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Issue Paper INDIA HUMAN RIGHTS IN JAMMU AND KASHMIR March 1995

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BSF

Border Security Force

CRPF

Central Reserve Police Force

JKLF

Jammu and Kashmir Liberation Front

KLA

Kashmir Liberation Army

ICRC

International Committee of the Red Cross

ISI

Inter-Services Intelligence (Pakistan)

MUF

Muslim United Front

PSA

Jammu and Kashmir Public Safety Act

TADA

Terrorist and Disruptive Activities (Prevention) Act

1. INTRODUCTION

The Indian state of Jammu and Kashmir has been the subject of often bitter dispute since the partition of India in 1947, which sparked the first of two wars fought between India and Pakistan over this area (Kadian 1992, 163; AI Dec. 1993, 9; HRWAP Sept. 1994, 39). Within India-held Kashmir, the issue of independence has been brewing with varying degrees of intensity for decades (Kadian 1992, 11-12). However, in 1989 an armed militancy, fighting for independence, gained particular momentum, and the area has been in a state of struggle ever since (Kadian 1992, 9-11, 20-23; AI Dec. 1993, 10; HRWAP Sept. 1994, 40). Reports of human rights abuses by Kashmiri militant groups fighting to secede from India, and by Indian security forces fighting a counterinsurgency, have received international attention, with estimates of the number of people killed so far ranging from 6,000 to 17,000 (HRWAP Sept. 1994, 41; AFP 16 June 1994; *Current History* Dec. 1993, 428; CHRF 1994; AI Dec. 1993, 11). The daily death toll from the insurgency has recently been estimated at a dozen or more (*Toronto Star* 11 Sept. 1994; see also *India Abroad* 26 Aug. 1994). Large numbers of Kashmiri Hindus (Pandits) have fled the

Kashmir Valley following intimidation by Muslim militants, while many Kashmiri Muslims have fled as well to other parts of India or have crossed into Pakistan, claiming abuses by Indian security forces (Kadian 1992, 34-35; *The Economist* 10 April 1993; *The Independent* 6 June 1991; *India Today* 15 May 1994f, 55).

This report will focus on the human rights situation in the Indian state of Jammu and Kashmir in 1993 and 1994 [A Response to Information Request covering the human rights situation in Pakistan-held Azad Kashmir is forthcoming.].

2. BACKGROUND

2.1 Geographical and Historical Overview

The area commonly known as Kashmir is located in the Himalayas in the north of India and Pakistan, with an eastern section held by China (see map). Mountainous and remote, many parts of the Indian State of Jammu and Kashmir are tenuously linked by one main highway which runs from the winter capital, Jammu, in the south to the summer capital, Srinagar, in the north, and then splits to run east-west (Kadian 1992, map; *India Today* 15 Aug. 1994, 34; Horsely 1984, 708). The Kashmir or Jhelum Valley, in which Srinagar is located, is predominantly Muslim and has a population of about seven million (Malik Mar. 1993, 2). Jammu has a Hindu and Sikh majority, while Ladakh in the east is dominated by Shia Muslims and Buddhists (*Asian Survey* May 1994, 413; *The Economist* 29 Aug. 1992). Overall, Muslims comprise about two-thirds of the population in Jammu and Kashmir, making it the only Indian state with a Muslim majority (HRWAP Sept. 1994, 39).

The areas of Kashmir held by Pakistan include Azad (Free) Kashmir, whose capital is Muzaffarabad, and the Northern Areas, which include Gilgit, Hunza and Baltistan (Malik Mar. 1993, 2). The Indian and Pakistani-held areas are separated by the Line of Control, which is guarded by armies of both sides. India and Pakistan fought wars over the area in 1947 and 1965; fighting also took place in the region in 1971 during the war that eventually created Bangladesh (Thomas 1992, 23; Kadian 1992, 163). The 1972 Simla Agreement between India and Pakistan following that war appeared to have finalized the de facto borders and opened the way to future negotiations to solve the problem of Kashmir's status (Kadian 1992, 12).

However, a number of factors since then have contributed to the current situation. Internationally, the 1979 Islamic revolution in Iran, and the Afghan War in the 1980s, contributed to rising Islamic nationalism in Kashmir (Kadian 1992, 13; Malik Mar. 1993, 9). As well, many of the high-powered weapons supplied to Afghan Muslim rebels during the Afghan War have reportedly made their way into the hands of Kashmiri Muslim rebels, either through the help of Pakistan's Inter-Services Intelligence (ISI), or directly from the arms bazaars of northern Pakistan (*India Today* 15 May 1994a, 26-35; HRWAP Sept. 1994, 4-20).

Within Jammu and Kashmir, there was growing dissatisfaction throughout the 1980s with what was seen as increased corruption in the local government and interference by the central government (Kadian 1992, 16-17). This dissatisfaction was brought to a head after the 1987 state elections which were widely viewed as having been rigged in favour of the central government (Congress-I)-backed Kashmir National Conference and against the popular Muslim United Front (MUF) (AI Dec. 1993, 9; Kadian 1992, 19; *Current History* Dec. 1993, 428; HRWAP Sept. 1994, 40). Growing incidents of violence in Kashmir coincided with the more militant insurgency in nearby Punjab; the resulting drop in tourism hurt the Kashmir economy and left

many young men unemployed, and thus "increasingly available to the militants" (Kadian 1992, 16; see also *The Economist* 27 Mar. 1993). The December 1989 kidnapping of the daughter of Mufti Mohammed Sayeed, a Kashmiri and the central Indian government's first Muslim Home Minister, by the Jammu and Kashmir Liberation Front (JKLF), helped to bring the insurgency into the international eye. The daughter was eventually released, but so too were five top militants, with the whole episode being widely viewed by Kashmiri Muslims as a victory (Kadian 1992, 10-11; Malik Mar. 1993, 11; HRWAP Sept. 1994, 40).

1990 saw the beginning of a massive exodus of Kashmiri Hindus, also known as Pandits, from the Kashmir Valley, into refugee camps in Jammu and other areas, following threats by the JKLF and other militant groups against them (United Nations 20 Jan. 1994, 71 art. 55; AI Dec. 1993, 10; Kadian 1992, 35; *The Economist* 10 Apr. 1993). The Congressional Human Rights Foundation, an independent human rights body from Washington, D.C., which sent a delegation to Kashmir in December 1993, reports that there are now some 300,000 Kashmiri Pandits displaced in India (1994). Rajesh Kadian, author *The Kashmir Tangle: Issues and Options*, states that some 10,000 Muslims, "mostly businessmen", also left the region, although mainly for economic reasons (Kadian 1992, 35).

Indian Army and paramilitary troops were brought into the state in large numbers after the state government was dismissed and President's Rule -- direct rule by the central government -- was decreed in 1990 (AI Dec. 1993, 9; Kadian 1992, 23-24). President's Rule is still in effect in the state, and was recently extended until April 1995 (*CJ International* Nov.-Dec. 1994a, 14; *Christian Science Monitor* 29 August 1994).

Tensions escalated in Jammu and Kashmir in October 1993 when Indian security forces lay siege to the Muslim shrine of Hazratbal in Srinagar, trapping Muslim militants inside. Several Muslim pilgrims were also in the shrine, which Muslims believe holds a sacred hair from the beard of the prophet Mohammed (United Nations 20 Jan. 1994, 71 art. 55; *ibid.*, 76 arts. 56.13-56.14; HRWAP Sept. 1994, 48; *Asian Survey* Feb. 1994, 199). The situation was reminiscent of the 1984 siege of the Golden Temple in Amritsar, Punjab, in which security forces stormed the temple, killing many and igniting the Sikh militancy for years to come [Please see the DIRB's January 1994 *Question and Answer Series: India: Punjab Human Rights Update.*] (*The Economist* 23 Oct. 1993; *FEER* 28 October 1993). During the Hazratbal siege, over 40 people were killed in one related incident in nearby Bijbehara, when Indian security forces fired on demonstrators (HRWAP Sept. 1994, 48; LCHR July 1994, 162-163; *La Presse* 27 Oct. 1993; *Édition 1994: Journal de l'année* 1994, 59). The militants at Hazratbal surrendered in mid-November 1993 (United Nations 20 Jan. 1994, 71 art. 55, 76 arts. 56.13-56.14; HRWAP Sept. 1994, 48; *Asian Survey* Feb. 1994, 199). However, Indian security forces occupied the shrine until August 1994, sparking many protests from Muslim groups, including a series of strikes in Jammu and Kashmir, and a hunger strike by JKLF leader Yasin Malik (AFP 7 Aug. 1994; *ibid.* 1 Aug. 1994; *ibid.* 25 July 1994). The lifting of the checkpoints was marked by state-wide celebrations. On the same day, however, a bomb blast in a Srinagar market killed at least six and injured another fifty people (AFP 7 Aug. 1994; *CJ International* Nov.-Dec. 1994a, 15).

Recently, the Indian Government has been promoting the idea of state elections in Jammu and Kashmir to replace President's Rule (VOA 14 Oct. 1994; *ibid.* 12 Oct. 1994; *FEER* 17 Nov. 1994; *India Today* 31 Oct. 1994, 28-29). At the end of October 1994, Prime Minister P.V. Narasimha Rao announced the creation of a new Department of Jammu and Kashmir Affairs, which he will personally head (UPI 5 Nov. 1994; *India Today* 30 Nov. 1994, 40-41). According to UPI, Rao's

decision to supervise Kashmir directly is part of an effort to create a conducive atmosphere for elections. The major thrust of the new department would be to restore normalcy to Kashmir, initiate the political process, rebuild damaged infrastructure and accelerate development (UPI 5 Nov. 1994; see also *India Today* 30 Nov. 1994, 40-41).

As well, the Indian Government has released from detention a number of leading Kashmiri figures, including Shabir Shah, Ali Shah Geelani, and Abdul Ghani Lone, apparently in an effort to promote the elections (*India Today* 31 Oct. 1994, 28; *FEER* 17 Nov. 1994; *The Economist* 14 Oct. 1994; UPI 14 Oct. 1994). The most prominent is Shabir Shah, leader of the Jammu and Kashmir People's League, who had been detained on and off for about 18 years, and had most recently spent five years in detention under national security legislation without charge or trial (AI 19 Oct. 1994; *India Today* 15 Nov. 1994, 24-27; AFP 21 Oct. 1994). All of the above men have come out against the elections, as have the All Party Freedom (Hurriyat) Conference and the major militant groups (*India Today* 31 Oct. 1994, 28-29; *ibid.* 15 Nov. 1994, 27; *FEER* 17 Nov. 1994). According to some analysts, it appears doubtful that elections in Jammu and Kashmir could be successfully run, given the strong opposition by militant groups, the current lack of candidates, the many security difficulties, and the general suspicion among Kashmiris of central government initiatives (*India Today* 31 Oct. 1994, 28-29; *FEER* 17 Nov. 1994; UPI 5 Nov. 1994).

2.2 International Relations

Authors Samit Ganguly and Kanti Bajpai place Kashmir within a "giant arc of crisis," unstable and highly militarized, that extends "from Eastern Europe and the former Soviet Republics in the Baltic and Central Asia, through Turkey, Pakistan, and Afghanistan, to China and India" (*Asian Survey* May 1994, 401). Much of the Muslim world has come to view the struggle in Kashmir as a religious one (*India Today* 15 May 1994c, 37; *ibid.* 15 May 1994d, 40). Muslim fighters from a variety of countries, including Afghanistan, Egypt, and Sudan, reportedly began entering the Kashmiri militancy in large numbers in 1992, with a resultant worsening of militant violence (AI Dec. 1993, 11; UPI 7 Oct. 1993; AFP 16 June 1994; *The Economist* 9 Oct. 1993; *India Today* 15 May 1994a, 28-35).

The international implications of the conflict are deepened by the fact that both India and Pakistan are at least near, if not de facto, nuclear powers (*The New York Times* 4 Apr. 1992; Kadian 1992, 165; *Asian Survey* May 1994, 402; Radio Pakistan Network 25 Aug. 1994; Xinhua 16 Mar. 1992; *The Times* 26 Jan. 1994). Artillery exchanges between the two militaries over the Line of Control have been reported often in the last few years, with Pakistan commonly accusing the Indian army of shelling villages in Azad Kashmir, and India accusing the Pakistani forces of targeting Indian army positions to help Kashmiri rebels to cross the line (Kadian 1992, 32; *The News* 25 Aug. 1994; *The Independent* 6 June 1991; Radio Pakistan Overseas Service 6 July 1994; Radio Pakistan Network 26 June 1994).

A further war of words between India and Pakistan over Kashmir has been played out in the United Nations. Pakistan accuses India of severe human rights violations in Kashmir, and has used the UN platform to publicize the plight of Kashmiris (*Le Devoir* 2 Feb. 1994). India, for its part, accuses Pakistan of sponsoring terrorism in Kashmir by training and arming militant groups, most significantly the pro-Pakistani groups led by the Hizbul Mujahedin [Variations on this spelling in the literature include Hizbul Mujahadeen, Hizb-UI Mujahideen, Hizbul Mujaheddin, Hizb-ul-Mujahideen, Hizbul Mujahedin, Hizbul Mujahedeem, Hizbul Mojahedin, and Hizbul Mujahideen.] (United Nations 12 Nov. 1993, 4-5, 13; United Nations 10 Feb. 1993, 4,6; United

Nations 18 Feb. 1992, 2-3). In March 1994 the Pakistani government failed to get the UN Human Rights Commission to pass a resolution condemning India for human rights violations in Kashmir; instead the Indian government promised to allow greater access to Kashmir by international human rights investigators (AP 9 Mar. 1994; *Asian Survey* May 1994, 408). In 1994 the Indian Government allowed several visits to Kashmir by international delegations, including a team of US Congress members who visited for two days in November, and a delegation of British MPs who visited Srinagar in September during a fire fight between militants and security forces (UPI 16 Nov. 1994; AP 17 Nov. 1994; UPI 28 Sept. 1994; CHR 1994). In separate August 1994 reports, however, both Amnesty International and Human Rights WatchAsia indicate that access to Jammu and Kashmir remains restricted for international human rights monitors (HRWA Aug. 1994, 20-21; AI Aug. 1994, 1). [The Amnesty International report states that although Amnesty International was allowed to visit India (Maharashtra State) in January 1994 for the first time in 14 years, negotiations for a visit to Jammu and Kashmir are on-going, with a date not yet set (Amnesty International Aug. 1994, 1). The Human Rights WatchAsia report mentions that the International Commission of the Red Cross was allowed to visit Jammu and Kashmir in March 1993 "to conduct a survey of humanitarian needs" (Aug. 1994, 20). The Human Rights WatchAsia report, however, calls for the Indian government to allow access to Jammu and Kashmir by special UN rapporteurs reporting to the UN Human Rights Commission's working groups on disappearances, torture, and extrajudicial, summary or arbitrary executions (ibid., 20-21).] A November 1994 report indicates that the International Committee of the Red Cross has received permission to visit Kashmir, but will not be permitted to inspect military bases or Border Security Force (BSF) interrogation centres (*The Observer* 13 Nov. 1994).

Pakistan reportedly came under great pressure from the United States in January 1993 to withdraw support from the Kashmiri rebels. The World Trade Center bombing in New York City was linked to Pakistani-trained terrorists, and reportedly Pakistan was close to being named a terrorist state by the US (AFP 18 May 1994; *Asian Survey* Feb. 1994, 197; *India Today* 15 May 1994a, 28, 33). One press report indicates however that Pakistani support for Kashmiri militants, whether through official or private channels, remains strong today despite this US pressure (AFP 18 May 1994).

India accuses Pakistan of sponsoring terrorism in other parts of the country, including the Punjab, and of being behind the March 1993 Bombay bombings (*India Today* 15 May 1994d, 38, 40; *Asian Survey* Feb. 1994, 198), which killed 273 people, injured over a thousand, and set off violent Hindu-Muslim riots afterwards (*Édition 1994: Journal de l'année* 1994, 17). Pakistan, for its part, accuses India of sponsoring terrorism in Sindh, Punjab and other areas of Pakistan (*The Times* 9 June 1994; Kadian 1992, 162-63; *Asian Survey* Feb. 1994, 198). In addition, the Hindu-Muslim communal riots resulting from the destruction of the Babri Mosque at Ayodhya, India, in December 1992, further soured relations between the two countries and heightened the climate of distrust between Muslims and Hindus in other parts of India, including Kashmir (*Asian Survey* Feb. 1994, 198; *India Today* 15 May 1994a, 34; United Nations 20 Jan. 1994, 70 art. 55).

Negotiations between India and Pakistan for a peaceful permanent resolution of the status of Kashmir broke down in January 1994 (*The Times* 26 Jan. 1994; TASS 3 Jan. 1994; Reuters 4 Jan. 1994). Pakistan's Prime Minister Benazir Bhutto has publicly rejected the "third option" for Kashmir -- Kashmiri independence -- and emphasized the importance of the accession of all of Kashmir to Pakistan (PTV Television Network 2 Aug. 1994; UPI 15 Aug. 1994). The Indian government meanwhile firmly maintains that the question of Kashmir is an internal Indian

matter and that all solutions must lie within the framework of India's pluralistic democracy (UPI 15 Aug. 1994; Reuters 4 Jan. 1994; Kadian 1992, 160-161; Thomas 1992, 28). A plebiscite giving Kashmiris a chance to freely choose between remaining in India or Pakistan, joining India or Pakistan, or becoming an independent country, appears to be only a remote possibility, since Pakistan requires that Indian forces withdraw from Kashmir, and India requires that Pakistan withdraw from the Kashmiri areas it controls (*Asian Survey* May 1994, 413; United Nations 10 Feb. 1993, 7).

2.3 Media Access

One result of the climate of distrust between India and Pakistan seems to be a propaganda war between the two nations over Kashmir. Rahul Pathak, for example, reports in *India Today* on the use of propaganda by the Pakistani ISI and media against India:

The ISI's psychological war apparatus is used to heighten passions -- video films of the Bombay riots were shown in Dubai mosques before the blasts -- and convey instructions abroad. The Kashmir Media Service, headquartered in Islamabad, has disseminated several reports about rape and mayhem in the [Kashmir] Valley, which form the ammunition of the human rights campaign being spearheaded in the US by the Kashmiri American Council of Ghulam Nabi Fai (*India Today* 15 May 1994b, 35).

The first Indian journalist allowed to visit Kashmiri refugee camps in Azad Kashmir, in May 1994, reported the use of heavy propaganda by the authorities; her visit was choreographed to the extent that the "Kashmiri" refugees she was allowed to interview were unable to speak Kashmiri (*India Today* 15 May 1994f, 55-59). Other Indian sources report propaganda broadcasting by Pakistani electronic media over the Line of Control (*Indian Express* 1 Aug. 1994; *Dainik Jagran* 1 Aug. 1994; *India Today* 15 May 1994b, 35).

According to *Country Reports 1993*, "National television and radio [in India] are government monopolies and are frequently accused by opposition politicians and the print media of manipulating the news to the benefit of the Government" (1994, 1346). The Indian press, however, is often critical of the government and "as a whole champions human rights" (*ibid.*, 1346). Yet in a war zone like Kashmir, information and movement can be constrained so that the press reports mainly the official version of events as released by military authorities (Press Council of India Jan. and July 1991, 66-68; AI Dec. 1993, 9). That "official" version is, according to the Press Council of India, at times "open to suspicion" (Press Council of India Jan. and July 1991, 108). As well, *Country Reports 1993* indicates that

The 1971 Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir throughout 1993. Under the Act, a district magistrate may restrict the press from carrying material resulting in "incitement to murder" or "any act of violence." Punishment permitted under the Act includes seizure of newspapers and printing presses (*Country Reports 1993* 1994, 1346).

In late August 1994, journalist Ghulam Mohammed Lone and his son were killed at home, in front of their family by a masked gunman in Kangan, 48 kilometers northeast of Srinagar. Lone had published a series of stories critical of security forces and had received threats from one military officer who had been the subject of one of Lone's reports. Lone's widow and local residents claim that Lone was killed by disguised army personnel, a charge the army has denied (*Toronto Star* 11 Sept. 1994; UPI 31 Aug. 1994).

In addition, four Indian journalists trying to report a grenade attack by militants were beaten by Border Security Force (BSF) personnel who reportedly found them to be in the way; an apology was issued later by the BSF commandant involved (AFP 20 Aug. 1994). Three journalists were beaten a year earlier by BSF members in Srinagar for unfavourable reporting (*Country Reports 1993 1994*, 1346; see also United Nations 23 Dec. 1992, art. 332).

The Indian media in Kashmir is also under great pressure from Kashmiri militant groups to report their side favourably (*Country Reports 1993 1994*, 1347; Kadian 1992, 150; HRWAP Sept. 1994, 48). For instance, AFP reported on 8 July 1994 that the state-run radio and television station in Srinagar had suffered its second rocket attack in a week from militants who wanted them to stop broadcasting "anti-militant propaganda." *Country Reports 1993* indicates that in 1993 "newspapers in Srinagar regularly carried militant press releases attacking the Government and reported in detail on alleged human rights abuses. The Government has taken no steps to prevent Kashmiri papers from printing militant press releases" (*Country Reports 1993 1994*, 1346).

2.4 Main Militant Groups

There are two main militant groups operating in Jammu and Kashmir: the Jammu and Kashmir Liberation Front (JKLF), which wants to establish an independent, secular Kashmir, and the Hizbul Mujahedin, which is fighting to join Pakistan (Kadian 1992, 28-32; *Current History* Dec. 1993, 427; HRWAP Sept. 1994, 20). In addition, sources estimate there are as many as 70 to 130 smaller militant groups also operating in the region, often with little coordination between them (*Toronto Star* 11 Sept. 1994; *The Times* 26 Jan. 1994; All India Radio Network 3 June 1994; *The Economist* 31 Oct. 1992; HRWAP Sept. 1994, 42; *India Today* 30 June 1994a, 47). The total number of militants has been estimated at about 50,000 (*Christian Science Monitor* 29 Aug. 1994).

The JKLF was founded in the United Kingdom in 1976 through the merger of two other groups, the Plebiscite Front and the Azad Kashmir Front (Kadian 1992, 15); a Pakistani chapter was later formed in the early 1980s (*ibid.*, 28). Amanullah Khan, who had been involved in the formation of an earlier group, the Jammu and Kashmir National Liberation Front, in 1965, was also instrumental in the formation of the JKLF in both the UK and Pakistan, and remains a top leader today (Kadian 1992, 14-15; DIRB 30 Sept. 1994). The JKLF in Jammu and Kashmir is led by Yasin Malik and Javed Mir from Srinagar (*ibid.*; Kadian 1992, 29). Malik was arrested in 1990 and faces trial for allegedly killing five Indian Air Force members and for allegedly taking part in the kidnapping of Mufti Mohammed Sayeed's daughter in 1989. He was released on bail due to poor health in June 1994 (*India Today* 15 June 1994a, 44), and was "seriously injured" in December 1994 by security forces during a protest march in Srinagar (UPI 10 Dec. 1994).

The JKLF has in the past reportedly received military training and weapons from Pakistan (HRWAP Sept. 1994, 18), although by mid-1991 Pakistani support had noticeably shifted towards the Hizbul Mujahedin and other pro-Pakistan groups (Kadian 1992, 31; HRWAP Sept. 1994, 20). The Human Rights Watch Arms Project reports that despite this lessening of support, the JKLF is still able to arm itself well:

the ranks of the JKLF are drawn mostly from the urban Muslim middle classes, boat owners and carpet makers who can afford to buy their own weapons, which means that they are not forced to rely on the largesse of the ISI. One press report quoted a member of the JKSLF [Jammu and Kashmir Students Liberation Front], the student

wing of the JKLF, as stating that the JKSLF bought its arms from smugglers in Pakistan, Afghanistan, and India itself (HRWAP Sept. 1994, 20).

Besides the JKSLF, other groups associated with the JKLF include smaller organizations such as the Kashmir Liberation Army (KLA), the Al-Fatah group, the People's League, and its sub-group the Al-Jihad (Kadian 1992, 29) [For more information on the JKLF and its factions, please consult the DIRB's database REFINFO.].

The Hizbul Mujahedin is the military wing of the Islamic political party Jamaat-e-Islami (Kadian 1992, 30; *The Economist* 9 Oct. 1993). It was founded in 1989 and is considered the largest and best armed of the Kashmiri militant organizations (Kadian 1992, 30; *The Economist* 9 Oct. 1993). The Hizbul Mujahedin began an "Islamization" drive in the Kashmir Valley in the early 1990s, reportedly forcing cinemas, video stores, beauty parlours and liquor stores to close, burning Hindi and English language videos it considered obscene, warning women to cover their bodies and faces, setting up shariah courts, and forcing restaurants and hotels to close during the Muslim fasting month of Ramadan (Kadian 1992, 22, 30; AFP 29 July 1994; HRWAP Sept. 1994, 47). The Hizbul Mujahedin is said to have strong ties with Pakistan, and supports the merger of Kashmir with Pakistan (Kadian 1992, 31; HRWAP Sept. 1994, 20). The Human Rights Watch Arms Project names the following groups as also being pro-Pakistan:

the Islami-Jamiat-Tulba and the Muslim Students Federation...which are affiliated with the Jamaat-i-Islami political party.... The Hezb-e Ullah, the Hezb-e-Islami, the Muslim Janabaz Force, the Al Ulmar Mujahidin, Operation Balakote, the Tehreik-e-Jehadi-Islami, the Islamic Tehrik-e-Tulba, the Allah Tigers, the Zia Tiger Force, the Islamic Students' League, and the Jammu and Kashmir People's League, Al-Jihad, Al-Barq, Hizbollah, Ikhwan-ul-Muslimin, Jamait-ul Mujahidin, Al-Umar Mujahidin, Tekriq-ul Majahidin, Allah Tigers, Ul-Ulmar Commandos, the Harakatul Ansar (HRWAP Sept. 1994, 42).

Several sources report that factionalism is common within all the militant organizations, and that fighting takes place between rival organizations (CHRF 1994; *Country Reports 1993* 1994, 1339; HRWA Aug. 1994, 2; AFP 16 June 1994; Kadian 1992, 28; *India Today* 15 July 1994, 33). According to Indian authorities, inter-factionalism has left 400 people dead in the last three years (AFP 16 June 1994), at least 200 in the first half of 1994 (*India Today* 15 July 1994, 33). Militant groups have been known to target one another's leaders: a recent example is the two attempts on the life of Yasin Malik in June 1994. Malik accused the Hizbul Mujahedin of being behind the attacks, while the Mujahedin claimed that factions of the JKLF had attacked their own leader (AFP 16 June 1994; All India Radio Network 3 June 1994). In July 1994 southern Kashmir religious leader Qazi Nissar Ahmad was killed, apparently by Muslim militants; Nissar had been liaising between militants and the Indian government in the case of two British tourists kidnapped by militants (*India Today* 15 July 1994, 33). *India Today* reports: "1994 clearly stands out for the number of militants killed not by the security forces but in internecine warfare. The rivalry exists not just between the pro-Pakistan and pro-azadi [freedom] groups but among the pro-Pakistan groups themselves" (ibid., 33). The same article specifically mentions fighting between the Muslim Mujahedin and the Hizbul Mujahedin in Baramulla and Kupwara, between the Hizbul Mujahedin and JKLF in Srinagar, and between the Hizbul Mujahedin and Al Barq in Kupwara (ibid., 33).

In September 1993 the Hizbul Mujahedin and JKLF worked together to help form the All Party

Freedom (Hurriyat) Conference, an umbrella group of over 30 trade unions, political and religious organizations working together to separate from India (*The Economist* 9 Oct. 1993; *Asian Survey* May 1994, 411; *India Today* 30 June 1994a, 47; VOA 12 Oct. 1994). The Hurriyat Conference is led by Moulvi Umer Farooq, a Muslim spiritual leader, and has been active in leading strikes and protests in Jammu and Kashmir (CHRF 1994; AFP 29 July 1994; *ibid.* 13 July 1994). In October 1994, it supported a ban on elections in the state, calling instead for a UN-sponsored plebiscite on whether to remain within India (VOA 12 Oct. 1994).

Militant organizations in Kashmir have been accused of numerous human rights violations, which will be discussed in section 3.5.

2.5 Indian Security Forces

Indian security forces now number 400,000-500,000 or more in Jammu and Kashmir, and include Indian army personnel as well as members of paramilitary organizations such as the Border Security Force (BSF) and the Central Reserve Police Force (CRPF) (CHRF 1994; *Christian Science Monitor* 29 Aug. 1994; *Country Reports 1993 1994*, 1345).

The local police are largely Muslim, while those in the security forces are generally not, a situation which has reportedly led to poor communications and mistrust between police and security forces organizations (*The Economist* 1 May 1993; AI Dec. 1993, 6). Some sources indicate that security forces from outside the state generally do not speak Kashmiri, are poorly briefed, face hostile conditions, are trained to use maximum force, and are the subject of intense resentment by most Kashmiris (AI Dec. 1993, 6; *The Economist* 1 May 1993). As well, Amnesty International reports that, "Although all the security forces theoretically operate under the supervision of the Director General of the Jammu and Kashmir Police (presently M.N. Sabharwal) in practice the army and paramilitary forces act independently of the local police" (Amnesty International Dec. 1993, 6). According to Kadian, "The [Kashmir] valley itself is criss-crossed by different lines of authority and varying chains of command between the army, the paramilitary forces, the local police, the Air Force, the half a dozen intelligence agencies and the central (federal) and state administrative machinery" (Kadian 1992, 149).

The lack of coordination between security forces was illustrated and exacerbated by the April 1993 killing of an off-duty Muslim Kashmiri police officer. Security forces officials claimed he was killed in cross-fire in a battle with militants, but Kashmiri police believed he died while in the custody of the BSF. The resulting six-day police strike was disbanded only after Indian army troops stormed the Srinagar police headquarters (LCHR July 1994, 162; *Country Reports 1993 1994*, 1339; *The Economist* 1 May 1993).

Security forces and police are apparently well-supplied with assault rifles, small arms, and other light weapons, explosives and armoured vehicles (HRWAP Sept. 1994, 49-50), although they reportedly make very little or no use of electronic surveillance in their war against the guerrillas (Kadian 1992, 149). Military vehicles tend to move in convoys for safety, and tactics usually revolve around patrols, and cordon and search operations, which target entire villages or neighbourhoods, using hooded "cats" (informants) to identify suspects for arrest (*Toronto Star* 11 Sept. 1994; Kadian 1992, 24-25, 150; CHRF 1994; HRWA Aug. 1994, 3; *South China Morning Post* 11 Aug. 1993; AI Dec. 1993, 4, 22). Curfews are common in troubled areas (Kadian 1992, 150; CHRF 1994; *Country Reports 1993 1994*, 1347; All India Radio Network 7 June 1994; BBC Summary 25 Jan. 1994). US Ambassador J. Kenneth Blackwell, who visited the region in December 1993 with the independent Congressional Human Rights Foundation, found

that "the presence of military and police in Kashmir is overwhelming. Troops line every thoroughfare; heavily armed bunkers are on every corner" (CHRF 1994; see also *India Today* 30 June 1994a, 46; *Toronto Star* 11 Sept. 1994). In 1992 nearly 500 security forces members were killed in Jammu and Kashmir, and over 1,500 injured (AI Dec. 1993, 6).

3. HUMAN RIGHTS IN JAMMU AND KASHMIR

3.1 Human Rights Abuses by Security Forces

The list of reported human rights abuses by Indian security forces in Jammu and Kashmir includes extrajudicial killings, disappearances, torture, long detention without charge or trial, rape, and destruction of property (CHRF 1994; *Country Reports 1993 1994*, 1339; HRWA Aug. 1994, 2; AI Dec. 1993, 4; United Nations 6 Jan. 1994, 57 art. 272).

A number of security forces operations have raised allegations of large-scale human rights abuses. The village of Sopore, for example, alleged to be a Hizbul Mujahedin stronghold, has, according to reports, been the scene of security forces' killings of numerous civilians on at least three occasions in recent years: in November 1993, when some 43 people were killed and a third of the village was razed by BSF troops in apparent reaction to an earlier militant attack (CHRF 1994; *Country Reports 1993 1994*, 1345); in January 1993, when dozens of civilians were killed (AI Dec. 1993, 40); and in April 1992, when 40 civilians were killed after security forces fired on a crowd of demonstrators (Malik Mar. 1993, 12). Similarly, in April 1993, the Lal Chwok neighbourhood in Srinagar was devastated by a fire, apparently spread by BSF troops, who also reportedly killed at least sixteen people randomly (*Country Reports 1993 1994*, 1345-1346). Another 40 civilians were killed in Bijbehara in October 1993 during demonstrations associated with the siege of the Hazratbal shrine (HRWA Aug. 1994, 18; CHRF 1994; *Dainik Jagran* 7 June 1994; *Country Reports 1993 1994*, 1345). More recently, Human Rights WatchAsia reported that in March 1994, soldiers reacting to a landmine attack in the village of Mahand, also in Bijbehara district, stopped a bus at random and beat all the passengers, then later cordoned off the village and blew up three houses, killing five people, including three children (HRWA Aug. 1994, 12). In September 1994, according to a Voice of America report, Indian security forces fired on a passenger bus in the northern Kashmir town of Bandipor, killing 10, exchanging shots with "presumed militants." According to a state government official, six rifles were found on the bus; however many town residents apparently believed that security forces fired on the bus without reason, following an earlier clash with militants. Protest demonstrations followed (VOA 9 Sept. 1994).

Extrajudicial killings and disappearances are often associated with cordon and search operations, with reprisal attacks by security forces after an ambush or attack by militants, and with "encounter" killings that critics claim are staged (AI Dec. 1993, 4; CHRF 1994; HRWA Aug. 1994, 2-3, 12; *Country Reports 1993 1994*, 1339). According to Amnesty International, families of the disappeared have a difficult time getting security forces to acknowledge that an individual has been detained or to state where that person might be (AI Dec. 1993, 4). The United Nations Working Group on Enforced or Involuntary Disappearances states that these families also report feeling endangered themselves, allegedly "having been threatened for trying to locate a missing person, or detained and physically mistreated when held in lieu of the person security forces wished to question or detain" (United Nations 7 Jan. 1993, art. 272; see also *ibid.* 22 Dec. 1993, 62, art. 243, and AI Dec. 1993, 7).

According to Amnesty International,

In practice any young Muslim man living within a village, rural area or part of town noted for activities of any of the pro-Independence or pro-Pakistan groups can become a suspect and a target for the large-scale and frequently brutal search operations described in Jammu and Kashmir as 'crackdowns'. These involve arbitrary arrests of dozens or even hundreds of people who are often tortured (Amnesty International Dec. 1993, 7).

Detainees can be made to disappear within the system, according to Human Rights WatchAsia, because

... the security forces routinely disregard laws requiring detainees to be produced in court. According to the Jammu and Kashmir Bar Association, of the one hundred or more persons arrested every day in Kashmir, none is produced before a magistrate within twenty-four hours, as required by law -- despite the fact that, in late 1993, Minister for Internal Security Rajesh Pilot issued a directive to all security forces in Kashmir, calling on them to obey the law. Disappearances are further facilitated by the fact that detainees are held in secret detention centers, without access to lawyers or family (HRWA Aug. 1994, 14; see also United Nations 6 Jan. 1994 57, art. 273; AI Dec. 1993, 16).

According to critics, habeas corpus petitions are largely disregarded, or the backlog is so great that the system has become ineffective as a deterrent to custodial abuses such as disappearances and torture (HRWA Aug. 1994, 2; AI Dec. 1993, 1, 16; CHRF 1994). According to Human Rights WatchAsia, human rights groups in Jammu and Kashmir claim that Indian security forces have killed over 200 people in custody in the state in the first half of 1994 (HRWA 26 Aug. 1994, 3).

The use of torture to extract confessions or intimidate detainees is reportedly common in prisons throughout India (United Nations 6 Jan. 1994, 55 art. 261), and in the numerous detention centres maintained by the various branches of the security forces operating in Kashmir (HRWA Aug. 1994, 17). Common torture techniques used by security forces in Kashmir are said to include

electric shock, burning with irons and other heated objects, crushing leg muscles with a heavy roller, severe beatings, suspension by the arms or by the legs, with the victim hanging upside down. Detainees have also been subjected to psychological torture, including isolation and threats that they or their families would be killed (HRWA Aug. 1994, 17; see also United Nations 6 Jan. 1994, 55 art. 261; Country Reports 1993 1994, 1341-1342).

The use of rape by security forces in Kashmir has also been reported by several sources (United Nations 6 Jan. 1994, 57, art. 272; CHRF 1994; AI Dec. 1993, 4; *Economic and Political Weekly* 22 May 1993, 1018; *Country Reports 1993 1994*, 1339, 1342; United Nations 15 Dec. 1992, 257). According to a United Nations report on the Use of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

It was ... reported that the use of rape is common in Kashmir as a weapon against women suspected of being sympathetic to or related to alleged militants; or as a form of retaliation against civilians believed to be sympathetic to the militants (United Nations 6 Jan. 1994, 57, art. 274).

According to the Kashmir Bar Association, there have been 100 known cases of rape in the area by security forces since 1990, although the actual number is believed to be higher because Muslim women rarely report the crime of rape (qtd. in CHRF 1994).

3.2 National Security Legislation

National security legislation, including the Terrorist and Disruptive Activities (Prevention) Act (TADA), the Armed Forces (Special) Powers Act, and the Jammu and Kashmir Public Safety Act (PSA), provides security forces with enhanced powers in order to combat insurgencies, but has been harshly criticized for allegedly facilitating human rights abuses (AI Aug. 1994, 6-7; United Nations 7 Jan. 1993, art. 271; *ibid.* 23 Dec. 1992, 333; *ibid.* 15 Dec. 1992, art. 258-259; AI Dec. 1993, 14, 37-38; *Country Reports 1993* 1994, 1343; *India Today* 15 Sept. 1994, 46-47; *ibid.* 15 May 1994e, 47-48). [For a related discussion of the provisions of several of these and other acts, please refer to the DIRB's January 1994 *Question and Answer Series: India: Punjab Human Rights Update*, pp. 14-17.] The TADA and PSA, for instance, have been criticized for allowing detention for long periods without charge or trial (*Country Reports 1993* 1994, 1343; United Nations 7 Jan. 1993, art. 271; AI Dec. 1993, 37-38; *India Today* 15 May 1994e, 47-48; India, TADA 1987, art. 20 (4)9b). According to Amnesty International, the PSA, in force in Jammu and Kashmir since 1978,

grants extensive powers to the government to detain people for a maximum of two years on vaguely defined grounds to prevent them 'from acting in a manner prejudicial to the security of the state or the maintenance of public order' (section 8.1 as amended in 1990). The latter action is defined to include 'promoting, propagating or attempting to create feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community' or, notably, of 'region.' This broad definition permits people to be detained without trial, in effect, for simply questioning whether Jammu and Kashmir should remain part of India (Amnesty International Dec. 1993, 37).

Amnesty International also charges that under the PSA, detainees can be secretly moved anywhere in India, making it very difficult for relatives and friends to keep track of them or visit (*ibid.*). The organization further contends that security forces often fail to hand over detainees to police quickly as is provided for in the PSA, which "also provides broadly defined powers to shoot to kill in section 4" (*ibid.*).

TADA enhances legal penalties and, as *India Today* reports, "provides for 'designated' courts which curtail the usual rights of the accused persons. TADA prohibits bail, shifts the burden of proof to the accused persons and permits confessions to the police as evidence" (*India Today* 15 May 1994e, 47; India, TADA 1987, arts. 9-21) [A complete copy of The Terrorist and Disruptive Activities (Prevention) Act (TADA) as published by Delhi Law House, Delhi 1992, is available at IRB Regional Documentation Centres.]. The Kashmir state government announced in September 1993 that 20,000 people had been detained under TADA in Kashmir since 1990, with 14,500 released (ctd. in AI Dec. 1993, 14). In March 1994 the Indian Supreme Court upheld TADA as an instrument of law for fighting terrorism (*India Today* 15 May 1994e, 47; *ibid.* 15 Sept. 1994, 47). However, reportedly less than four per cent of TADA cases throughout India end in conviction, and most of those convictions are for possession of unauthorized arms or ammunition rather than use of terrorism or violence (*ibid.* 15 May 1994e; *ibid.* 15 Sept. 1994, 46-47).

Recently the Indian Supreme Court changed the traditional interpretation of section 5 of TADA concerning the possession of unauthorized weapons. The ruling came in the trial of Sanjay Dutt, an Indian actor accused of complicity in the March 1993 Bombay bombings, and arrested under TADA for possessing three AK-47 rifles. According to *India Today*,

Relieving the prosecution of the burden of proof, a specially convened Constitution bench ... ruled on September 9 [1994] that in a notified area, a person having unauthorised weapons would be automatically presumed to be involved in a terrorist or disruptive activity (*India Today* 15 Oct. 1994, 111).

Previously, according to the same article, "several judgements reiterated that the prosecution would have to establish a prima facie nexus between the possession of arms and the terrorist or disruptive activity in question" (*ibid.*). In Dutt's case, he now faces prolonged detention even before he can request bail (*ibid.*).

In Jammu and Kashmir, and in India as a whole, the government has been strongly criticized for allegedly not prosecuting or punishing security forces personnel accused of human rights abuses, and for building an apparent impunity from prosecution into national security legislation such as the Armed Forces (Special Powers) Act, the PSA and TADA (AI Aug. 1994, 5; *ibid.* Dec. 1993, 37-38; *Country Reports 1993 1994*, 1339; United Nations 22 Dec. 1993, 62, art. 245; *ibid.* 23 Dec. 1992, art. 333; *ibid.* 15 Dec. 1992, art. 258). Amnesty International reports that the PSA, for example, prohibits

legal proceedings against officials for acts 'done in good faith' under the Act. TADA, in Section 26, prohibits in even stronger terms legal action against anyone 'purporting' to exercise powers in good faith in accordance with the act, thus providing virtual immunity from prosecution, as does Section 7 of the Armed Forces (Jammu and Kashmir) Special Powers Act. That section provides that unless previous sanction of the Central Government has been obtained, 'No prosecution, suit or other legal proceeding shall be instituted ... against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act' (Amnesty International Dec. 1993, 39-40).

Several sources have also criticized the 1991 Amendment to the Code of Criminal Procedure which "granted broad protection to all public servants, including the security forces, for acts committed while discharging their official duties in states under President's rule" (*Country Reports 1993 1994*, 1339; see also CHRF 1994; United Nations 15 Dec. 1992, art. 258; United Nations 23 Dec. 1992, art. 334). In addition, according to the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

several well-established procedural techniques for evading prosecution for human rights violations provide informal but effective impunity for police and security forces throughout [India]. These include the failure to register complaints, acknowledge detention or to apply other legal safeguards; denial of responsibility; falsification of judicial records and post-mortem reports, sometimes by having them carried out at police hospitals; intimidation of witnesses and complainants; and influencing police inquiries by having them conducted by police from the same branch and delaying their outcome and prosecutions. These techniques are supported by institutional practices and official policies which provide minimal sanctions against those few

police or soldiers who are held accountable for custodial violence (United Nations 15 Dec. 1992, art. 259).

The Indian government denies that national security legislation affords impunity to security forces, and insists that security forces suspected of human rights abuses are investigated and punished if found guilty (United Nations 6 Jan. 1994, 63, art. 307; United Nations 22 Dec. 1993, 63, art. 253). The government informed the United Nations, for example, that

In the State of Jammu and Kashmir alone, during the ongoing phase of terrorism and insurgency, action has been taken against 170 officers and men of the army and security forces, which includes rigorous imprisonment and confinement, dismissal from service, suspensions pending inquiry and other forms of departmental punishment, which could have long-term implications on the career prospects of the concerned personnel (United Nations 6 Jan. 1994, 63, art. 308).

3.3 Government Measures to Improve Human Rights Protection

Following criticism from several organizations that the government was not releasing information on those security forces personnel who had been disciplined for human rights abuses (CHRF 1994; *Country Reports 1993 1994*, 1342; AI Dec. 1993, 40-41), the government announced that of 174 recent actions taken against security personnel members,

as many as 70 ... including three officers of the Army, received imprisonments extended up to a maximum of 10 years. One Army officer was sentenced to seven years' of imprisonment, while two officers got a year's sentence (Indian Express 14 July 1994).

Rape sentences of 10 to 12 years have been reported for at least six security forces members sentenced in three separate incidents (HRWA Aug. 1994, 18; AI Dec. 1993, 41). According to the government, "Custodial rape, if proven, could carry a life sentence" (United Nations 22 Dec. 1993, 63, art. 254; United Nations 6 Jan. 1994, 64, art. 314).

The government has pointed to the creation of the National Human Rights Commission as proof of its efforts to improve the human rights climate in the country (United Nations 20 Jan. 1994, 73, art. 56.3; *ibid.* 23 Dec. 1992, art. 340; AI Aug. 1994, 5). Indeed, the Commission was scheduled to investigate reports of human rights abuses in Jammu and Kashmir in September 1994 (*Dainik Jagran* 7 June 1994); at the time of writing, its report was still pending. The Commission earlier investigated the killing of 40 civilians in Bijbehara in October 1993, and recommended that 14 BSF soldiers be prosecuted. Human Rights WatchAsia, reporting in August 1994, stated, "It is not known whether proceedings against the BSF troops have begun" (HRWA Aug. 1994, 18). The National Human Rights Commission has been critical of the government on a number of issues: it has called for the abolition of TADA (Xinhua 10 Dec. 1994; *India Today* 15 Oct. 1994, 111), and for India to accede to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Xinhua 10 Dec. 1994). The Commission, however, has been criticized for being limited in its powers to investigate abuses associated with the security forces (*Country Reports 1993 1994*, 1349-1350; AI 1994, 157).

As well, in November 1994, in Tekanpur, the International Committee of the Red Cross (ICRC) conducted its first briefing for BSF commanders in India on how to protect human rights. Similar workshops are planned for other parts of India (AP 17 Nov. 1994). However, Amnesty

International has reportedly warned that "The training of security forces personnel will have little or no effect unless it is matched by decisive measures to halt human rights violations, and this the government has failed to do" (ctd. in *ibid.*).

3.4 The Judicial System

The judicial system in India, while generally providing independent oversight of the country's essential principles (CHRF 1994), has been criticized for its "serious backlog" which hampers its ability to render timely justice (*Country Reports 1993 1994*, 1342; AI Dec. 1993, 16-17). According to Amnesty International, "even in life threatening cases of 'disappearances' legal proceedings are indefinitely stalled, and the victims are denied effective legal action to protect their most basic human right: the right to life" (Amnesty International Dec. 1993, 17). A Srinagar judge with 20 years of experience, who refused to allow his name to be used, summed up the situation this way:

When arms spread, laws are silent.... That has been the situation here for five years. We have no control over them (the Indian forces). We may issue a court order, but people are too frightened to act. Nothing gets done They can come at any time.... They can kill with impunity. There is no recourse for us (*The Toronto Star* 11 Sept. 1994).

Country Reports 1993 states that "the judicial system has broken down in the face of terrorist threats" (*Country Reports 1993 1994*, 1339; see also *ibid.* 1345). Militants reportedly are able to threaten and intimidate witnesses and legal authorities, despite witness protection clauses, in camera judicial proceedings, and other special provisions in such national security legislation as TADA (*India Today* 15 May 1994e, 48; *Country Reports 1993 1994*, 1339; India, TADA 1987, arts. 9, 10, 16). In January 1994, for example, five sensitive cases were apparently allowed to be moved out of state for trial following "an embarrassing admission on the part of the Government that it is in no position to hold 'a fair, just and speedy trial' in Jammu & Kashmir" (*India Today* 15 May 1994e, 48).

3.5 Human Rights Abuses by Militant Groups

Reports indicate that the various militant groups in Jammu and Kashmir have been responsible for a wide range of human rights violations, including killings, abductions, rapes, bombings, and attempts to intimidate targeted populations, mainly Hindus, into moving out of certain areas (HRWAP Sept. 1994, 2, 38, 43-45; *India Today* 30 June 1994a; AFP 16 July 1994; *Country Reports 1993 1994*, 1339, 1345-1347; AI Dec. 1993, 4, 11-12).

The Human Rights Watch Arms Project reports that militants have often been responsible for "execution-style" killings, and that they target certain individuals, including "civil servants, notably Muslim political leaders associated with the National Conference party, which is allied with New Delhi, prominent Hindus, and civilians suspected of being government informers" (HRWAP Sept. 1994, 43). Increasingly, militant groups have been targeting members of other (or their own) militant groups, as well as moderates like religious leader Qazi Nissar Ahmad (see *ibid.*, pp. 12-13). According to State Government statistics quoted by Prakash Singh, a retired director general of the BSF, between January 1990 and July 1994, militants were responsible for killing 1,817 civilians and 572 security forces personnel. Another 1,320 civilians reportedly lost their lives in "crossfire" between militants and security forces (*CJ International* Nov.-Dec. 1994b, 15).

The same source states that militants also kidnapped, and then killed, 230 people during the

same time frame (*ibid.*). According to *Country Reports 1993*, abductions by militants were common throughout 1993, with government employees and prominent individuals particularly vulnerable (*Country Reports 1993 1994*, 1346; see also HRWAP Sept. 1994, 46). The militants reportedly use the abductions to force the release of other militants, extort money, and intimidate local populations (*Country Reports 1993 1994*, 1346). Foreign tourists were abducted on at least two occasions in 1994. In late October, three British men and one American were taken from the railway station in New Delhi by Afghan militants demanding that authorities free 10 Kashmiri militants. All four tourists were freed, but only after a gunbattle in which two police officers and one militant died (*FEER* 17 Nov. 1994; UPI 31 Oct. 1994; BBC Summary 2 Nov. 1994). In June 1994 two British tourists were kidnapped by the militant Harkatul Ansar, and subsequently released unharmed (*India Today* 30 June 1994a, 46; HRWAP Sept. 1994, 46; All India Radio Network 23 June 1994). In November 1994 Agence France Presse reported a case of a civilian freeing himself after having been abducted by militants near Anantnag. The man, whose name was not released to protect him, was apparently able to seize a weapon while his captors were sleeping, and kill six of them before making his escape and reporting to the police (AFP 16 Nov. 1994). Similarly, in Srinagar in May 1994, the daughter of a prominent National Conference leader was able to escape an abduction attempt with the help of local residents (*India Today* 30 June 1994a, 46).

The Human Rights Watch Arms Project maintains that abductions of women by militants can lead to rape, incidents of which have increased since 1991. According to the Project,

In some cases, women have been raped and then killed after being kidnapped by rival militant groups and held as hostages. In other cases, members of armed militant groups have abducted women after threatening to shoot the rest of the family unless the woman was handed over to a particular militant leader. Some incidents of rape by militants appear to have been intended as punishment because the victims or their families were believed to be government informers, opposed to the militants, or supporters of rival groups (HRWAP Sept. 1994, 46; see also AI Dec. 1993, 4, 12).

An increased criminalization of the militant movement has been reported, with different groups resorting to such crimes as rape, murder, extortion, theft and kidnapping (HRWA Aug. 1994, 2; *India Today* 30 June 1994a, 46-47). According to *India Today*, "cases of extortion, molestation and extraction of shelter and food at gunpoint are numerous, most of them going unreported for fear of retaliation by militants" (*India Today* 30 June 1994a, 47). JKLF leader Yasin Malik publicly vowed to combat this trend, stating that "criminals, who have entered the movement and are giving us a bad name, have to be weeded out" (*India Today* 15 June 1994b, 45). He went on a hunger strike in June 1994 over this issue, ending it only when the All Party Freedom (Hurriyat) Conference agreed to work to end the depredations (*India Today* 30 June 1994a, 47).

Militant groups have also been responsible for numerous bombings and rocket attacks on civilian buildings, including theatres and Hindu temples (*Country Reports 1993 1994*, 1346; Kadian 1992, 29; HRWAP Sept. 1994, 45, 47). In November 1994 two bus bombs in Jammu killed 9 and injured 12 people; militants were suspected in both attacks (VOA 30 Nov. 1994; UPI 28 Nov. 1994). Other recent bombings were reported in a Srinagar market in August, 1994 (at least 6 dead, 50 injured), and an earlier bus explosion in Jammu in July 1994 (6 dead, 27 wounded) (AFP 7 Aug. 1994; *ibid.* 16 July 1994). Prakash Singh, a former director general of the BSF, claims that since 1990 the toll of attacks by the militants includes damage or destruction of "981 government buildings, 475 educational institutions, 285 bridges, 923 shops, and 6,106 private

houses" (*CJ International* Nov.-Dec. 1994b, 15).

3.6 Displaced Populations

[For a discussion of the structure of the Indian police forces and whether there are internal flight alternatives for persons who are sought by Indian authorities, please refer to Response to Information Request IND17152.E of 22 April 1994, available at IRB Regional Documentation Centres or on DIRB's REFINFO database.]

For a number of years militant groups in Jammu and Kashmir have used threats and intimidation in an attempt to drive out certain segments of the population, most notably Hindus (Pandits) (AI Dec. 1993, 10; Kadian 1992, 35; HRWAP Sept. 1994, 38, 47). Beginning in 1990 some 100,000-250,000 Hindu Pandits chose to leave the Kashmir Valley following a campaign of threats and targeted killings by the JKLF. The Pandits settled in refugee camps in Jammu, as well as in the neighbouring Punjab and Himachal Pradesh states, and in Delhi (Kadian 1992, 34-35; AI Dec. 1993, 10). Amnesty International reports that many of the houses that Pandits left behind in the Kashmir Valley have been destroyed, "and [the Pandits] have lost their means of livelihood, remaining entirely dependent on what they claim to be inadequate government support" (*ibid.*). Periodic militant invitations to the Pandits, who were a leading economic group in Kashmiri society, to return to the Valley have largely been annulled by recurring threats (*ibid.*; HRWAP Sept. 1994, 47; *The Economist* 10 Apr. 1993; *India Today* 15 June 1994b, 45). A November 1994 report in *The Observer*, for example, states that the recently released Kashmiri leader Shabir Shah has called for the Pandits to return to the Kashmir Valley to help build an independent Kashmir, while Jamaat Islami leader Syed Ali Shah Gilani "has announced to the contrary that the Hindus of Kashmir will be allowed to return only when there is an overall settlement" (*The Observer* 13 Nov. 1994).

An article in *The Economist* of 10 April 1993 points out the confusing situation for many displaced Pandits: some remain in refugee camps, afraid to go home, while others who remained in their villages are said to be living without fear. The article describes one Hindu family living for the past seven years in a Hindu temple compound in Srinagar, who report having had no trouble from Muslim neighbours or militants.

In May 1994, according to *India Today*, the entire population of two villages in the Gandoh area, some 850 people, left their homes and marched into nearby Himachal Pradesh State fearing reprisals from militants after two militants had been shot dead in the area (*India Today* 15 Aug. 1994, 36-37). According to the report, militants set fire to 40 houses in one of the empty villages, and residents were only persuaded to return after their local minister gave them assurances of army protection. Renewed threats and militant actions have reportedly left communal tensions very high in the area (*ibid.*). Another report by *India Today* (*India Today* 30 June 1994b, 49) describes a mountain village of some 7,000 ethnic Gujjars in the Kupwara sector which, according to the report, is remarkable for its resistance to Muslim militants. This resistance is headed by Chaudhry Jalauddin, the former leader of the pro-Pakistan Muslim Liberation Army, who was captured by security forces in 1992 and renounced the militant cause. He claims that 17 of his relatives have now been killed by militants, and that the entire village is under threat (*ibid.*).

4. FUTURE PROSPECTS

There is a long-standing historical trend of the Indian military to fight secessionist movements

wherever they arise, "no matter what the cause, justice, or consequence" (Thomas 1992, 28; see also Kadian 1992, 160-161; *Asian Survey* May 1994, 414). The argument is that the secular, pluralistic nature of India is so intrinsic to the country, and so threatened, that India could not survive if Kashmir, or any other single state, were allowed to become independent or secede to Pakistan; the country would shatter into numerous fragments (Kadian 1992, 160-161; *Asian Survey* May 1994, 414). On the other hand, the Kashmiri desire for independence from India is said to be deeply entrenched after all that has happened: "It is hard to find anyone, young or old, in the Kashmir Valley who does not want Kashmir to be allowed to secede from India. Most favour independence rather than joining Pakistan," reports *The South China Morning Post* (*The South China Morning Post* 11 Aug. 1993), an observation echoed in other publications (*The Economist* 23 Oct. 1993; *Asian Survey* May 1994, 402).

Some look to the Indian Punjab to provide points of comparison: there the government has apparently been successful in reviving the political process and crushing the Sikh insurgency through all-out warfare against the militants (*The Economist* 23 Oct. 1993; *Asian Survey* May 1994; HRWA May 1994, 1). However, as Sumit Ganguly and Kanti Bajpai write in *Asian Survey*,

Kashmir is not Punjab, where the successes have depended heavily on factors beyond the use of force: the fencing of the border with Pakistan and a hospitable terrain for military and police operations; Islamabad's drawing down of support in favour of the Kashmir militancy; and the relatively low level of popular support for secession and militancy in Punjab. These factors are not present in Kashmir (*Asian Survey* May 1994, 411).

An analysis in *The Economist* agrees, and points out that "In Punjab, it took nine years to wear down the militants. Kashmir is unlikely to submit so quickly" (*The Economist* 23 Oct. 1993).

The Indian government is promoting state elections in Jammu and Kashmir, possibly for March 1995 (VOA 15 Nov. 1994; *ibid.* 14 Oct. 1994; HRWA Aug. 1994, 2). However, the All Party Freedom (Hurriyat) Conference has come out against the elections, not wanting them to replace a full plebiscite on the future of Kashmir, and the Indian government reportedly faces an uphill battle (VOA 15 Nov. 1994; *ibid.* 12 Oct. 1994; *India Today* 15 June 1994b, 45).

The formation of the Hurriyat Conference itself in September 1993 possibly indicates that the government could have a unified organization to negotiate with, although, as noted earlier, fragmentation of the many militant organizations remains a problem, and those moderates within the militant movement who show a willingness to negotiate reportedly face significant threats from other militants (*Asian Survey* May 1994, 409, 411; *India Today* 15 July 1994, 32-33).

Finally, reports provide no sign that negotiations between India and Pakistan over the future of Kashmir are likely to progress (UPI 15 Aug. 1994; Reuters 4 Jan. 1994). Intransigence appears to dominate; as Human Rights Watch Asia states in their most recent report, "the conflict [in Kashmir] shows no signs of abating" (HRWA Aug. 1994, 2).

5. ADDENDUM

The following reports, which comment on the human rights situation in Jammu and Kashmir, became available subsequent to completion of research for this paper:

Country Reports on Human Rights Practices for 1994. 1995. United States Department of State. Washington, DC: US Government Printing Office.

Human Rights Watch (HRW). December 1994. *Human Rights Watch World Report 1995*. New York: Human Rights Watch.

For updates on issues related to human rights in India, please consult the REFINFO database and sources available at Immigration and Refugee Board Regional Documentation Centres.

APPENDIX: NOTES ON SELECTED SOURCES

Note: For a discussion of Indian press and media sources and government control of information within the region, please see section 2.3.

Congressional Human Rights Foundation (CHRF). 1994. "Kashmir Report." (Global Democracy Network)

The Congressional Human Rights Foundation (CHRF) describes itself as an independent human rights body from Washington, D.C. In December 1993 its president David L. Phillips, and US Ambassador J. Kenneth Blackwell, a CHRF board member, visited Kashmir on a "fact-finding mission." According to their report, meetings and discussions were held "with high-ranking officials and leading Members of Parliament from India and Pakistan" and "with representatives of the All-Party Freedom Conference, the Muslim League, Hizbul Mujahadeen, Jammu and Kashmir Liberation Front, Kashmir Bar Association and Hindu Pandits."

Human Rights Watch Arms Project (HRWAP). September 1994. *India: Arms and Abuses in Indian Punjab and Kashmir*. New York: Human Rights Watch.

Human Rights Watch describes itself as "a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly.... Its Arms Project was established in 1992 to monitor and prevent arms transfers to governments or organizations that commit gross violations of internationally recognized human rights and the rules of war and promote freedom of information regarding arms transfers worldwide" (59). *India: Arms and Abuses in Indian Punjab and Kashmir* documents the movement of arms from Afghanistan and Pakistan into the hands of militants in Indian Punjab and Kashmir, detailing the types of arms involved, and how they have contributed to human rights abuses in the region.

Kadian, Rajesh. 1992. *The Kashmir Tangle: Issues and Options*. New Delhi: Vision Books.

A review of this book in *Choice* (June 1994, 1650) describes Kadian as "an Indian medical specialist resident in the US who writes on South Asian military issues." The review describes the book as "a very concise, readable, and factual review of the history surrounding the Kashmir dispute." *The Kashmir Tangle* contains no biographical information about the author; however, Kadian in his preface states "once again I am deeply indebted to the United Service Institution of India, New Delhi, for their unfailing assistance. Likewise the Combined Arms Research Library at Fort Leavenworth, Kansas, has continued to sustain my writing in the United States."

Malik, Iftikhar H. March 1993. *The Continuing Conflict in Kashmir: Regional Detente in Jeopardy*. London: Research Institute for the Study of Conflict and Terrorism.

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Thomas, Raju G.C. 1992. "Reflections on the Kashmir Problem." In *Perspectives on Kashmir: The Roots of Conflict in South Asia*, edited by Raju G.C. Thomas. Boulder, Colorado: Westview Press.

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