hizbul Mujahideen.

Both peaceful protests and stone-pelting demonstrations have produced harsh responses from security forces and resulted in regular deaths and serious injuries of protesters and bystanders,⁸ despite apparent attempts by the Indian authorities to minimize lethal consequences. In 2010, more than 100 protesters, some of whom engaged in stone-pelting,



Kashmiri protesters in Srinagar in July 2016 during weeks of unrest following the death on July 8 of popular rebel commander Burhan Wani in a firefight with government forces.

Photo: Tauseef Mustafa/AFP/Getty Images

were shot dead by security forces using live ammunition.⁹ After these deaths, the Ministry of Home Affairs in New Delhi set up an expert committee to recommend alternative methods to firing live ammunition, in an effort to reduce the numbers of deaths and injuries during protests in the future. Indian authorities have said that 12-gauge shotguns firing No. 9 shot were introduced upon the recommendations of the expert committee; however, the list of crowd-control weapons recommended by the committee does not include the use of No. 9 shot fired from 12-gauge shotguns.¹⁰ Instead, the committee recommends the use of chemical irritants like tear and pepper gas, as well as plastic bullets; it also recommends that training on the use of force for police personnel in Jammu and Kashmir should be improved. Most of these recommendations were not implemented, and the police instead implemented the use of 12-gauge shotguns on protesters, firing cartridges of lead shot.¹¹

The use of 12-gauge shotguns instead of regular guns not only failed to significantly reduce the numbers of dead, it also increased the numbers of injured protesters and bystanders. In fact, the protests that were sparked by Wani's funeral in July 2016 resulted in the use of an arsenal of weaponry by the Indian authorities, which, while ostensibly intended to avoid death, nevertheless caused serious

injuries that, in many cases, have led to permanent impairment. Security forces responded to both peaceful and stone-pelting protests with tear gas grenades, pepper gas shells, 12-gauge shotguns and live ammunition. On July 15, Indian authorities imposed curfews in all 10 districts of the Kashmir Valley, with some curfews remaining in place for 53 consecutive days. As of mid-October, the unrest continued, with curfews ongoing in parts of Srinagar, Jammu and Kashmir's summer capital, although authorities lifted curfews from the rest of the areas experiencing unrest.

In August 2016, the Ministry of Home Affairs in Delhi again constituted an expert committee to examine the use of 12-gauge shotguns against protesters in response to an international outcry following reports of the hundreds of serious injuries, particularly to the eye, sustained by protesters. Although the committee's full report has not been made public, some recommendations made by the committee and reported in the media state that the use of 12-gauge shotguns should be replaced with the use of chemical irritants, namely a synthetic pepper gas called PAVA. However, one of the committee members did state that the 12-gauge shotguns were "here to stay," and recommended that only pellets composed of polymer, plastic, and rubber be used, not metal, as has been used since 2010.¹²



Kashmiri doctors and paramedics protest at a hospital in Srinagar in August 2016. The protesters wore eye patches to emulate the plight of the victims of pellet guns, who have been left partially or completely blind after being shot by Indian security forces during protests.

Photo: Tauseef Mustafa/AFP/Getty Images

The 12-Gauge Shotgun: A Lethal Weapon

The term “pellet gun” is misleading when used to describe the shotguns used by Indian security forces in Kashmir. “Pellet gun” typically denotes the compressed air guns used in other parts of the world for recreational purposes. Unlike these pellet guns, which use compressed air to create force, the 12-gauge¹³ shotguns used by Indian security forces use explosive powders, which are more powerful and can be lethal.¹⁴

In addition to the lethal design of the shotgun, the ammunition – No. 9 shot – used against protesters in Kashmir during the 2013 and 2016 protests cannot be classified as “less than lethal.” The No. 9 shot is a lead alloy pellet which is loaded into cartridges filled with up to 616 pellets. The pellets are known by hunters in other parts of the world as “birdshot” and are designed to be lethal to birds and small animals. The shot will penetrate soft tissue, even at a distance.¹⁵ At shorter distances, the pellets will remain clustered together, and the impact on soft tissue will be concentrated on a smaller area, meaning the ammunition can be lethal to humans at close range.¹⁶

When fired, the pellets disperse as they travel forward in the air, spreading, according to the Indian Ordnance Factory Board, to an area up to 0.76 meters in diameter when they reach a distance of 27 meters. The larger the “spread pattern,” or distance at which the pellets spread out in all directions as they move forward in the air, the less accurate the weapon and ammunition. According to the Omega Research Foundation, the spread pattern specified by the pellet manufacturer is so inaccurate that even when security forces use the weapon to target protesters’ legs, pellets are still likely to hit areas of the body above the waist.¹⁷

In addition, the Central Reserve Police Force’s assertion that No. 9 shot is the “least lethal” of the ammunition produced by the Indian Ordnance Factory Board is also misleading.¹⁸ While, at 2.02 mm in diameter, it is the smallest size shot produced, it is still made of lead and other metals. The Ordnance Factory Board also produces “anti-riot” munitions comprised of plastic and rubber materials, but even the anti-riot munitions disperse multiple projectiles, and are also indiscriminate. Further, the Ordnance Factory Board has conducted no testing on the safety of the 12-gauge shotgun and the ammunition, and it produces the weapons and ammunition with little regulatory oversight and accountability. The ammunition factory in Khadki, a government-run manufacturer under the Ordnance Factory Board that supplied the No. 9 shot to security forces in Jammu and Kashmir, sent a letter to the

Director General of Police in the region in 2013 stating that the manufacturer had not conducted any tests on the weapon to assess safety or its “effects on the human body.”¹⁹

The findings of a systematic review of medical literature carried out by PHR on the use of metal pellets and plastic and rubber bullets for crowd control indicate that these types of weapons cause serious injury, disability, and death. The weapons are inherently lethal and indiscriminate.

In general, weapons launching multiple projectiles, like 12-gauge shotguns, should be prohibited for crowd control and dispersal, given that they are inherently indiscriminate and carry a high risk of inflicting permanent injury and disability.²⁰

To learn more about the potentially devastating effects of crowd-control weapons, read our report “Lethal in Disguise” at phr.org/lethal-in-disguise.



An Indian paramilitary trooper holds a pellet gun during a curfew in Srinagar in August 2016.

Photo: Sajjad Hussain/AFP/Getty Images

The Use of Excessive Force against Protesters

The indiscriminate and excessive use of force by Jammu and Kashmir police and the Central Reserve Police Forces (CRPF) against protesters in Kashmir has violated India's obligations to protect the rights to life and health, and the country's obligation to uphold and facilitate freedom of expression and assembly. A lack of adherence to human rights standards on the use of force by Indian authorities has contributed to a persistent cycle of violence, unlawful killings of protesters, and other human rights violations in Kashmir for which there has been no accountability.

The weapons and tactics used to disperse assemblies also fail to meet international standards on proportionality in assessing the use of force against protesters. According to international principles, the fact that an assembly may be considered unlawful does not justify the use of crowd-control weapons; even when protesters do engage in or incite violence justifying police intervention, the explicit goal of intervention should be to de-escalate the situation, and to promote and protect the safety and rights of those present at the protest. Finally, the crowd-control weapons deployed should always be proportional to the threat faced.²¹



Indian police clash with Kashmiri protesters in Srinagar in July 2016.

Photo: Tauseef Mustafa/AFP/Getty Images

“There were just four or five boys shouting slogans and making noises in front of some of the police.... Suddenly, there was a blast and smoke and my four-year-old son started crying and complaining of pain in his left eye.... I wish this pellet had hit me instead of him. He has cried more in these last 10 days than he ever has in his entire life.”

Imran, father of a four-year-old boy who was hit in the eye by pellets fired by police in southern Kashmir

In situations of civil unrest, international standards require that security forces adhere to basic principles on the use of force, and the force must be targeted, discriminate, and only used to prevent immediate loss of life, not to disperse a crowd.²² Interviews with residents in Kashmir, as well as medical professionals treating the injured, show that not only did security forces fail to follow international standards on the use of force, they also failed to adhere to domestic recommendations made in Standard Operating Procedures (SOPs) on “dealing with public agitations with non-lethal measures,” issued in 2012 by the Bureau of Police Research and Development (BPRD).²³

For example, every protester and bystander interviewed by Physicians for Human Rights (PHR) stated that security forces gave no warning before firing on demonstrations, both with pellets and bullets, as is required by the SOPs. The SOPs state that the assembly must be warned before the use of force, both “non-lethal” and lethal “as far as [it is] practicable.”²⁴

Bashir, an 18-year-old residing in Pulwama district in south Kashmir, was participating in a demonstration on August 24, 2016, when security forces opened fire on the protesters. “There were around 5,000 people.... It was a peaceful march and the Central Reserve Police Force and Special Operations Group had laid a cordon [blockade] on the road that we had to pass through.... I was somewhere in the middle of the gathering. There was no warning... The police did not speak to anyone in the procession. They started shooting straight away. Everyone was running around ... and I felt like a nail had pierced my left eye.”²⁵

Similarly, Imran, the father of a four-year-old boy who was hit in the eye by pellets, said there had been no warning before security forces fired at a small gathering of four or five boys “yelling slogans” on August 24 in Pampore, another town in south

Kashmir. “We were going to a shrine that day. There were just four or five boys shouting slogans and making noises in front of some of the police and CRPF. They [the CRPF and police] gave no warning, nothing at all. Suddenly, there was a blast and smoke and my four-year-old son started crying and complaining of pain in his left eye.... I wish this pellet had hit me instead of him. He has cried more in these last 10 days than he ever has in his entire life.”²⁶

The SOPs issued in 2012 by the BPRD also violate international standards on the use of force by law enforcement. The recommendations made to declare an assembly “unlawful” and to disperse the assembly are vague and overly broad. In particular, the SOPs allow for the use of force, including lethal force, to disperse an assembly, without specifying whether there is an imminent threat to life, as required by the United Nations Basic Principles on the Use of Force and Firearms, and by India’s obligations to protect the right to life under international law.²⁷ The Basic Principles state that “law enforcement officials shall not use firearms against persons except in self-defense or defense of others against imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life.”²⁸

The SOPs, in contrast, state that a “crowd may have gathered without any overt violent activity but there may be intent to cause violence which should be prevented.” The SOPs then list the steps which law

enforcement must go through to declare an assembly unlawful and to disperse the assembly with and without force. The SOPs specify that “non-lethal” means of force must first be used, and that the use of “lethal means should be the last option, only when everything else fails.”²⁹ There is no mention of evaluating the threat to life.

Although “unlawful assembly” is defined in the Jammu and Kashmir Ranbir Penal Code as an assembly of five or more persons with criminal intent, section five of the Armed Forces Special Powers Act 1990 (AFSPA) makes any assembly of five or more people unlawful, regardless of intent, and empowers military personnel to use lethal force to disperse the assembly.³⁰ Special provisions in the AFSPA and the Code of Criminal Procedure requiring prior permission from the government to prosecute law enforcement and security forces have been used since 1990 to protect law enforcement officers and other security force personnel from prosecution in cases where police or military action resulted in death. These include situations where police or other security forces were called upon for crowd control.³¹ In Jammu and Kashmir, special security legislation, including the AFSPA and the Public Safety Act (PSA), which allows for detention without charge or trial for up to one year, have been used to target protesters, and have encouraged the use of excessive force and arbitrary detention with impunity.³² The AFSPA and PSA have been widely criticized by the international community, and both violate India’s obligations under the International



Indian government forces fire tear smoke shells towards Kashmiri protesters in Srinagar in July 2016.
Photo: Tauseef Mustafa/AFP/Getty Images

Covenant on Civil and Political Rights to protect life and to guarantee freedom from arbitrary deprivation of liberty, freedom of expression, and freedom of assembly, as well as the right to a fair trial.³³

A failure to distinguish between legitimate exercises of freedom of expression and “unlawful” assemblies, as well as legal protections against prosecution for the use of force, have contributed to a lack of accountability for security forces who use excessive force against protesters, including where the use of force results in death or serious injury.³⁴

Government Response

The Jammu and Kashmir Bar Association sought a court-ordered ban on the use of 12-gauge shotguns through a writ petition filed before the Jammu and Kashmir High Court in Srinagar on September 21, 2016. In its response before the court, the CRPF stated that “pellets are designed for less than lethal impact and do not penetrate very deep ... and that the Shot No. 9 is the least lethal among all the shots produced by the Ordnance Factory Board.”³⁵ The CRPF also stated that the pellets are designed to be indiscriminate: “the pellets, ... contrary to fire from a rifled weapon, do not remain together for a single point of impact but get spread out with a distance and are designed to hit more than one protester in a non-fatal fashion. It is unfortunate that some of these pellets have happened to hit protesters in the eyes.”³⁶

These statements acknowledge CRPF’s violation of international standards governing the use of force by security forces, including police, which state that the use of force must be targeted and only used to prevent imminent threats to life and serious injury, not for crowd dispersal. When the CRPF acknowledges that the weapon is “designed to hit more than one protester,” and that injuries are “unfortunate,” it highlights that it knowingly uses an indiscriminate weapon which causes injuries.

The CRPF also submitted before the Jammu and Kashmir High Court that the injuries sustained by protesters were unavoidable, and strictly the result of violence by protesters. “The situation prevailing on the streets during an ongoing law and order incident is dynamic and mobile; miscreants are running all over the place with many of them bending down to pick up stones and hurl them at security forces.... In such situations, sometimes, it is difficult for precise aimed fire at a moving, bending, and running target,” the CRPF stated in its written submission before the court.³⁷



*Volunteers carry an injured man from an ambulance who was shot during clashes between security forces and protesters in Srinagar in July 2016.
Photo: AFP/Getty Images*

Finally, the CRPF again acknowledged its violation of international standards by claiming that any bystanders to protests who did not, or could not, immediately leave the vicinity of a protest also became legitimate targets, further underscoring the indiscriminate use of force by the CRPF. “Pump Action Gun [pellet gun] is used after a warning, aerial fire and usually after the use of tear smoke or other means of force. Bystanders and curious teenagers who continue to remain present after these warnings and use of lesser force before the pellet gun is used become part of the unlawful assembly and do not remain innocent anymore,” the CRPF said.

“[The pellet gun] is used after a warning, aerial fire and usually after the use of tear smoke or other means of force. Bystanders and curious teenagers who continue to remain present after these warnings ... become part of the unlawful assembly and do not remain innocent anymore.”
Central Reserve Police Forces submission to the Jammu and Kashmir High Court

“It felt like a thousand needles had pierced me”

On September 4, 2016, Xuhaib Maqbool, 30, a Kashmiri news photographer in Srinagar, left his house to take photographs of a small demonstration in a nearby neighborhood. As he and other photographers walked alongside a procession of 50 protesters, security forces appeared and dispersed the group with tear gas and 12-gauge shotguns firing cartridges of No. 9 shot. Xuhaib said he and another photographer withdrew to a safe distance before being approached by a police officer.

“We were standing against a closed shop. There were no people behind us, just myself and another photographer.... We both had our cameras. A single policeman came out onto the road and started walking toward us. There was no stone-throwing anywhere around us or behind us. We both raised our cameras to show him, then suddenly there was a loud noise. My friend had ducked but I didn’t fast enough. Pellets hit me from my knees to my chest and in my eyes and face, too. It felt like a thousand needles had pierced me at the same time. I yelled at the policeman and asked him why he had shot at us. He didn’t reply and just walked back.”

Xuhaib arrived at Sri Maharaja Hari Singh Hospital in Srinagar with some 100 pellets lodged in various parts of his body. His friend had also sustained pellet injuries to the head. Xuhaib’s doctor, Dr. Tariq Qureshi, said the eye injuries had caused sufficient trauma to cast doubt on whether he would regain use of his left eye.³⁸

“Xuhaib has a pellet in his left eye. The pellet has gone through his cornea, and has ruptured the lens resulting in a traumatic cataract. The pellet has perforated his retina causing vitreous hemorrhage. There is a possibility of a return of vision, but it will need surgeries and time,” Dr. Qureshi said.



Kashmiri news photographer Xuhaib Maqbool was struck with some 100 pellets fired by Indian police in September 2016. One ruptured the lens and perforated the retina of his left eye, threatening him with loss of vision in that eye.

Deaths and Injuries to Protesters

While some protesters did engage in stone-pelting or other violent acts necessitating police intervention, the number of documented injuries and deaths sustained by young children and bystanders indicates that the use of 12-gauge shotguns and live ammunition by security forces was indiscriminate. This indiscriminate use was exacerbated by the fact that the weapon is inherently inaccurate and that pellets are likely to hit individuals standing several feet away from a target.

A trauma surgeon at Shri Maharaja Hari Singh (SMHS) Hospital in Srinagar who worked as a doctor through the height of the militancy in the 1990s told Physicians for Human Rights (PHR) that, in the 1990s, most trauma cases brought to the hospital were wounds caused by explosives, shrapnel, and bullets. However, since the late 2000s, he has witnessed an increase in the number of shot-inflicted injuries, as more Kashmiri youth have turned to stone-pelting and Indian authorities have introduced 12-gauge shotguns to counter the stone-throwers. While the number of pellet injuries in 2016 has far outstripped the number of injuries caused by pellets between 2010 and July 2016, the surgeon said he has seen pellet injuries sustained by stone-pelting protesters on a regular basis since 2010.³⁹

The pellet injuries the trauma surgeon has treated since 2010 have chiefly been abdominal injuries. However, since July 8, 2016, he has primarily seen injuries to the chest, neck, head, and eyes. “That’s a whole other level of the problem.... The abdomen has muscles which are thicker and stronger, but the tissue between the ribs is thin, and pellets easily penetrate it and then lodge in the heart or lungs. It’s similar with the neck,” he said. “The sheer scale and volume of injuries is unbelievable.”

“There were just too many patients. It was unbelievable how these young boys, girls, men, and women were being wheeled into the operating theater in threes and fours, and sometimes even more. Just when we would feel a little relieved for saving a life, for doing a good job on a badly injured patient, the door would open and we would suddenly be staring at a couple more dying boys.”

Trauma surgeon at Shri Maharaja Hari Singh Hospital in Srinagar⁴⁰

Another trauma surgeon at SMHS Hospital said that pellet injuries were unpredictable. "With bullets, I look at the entry wound and I can predict the path followed by the bullet, and the organs involved. But with pellets I can predict nothing, because the pellets do not follow a straight path," he said.⁴¹

Both surgeons discussed the challenges in treating the high volume of injured protesters. One of the surgeons said the unit had, on average, been conducting 40-45 emergency surgeries every Friday, a popular protest day in Kashmir.⁴²

An administrator at Bone and Joint Hospital in Srinagar also described the injuries seen at his hospital.⁴³ "Ninety percent of the injuries we've received are above the waist, to the chest, arms, head... While the other hospitals, especially SMHS, have received more pellet injuries, we have received more bullet injuries. Bullets are being used quite a lot, too, but somehow the use of live ammunitions has been overshadowed by the carnage of the pellet guns which are said to be 'non-lethal,'" he said.

The administrator said the only cases treated at Bone and Joint Hospital were people with fractures or joint injuries. Any cases in which vital organs were affected were referred to SMHS Hospital. "We have seen patients who have been beaten with sticks and gun butts, and there are multiple fractures in many of the patients. A lot of the young boys who are here and were treated here will not live normal lives in the way they did before; they have pins, rods, and plates holding their bones together," he said.



Insha Malik, a 14-year-old Kashmiri girl, lays unconscious after being shot with pellets fired by Indian security forces, allegedly into her home, in July 2016. Doctors say she has lost vision in both eyes.

Photo: Tauseef Mustafa/AFP/Getty Images



An x-ray of Kashmiri teenager Insha Malik after she was shot by Indian security forces, showing multiple pellet marks on her face which have left her blind in both eyes. Photo: Tauseef Mustafa/AFP/Getty Images

According to media reports, statistics from the Jammu and Kashmir Department of Health show that 837 of the estimated 12,000 people injured during protests since July 8, 2016 had sustained eye injuries, in one or both eyes, from No. 9 shot. In addition, 4,371 people were admitted to hospitals in Kashmir with injuries inflicted by pellets elsewhere on the body.⁴⁴ The breakdown of the types of injuries for the other 6,792 injured is not publicly available; however, interviews with individual doctors and hospital administrators indicate that hospitals also treated protesters with traumatic injuries inflicted by live bullets and tear gas shells.

Of the 87 protesters who were reported to have been killed, at least 12 people reportedly died from pellet injuries, although lack of availability of medical records and autopsy reports in those cases makes the cause of death difficult to independently verify.⁴⁵

"I saw this one boy who was dead by the time he reached the hospital. He had been shot by a pellet gun from such close range that the pellet cartridge had entered his body like a bullet does and then inside it had burst."

Trauma surgeon at Shri Maharaja Hari Singh Hospital in Srinagar⁴⁶

In addition, there is inconsistency in reported statistics on the numbers and causes of injuries and deaths to both protesters and security forces, and no official statistics have been made publicly available by the authorities.

SMHS Hospital, which has received the largest number of referrals from district hospitals, reported to the media that, between July 8 and August 9, 2016, it received 933 people injured by pellets, including several who died from their pellet injuries. The hospital also treated 67 bullet injury cases, and 35 people injured by tear gas canisters.⁴⁷

Despite the increase in the use of 12-gauge shotguns loaded with No. 9 shot, the number of injuries and deaths inflicted by live ammunition indicates that the use of purportedly “less than lethal” weapons has not significantly reduced the use of live ammunition on protesters. The use of live ammunition on protesters, resulting in potentially dozens of deaths, is a serious violation of India’s obligations under international human rights law to uphold the right to life.

An SMHS Hospital administrator told PHR that, between July 8 and September 15, 2016, the hospital received approximately 635 people with eye injuries caused by pellets. SMHS Hospital has a large ophthalmology department and a number of eye specialists,⁴⁸ and a total of 750 eye surgeries (primary and secondary) on protesters were



A Kashmiri man being assisted at a hospital in Srinagar after being hit by live ammunition fired by Indian security forces during a protest in July 2016.

Photo: Tauseef Mustafa/AFP/Getty Images



A wounded Kashmiri man shows his injuries at a hospital in Srinagar after being hit by pellets fired by Indian security forces during a protest in September 2016.

Photo: Tauseef Mustafa/AFP/Getty Images

performed there, with ongoing treatment for at least 53 people with more severe eye injuries.⁴⁹ Doctors told PHR that, in many cases, they had to perform more than one surgery to treat the eye injuries.

The administrator at Bone and Joint Hospital told PHR that, during the same time period, the hospital had treated 185 protesters, 89 with gunshot wounds, 38 with pellet injuries resulting in bone fractures, and 58 others with injuries sustained from alleged beatings by security forces.⁵⁰

Obstruction of Access to Emergency Medical Care

Accounts from doctors and media reports show that, starting on July 8, 2016, Indian security forces deliberately obstructed access to urgent medical care for protesters and harassed medical workers attempting to treat protesters, including by preventing doctors from reaching the hospitals where they work. Impositions of days-long curfews, attacks on ambulances, and police presence in hospitals all impeded access to medical care for those injured. It is clear that Indian authorities disregarded their obligations under international

“Moving around, including trying to get to the hospital, has become so difficult. Despite all our identity cards, white coats, and stethoscopes, it is hard to get past the Indian security forces. I cannot even imagine how our patients get past them to reach the hospital.”

Doctor at Shri Maharaja Hari Singh Hospital in Srinagar⁵¹

human rights law to ensure access to health care, even in situations of violence or civil unrest. The state has also failed to investigate reported incidents in which security forces blocked access to emergency health care for protesters.

Injuries inflicted by “less than lethal” weapons like pellets, rubber bullets, and shot guns require early medical intervention to avoid permanent or debilitating injury, including loss of life.⁵² In Kashmir, delays in accessing medical care for hundreds of injured protesters increased the risk of permanent damage, including for those with eye injuries.

Doctors at Sri Maharaja Hari Singh (SMHS) Hospital and Bone and Joint Hospital in Srinagar said the majority of the cases they received were referred from hospitals in other districts, often an hour or more away from Srinagar. They said delays in transport, long waitlists for treatment, and challenges in following up with patients who feared giving correct identification information for fear of reprisal from law enforcement meant that treatment



An Indian paramilitary trooper stops a Kashmiri family as they try to take a patient to the hospital during the twelfth day of a curfew in Srinagar in July 2016.

Photo: Tauseef Mustafa/AFP/Getty Images

in many cases was delayed or incomplete. Studies conducted in other parts of the world have shown that delays, including those caused by checkpoints, curfews, and fear of arrest or reprisals associated with participating in a protest, are significant factors in decreasing the likelihood of a full recovery from wounds inflicted by pellets and rubber or plastic bullets, especially for eye injuries.⁵³

Attacks on Medical Workers and Health Facilities

During July and August 2016, Indian security forces carried out both targeted and indiscriminate attacks on medical staff, and, in particular, on ambulance drivers as they transported those injured by police action to hospitals in Kashmir. Medical workers providing assistance to the wounded and sick are afforded special protections under international law. Various civil society organizations and media in Kashmir have independently documented assaults on health care workers and ambulances attempting to provide care to the sick and wounded.⁵⁴ These incidents must be investigated in accordance with India’s obligations under international law to protect medical personnel from violence and ensure justice for human rights violations.

The Doctors Association of Kashmir has compiled a number of reports that detail attacks and restrictions on movement for both ambulances and medical personnel attempting to travel during curfews. Doctors Association President Dr. Nisar ul Hassan issued a statement on Facebook on August 19, 2016, following the shooting of an ambulance driver in Srinagar: “In the last few weeks we have witnessed repeated attacks on medical staff. These attacks on medical staff have become a routine now. This new pattern of attacks against medical personnel is a matter of serious concern.”

Ghulam Mohammad Sofi, 32, an ambulance driver, told Physicians for Human Rights (PHR) how security forces fired at his ambulance as he transported two patients to SMHS Hospital on August 18, after they were injured during protests in Srinagar.⁵⁵

Sofi said that, as he approached a Central Reserve Police Force (CRPF) checkpoint, one CRPF personnel raised his gun and shot at the ambulance. Sofi turned his ambulance around and drove along another route to SMHS Hospital. When he arrived, the doctors told him he had a large number of pellets in his right arm. He has since had a series of surgeries on his arm to remove the pellets. “During the five weeks in which I drove the ambulance and ferried patients around,” he said. “I was stopped many times by the forces. They would sometimes take the

“We were conducting emergency surgeries, but it was a huge challenge because the police kept using tear smoke shells inside the hospital.... As for the ambulances, many of them arrived here with their windows shattered, and the drivers bleeding. I saw ambulance drivers driving with motorcycle helmets [for protection].”

Doctor at Shri Maharaja Hari Singh Hospital in Srinagar

patients out of the vehicle, sometimes me, or halt our ambulance unnecessarily, sometimes shout at the patients, but I never thought they would shoot. I had a safer route actually since I was near Srinagar, but the drivers whose route was through south Kashmir saw a lot of violence. They were beaten and humiliated often, their patients were beaten up inside the ambulances. There was a time in these months when no ambulance had any windows here.”

On July 9, security forces allegedly attacked another ambulance that was carrying injured protesters to SMHS Hospital. Immad Nazir, a friend of one of the injured who was accompanying him in the ambulance from Anantnag, a town to the south of Srinagar, said, “We were stopped by the forces at a number of places and were beaten up. They pulled and cut off glucose and blood drips from the injured. The window panes of our vehicle were also broken. The forces are not even sparing ambulances.”⁵⁶

A doctor at SMHS Hospital told PHR, “During the first two days, we were conducting emergency surgeries, but it was a huge challenge because the police kept using tear smoke shells inside the hospital.... As for the ambulances, many of them arrived here with their windows shattered, and the drivers bleeding. I saw ambulance drivers driving with motorcycle helmets.”⁵⁷

“There were stops by the security forces every 100 to 200 meters trying to get to the hospital, and they asked me so many times to prove that I am a doctor,” a trauma surgeon at SMHS Hospital said. “I would show my card and they would say, ‘How do we know it is not a fake?’ Then they would demand a curfew pass, and no matter how many times I said the hospital identity card is our curfew pass, they would still make trouble. It was harassment.”⁵⁸

A hospital administrator at Bone and Joint Hospital said, “Hospital staff from far off areas, particularly from south Kashmir [are] not able to report [for work], as strict restrictions are placed there.”⁵⁹

In addition, several doctors reported the indiscriminate use of tear gas in and around hospital premises. The Doctors Association of Kashmir reported that police had fired tear gas canisters around hospital premises at SMHS and some district hospitals and took videos of the injured and family members accompanying them inside and outside of the hospital emergency room.⁶⁰



Kashmiri volunteers at a hospital assist an injured youth who was shot during clashes between security forces and protesters in Srinagar in July 2016.

Photo: Tauseef Mustafa/AFP/Getty Images

“We know the policemen are here hanging around in plainclothes, and before we even get a patient into surgery, the police get their information – to arrest them later when they leave the hospital.”

Doctor at Shri Maharaja Hari Singh Hospital in Srinagar

“The police have come in here at least five times to make arrests, and they’ve fired tear smoke shells everywhere, over the past 10 weeks,” said an emergency room doctor working at SMHS Hospital.⁶¹

A surgeon at SMHS Hospital also reported incidents of tear gas inside the hospital, “I was in the operating theater a few days ago when there were gunshots and then suddenly we felt tear gas in the theater. I was performing a surgery with tears flowing out of my eyes and with a slight nausea.”⁶²

Police Intimidation in Hospitals

Every doctor interviewed by PHR stated that police, both uniformed and in plainclothes, were present at hospitals and monitored protesters being admitted for treatment. They said police sometimes asked for the names and registers of patients admitted at the end of the day, and would use the information to arrest those injured on the grounds that they had participated in “unlawful assemblies.” Indian authorities in Kashmir have held broad powers to arrest and detain since 1978, when the government passed the Public Safety Act (PSA), which allows for detention without charge or trial for up to a year. Doctors said a large number of patients, especially boys and young men between the ages of 16 and 24, refused to give their names or identifying information, making it difficult to keep their medical records and to contact patients for follow up treatment.

“Ninety percent of these boys are so afraid of our hospital that they register themselves under false names. They are all false names and false addresses. We treat the patients by numbers now. We have a number for each patient because all their names are pretty much registered the same. Half of them register themselves as Burhan: the name of the militant whose killing triggered this uprising,” said an administrator at SMHS Hospital.⁶³

An emergency room doctor at SMHS Hospital corroborated the patients’ fear of arrest. “Our

patients here are scared only of two things,” he said. “First, they are afraid of losing their vision, and second of being arrested. And of course both those fears are well-founded.”⁶⁴

“We know the policemen are here hanging around in plainclothes,” he continued. “Before we even get a patient into surgery, the police get their information – to arrest them later when they leave the hospital. So, that’s why almost all the boys give us fake names when they come to the hospital.”

A trauma surgeon at SMHS Hospital also said the presence of security forces, including police, was a problem at the hospital. He said that, in one instance, policemen walked into the operating theater while he was attending to a boy with a gunshot wound. “I was operating on a young boy hit by a bullet, and two policemen walked into the operating theater with their shoes on and everything. They started asking me what was the boy’s name and address. I lost my mind and I yelled at them for contaminating my operating room. There are plainclothes policemen everywhere here and our patients run away because of the fear of arrests.”⁶⁵

The right to health under international human rights law mandates that the state take measures to protect the functioning of health services and ensure they continue delivering health care to the highest attainable standard.⁶⁶ Police presence in hospitals, with the intention of arresting the injured for participation in protests, constitutes state interference with the delivery of health care. Such actions risk increasing the rates of death and



Indian troops film a protest in Srinagar in August 2016. Photo: Sajjad Hussain/AFP/Getty Images

debilitating injury, if fear of arrest deters the injured from seeking health care. Further, police intimidation in hospitals and attacks on ambulances may have long-lasting impacts on community trust in the health care system, and may undermine the ability of health workers to maintain their independence.

The Right to Health

The obstacles to accessing health care documented in this report – including deliberate attacks on health care transport and personnel – run counter to India’s obligations under international human rights law. In all situations, from peacetime to situations of unrest or violence, Indian authorities are obligated to ensure access to emergency health care as well as to refrain from interfering with health care workers’ ability to provide care for all.⁶⁷

The state’s obligation to maintain a functioning health care system, and to protect medical personnel’s ability to fulfill their professional duties according to their ethical responsibilities, remains the same during peacetime and in situations of armed conflict or internal unrest.⁶⁸ Governments should protect health professionals’ independence and impartiality in treating the sick and injured.⁶⁹

The right to health is contained in Article 12 of the International Covenant on Economic, Social and Cultural Rights, to which India is a state party. In both peacetime and in times of armed conflict or internal unrest, states must maintain essential primary health care, access to minimum essential food, basic shelter, housing, and sanitation, and an adequate supply of safe and potable water, as well as provide essential drugs; they must ensure equitable access to the highest attainable standard of care without discrimination based on socioeconomic status, geographic location, ethnicity, or any other factor.⁷⁰

India’s obligations under international human rights law further require that it respect the right to health by not allowing any kind of interference with access to medical care.⁷¹

Where any of these rights are infringed, the authorities must investigate. As this report shows, the Indian government has systematically ignored these obligations in Kashmir.



Neighbors comfort the sister of Irfan Ahmed, a Kashmiri teenager who was killed after being hit in the chest by a tear gas canister fired by Indian security forces to quell protests in Srinagar in August 2016. Photo: Tauseef Mustafa/AFP/Getty Images

Arrests spike in Jammu and Kashmir

Emergency room staff in Jammu and Kashmir report that patients injured during protests avoid giving their personal information for fear that they will be rounded up by security forces who monitor hospitals. According to media reports, the number of people arrested in the region between August and October 2016 had risen to more than 1,800, with at least 500 arrested under the Public Safety Act (PSA) and held without charge, including children under the age of 18.⁷² Under the PSA, it is unlawful to detain children under 18 years old, but lawyers and civil society organizations in Kashmir say that children are being arrested and held in detention together with adults.⁷³

Conclusion

The high number of injuries and deaths of protesters in Jammu and Kashmir since July 2016 exemplify a pattern of excessive and indiscriminate use of force by Indian police and other security forces. While Physicians for Human Rights (PHR) recognizes the duty of the Indian authorities and security forces to protect protesters, bystanders, and themselves from harm arising in situations of violent demonstrations and protests, force must be deployed in a targeted manner toward a clearly defined and imminent threat. The use of 12-gauge shotguns loaded with No. 9 lead shot, a lack of training in crowd control, and a failure to adhere to international standards on the use of force have limited the ability of security forces in Kashmir to effectively and safely police crowds without causing injury. In fact, since July 8, security forces' actions against protesters have caused at least 87 deaths.

Additionally, security forces in Kashmir have repeatedly failed to recognize their responsibility to facilitate legitimate expression of free speech and assembly, and have employed force with the sole objective of dispersing crowds, not of protecting residents from harm.

In addition, Indian authorities have also failed to enable their police forces to effectively police

crowds, and to intervene when protesters engage in or incite violence, without causing injury and death. The Jammu and Kashmir police lack adequate protective equipment and training in crowd control. The result is an escalation in the number of people killed or seriously injured and permanently disabled.

Finally, the authorities' lack of respect for the right to health – including respecting health professionals' independence and ability to treat those injured by police action – has actively obstructed access to urgent medical care for the wounded, and prevented many of those injured from seeking additional treatment for fear of identification and arrest by police patrolling hospitals and clinics.

PHR calls upon the Indian government to demonstrate its respect for the rights of all citizens by: prohibiting weapons for crowd control that are indiscriminate and cause excessive injury and death, namely the 12-gauge shotgun loaded with No.9 shot; providing adequate equipment and training to police forces to minimize injuries and deaths caused by police action; and ceasing unlawful practices that obstruct access to health care. Additionally, Indian authorities must hold security force personnel to account for the use of excessive force causing injury and death, and provide effective remedy and reparations to the victims and their families, as required under India's international legal obligations.



Kashmiri mourners offer funeral prayers for Nasir Shafi, an 11-year-old boy who was critically injured by pellet guns fired by Indian security forces during a protest in Srinagar in September 2016. He later died of his injuries.

Photo: Tauseef Mustafa/AFP/Getty Images

Recommendations

In the light of the escalating numbers of injuries and deaths of protesters in Jammu and Kashmir caused by Indian security forces, Physicians for Human Rights urges the government of India to:

Use of “less than lethal” weapons for crowd control

- Immediately cease and prohibit the use of 12-gauge shotguns loaded with No. 9 shot for crowd control.
- Recognize that kinetic impact projectiles of all types – including single projectile munitions such as rubber or plastic bullets – are not an appropriate weapon for crowd control, and, specifically, for crowd dispersal, given that they can rarely be used safely against crowds, and that, at close range, their lethality and patterns of injury become similar to those of live ammunition.
- Only authorize the use of crowd-control weapons, including chemical irritants such as PAVA, as an absolute last resort when dealing with genuine and imminent threats to the safety of those present, and only after all other means have been exhausted.
- Ensure that police are adequately trained in the basic principles on the use of force and firearms as laid out in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This should include training of security forces on human rights standards, including ensuring access to urgent medical care for those injured, effective protection of medical workers, and non-interference with delivery of medical care.
- Properly equip law enforcement with protective gear in order to further decrease the need to use weapons of any kind.
- Hold those responsible for the use of excessive force, particularly cases resulting in death and injury, to account – including prosecution where evidence amounts to individual criminal responsibility.

Attacks on medical neutrality and the right to health

- Immediately cease and prohibit unlawful practices that violate India’s human rights obligations under international law, including:
 - Obstructions to accessing medical care, including, but not limited to, curfews and security checkpoints impeding emergency transport vehicles.
 - All attacks on medical personnel who provide emergency assistance and transport to injured protesters.
- Hold accountable all perpetrators of violence against medical personnel and/or facilities, according to international standards.

General

- Ratify the United Nations Convention Against Torture and its Optional Protocol.
- Ensure that the amendments to the Prevention Against Torture Bill, 2010 adhere to international standards.
- Repeal the Armed Forces Special Powers Act and the Public Safety Act.
- Remove legislative obstacles to the investigation and prosecution of security force personnel accused of committing human rights violations, including the use of excessive force against protesters, in Jammu and Kashmir. This includes removing all requirements for prior executive permission for the prosecution of security force personnel in the Code of Criminal Procedure.
- Ensure that all allegations of human rights violations are investigated in an independent, impartial, and timely manner, and, where evidence amounts to individual criminal responsibility, that the perpetrator is prosecuted in a court meeting international fair trial standards.
- Ensure effective forensic investigation and documentation of deaths and alleged abuses in accordance with international Minnesota Protocol and Istanbul Protocol standards.⁷⁴

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⁴⁶ PHR interview with trauma surgeon at SMHS hospital (name withheld for security reasons) on September 14, 2016 in Srinagar.

⁴⁷ Ashiq, Peerzada, *Another Kashmiri protester succumbs to pellets*, The Hindu, August 9, 2016, accessed on August 12, 2016,

<http://www.thehindu.com/news/national/curfew-continues-for-31st-day-in-kashmir/article8959081.ece>.

⁴⁸ PHR interview with SMHS Hospital administrator (name withheld for security reasons) on September 18, 2016 in Srinagar.

⁴⁹ PHR interview with SMHS Hospital administrator (name withheld for security reasons) on September 18, 2016 in Srinagar.

⁵⁰ PHR interview with Bone and Joint Hospital administrator (name withheld for security reasons) on September 7, 2016 in Srinagar.

⁵¹ PHR interview with SMHS doctor (name withheld for security reasons) on September 9, 2016 in Srinagar.

⁵² Wani, Mohd. L., Ahangar, AB. G., Ganie, Farooq A., Wani, Shadab N., Lone, Gh. Nabi., Dar, Ab. M., Bhat, Mohd. Akbar, Singh, Shyam, *Pattern, presentation, and management of vascular injuries due to pellets and rubber bullets in a conflict zone*, Journal of Emergencies, Trauma, and Shock, 2013 Jul-Sep; 6(3): 155-158.

⁵³ Haar, Iacopino, *Lethal in Disguise*, p. 29. Endnote 28: "The review looked at literature over the past 25 years. The researchers identified 2,666 articles in a rigorous search of the medical and public health literature, out of which 24 articles met inclusion criteria, had clear causation by KIPs, contained health impact data, and were of sufficient quality to include." Endnote 29: "Nine of the articles focused on protests, two on criminal arrests, and one on a riot (some of the articles presented information on more than one context). The remaining 14 articles did not specifically describe the context of use or had documentation of injuries from individuals in a variety of contexts." Endnote 30: "Out of 1,878 people referenced in the study who survived KIP injuries, there were 2,055 injuries. In some cases, individuals sustained more than one injury, either because of multiple bullets or because they suffered contiguous organ injuries from a single bullet."

⁵⁴ Hussain, Aijaz, *Kashmir hospitals overwhelmed after days of violence*, Associated Press, July 13, 2016, accessed on November 3, 2016, <http://bigstory.ap.org/article/ee010770a15545d6ada740373d399c1f/hospitals-kashmir-overwhelmed-after-days-violence>; Amnesty International, *Jammu and Kashmir: Attacks on hospitals and medics must be prosecuted*, July 11 2016, accessed on November 3, 2016, <https://www.amnesty.org.uk/press-releases/jammu-and-kashmir-attacks-hospitals-and-medics-must-be-prosecuted>.

⁵⁵ PHR interview with Ghulam Mohammad Sofi on September 3, 2016 in Srinagar.

⁵⁶ Copy of written interview provided to PHR by a local human rights defender (name withheld for security reasons) in July 2016.

⁵⁷ PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 9, 2016 in Srinagar.

⁵⁸ PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 8, 2016 in Srinagar.

⁵⁹ PHR interview with administrator at Bone and Joint Hospital (name withheld for security reasons) on September 16, 2016 in Srinagar.

⁶⁰ Doctors Association of Kashmir, Facebook page, statement posted on August 6, 2016: “Yesterday, tear gas shells were fired by security forces on people who had assembled in SMHS Hospital to offer funeral prayers of a deceased which worsened the condition of admitted patients and made the working of doctors difficult. In another incident, forces resorted to aerial firing and fired tear gas shells inside trauma hospital of Kangan. In Chadoora, forces barged into hospital and beat staff and vandalized the hospital property. Last month, forces had resorted to similar shelling inside the premises of SMHS Hospital.” Accessed on September 18, 2016, <https://www.facebook.com/Doctors-Association-kashmir-544397839032728/>.

⁶¹ PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 8, 2016 in Srinagar.

⁶² PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 9, 2016 in Srinagar.

⁶³ PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 7, 2016 in Srinagar.

⁶⁴ PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 6, 2016 in Srinagar.

⁶⁵ PHR interview with doctor at SMHS Hospital (name withheld for security reasons) on September 9, 2016 in Srinagar.

⁶⁶ General Comment 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights, “CESCR General Comment no. 14: The Right to the Highest Attainable Standard of Health (Art 12),” August 11, 2000, <http://www.refworld.org/pdfid/4538838d0.pdf>.

⁶⁷ Human Rights Committee, General Comment 14 on Article 12, International Covenant on Economic, Social and Cultural Rights, para. 12(b): *Accessibility*: Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions: (i) non-discrimination... (ii) physical accessibility: health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized group.

⁶⁸ Human Rights Committee, General Comment 14 on Article 12, International Covenant on Economic, Social and Cultural Rights, para. 30: “As with all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful

consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party’s maximum available resources.”

⁶⁹ Drawing on the Declaration of Geneva, the World Medical Association formulated a more detailed code of ethics, which states: “A physician shall be dedicated to providing competent medical services in full technical and moral independence, with compassion and respect for human dignity.” See WMA International Code of Medical Ethics. See also Art. 5 of the WMA Declaration of Tokyo, which states: “A physician must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The physician’s fundamental role is to alleviate the distress of his or her fellow human beings, and no motive, whether personal, collective or political, shall prevail against this higher purpose.”

⁷⁰ International Committee of the Red Cross, *Respecting and Protecting Health Care in Armed Conflicts and in Situations Not Covered by International Humanitarian Law*, March 2012. Article 12, International Covenant on Economic, Social, and Cultural Rights.

⁷¹ Human Rights Committee, General Comment 14 on Article 12, International Covenant on Economic, Social and Cultural Rights.

⁷² Masood, Basharat, *Kashmir witnesses biggest crackdown in two decades, more than 446 arrested in a week*, Indian Express, October 21, 2016, accessed on October 24, 2016, <http://indianexpress.com/article/india/india-news-india/jammu-and-kashmir-witnesses-biggest-crackdown-in-two-decades-more-than-446-arrested-in-a-week/>.

⁷³ Amnesty International, Human Rights Watch, International Commission of Jurists, *Cease Wrongful Detentions in Jammu and Kashmir*, October 15, 2016, accessed October 24, 2016, <https://www.amnesty.org.in/show/news/cease-wrongful-detentions-in-jammu-and-kashmir/>.

⁷⁴ Office of the United Nations High Commissioner for Human Rights, New York and Geneva, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 2004, accessed on November 23, 2016:

http://www.ohchr.org/Documents/Publications/train_ing8Rev1en.pdf. Office of the United Nations High Commissioner for Human Rights, *UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol)*, 1991, accessed on November 23, 2016 http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/Annex1_The_UN_Manual.pdf.