

TWO YEARS OF LOCKDOWN:
HUMAN RIGHTS IN JAMMU AND KASHMIR,
AUGUST 2021



THE FORUM FOR HUMAN RIGHTS
IN JAMMU AND KASHMIR

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THE REPORT AND METHODOLOGY

The Forum for Human Rights in Jammu and Kashmir comprises an informal group of concerned citizens who believe that, in the prevailing situation in the former state, an independent initiative is required so that continuing human rights violations do not go unnoticed.

This is the third report issued by the Forum. It has largely been compiled from government sources, media accounts (carried in well-established and reputed newspapers or television), NGO fact-finding reports, interviews, and information garnered through legal petitions. The report relies primarily on information collected between 1 February 2021 and 23 July 2021. Though in situ verification has not been possible during the Covid-19 lockdown, the various sources listed above have been fact-checked against each other to ensure the information is as accurate as possible, and only that information has been carried that appears to be well-founded. Where there is any doubt regarding a piece of information, queries have been footnoted.

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EXECUTIVE SUMMARY

On August 4, 2019, the union government arrested close to 6,000 Kashmiri politicians, dissidents, intellectuals, journalists and youth, snapped tele and internet communications across the state, imposed a blanket curfew, and stationed an additional 40,000 troops at the valley's towns. The next day, the President of India removed the special status granted to Jammu and Kashmir under Article 370 of the Indian constitution, and on August 9, Indian parliament passed the Jammu and Kashmir Reorganization Act, dividing the state into two union territories, Jammu and Kashmir, and Ladakh.

The combined military, police and communications lockdown continued for the next six months, only to be replaced by a pandemic-related lockdown that lifted only intermittently. In the meantime, the union government took a series of deeply controversial steps that invalidated the state's residency laws and privileges, removed restrictions on land use and transfer, and denied legal rights to habeas corpus, bail and speedy trial.

While there was some improvement in the second half of 2020, it was only marginal. Most of the political leaders, intellectuals, journalists and youth were released in small batches through the year, though close to 1,000 remain in prison. The courts continued to ignore habeas corpus and freedom of speech protections, curfews were routinely extended, the internet was only partially restored and snapped every time the Indian army conducted counter-insurgency operations, and new media policies further fettered the local media. Jammu and Kashmir's economy, too, continued its sharp decline, with several industries forced into bankruptcy. Chinese military incursion along the Ladakh border in the spring-summer of 2020, leading to Indian counters in the autumn, further impacted an already fragile security situation. (The Forum's reports, covering the period August 2019-January 2021, can be accessed [here](#) and [here](#)).

A small ray of light appeared in February 2021, when the Indian and Pakistani directors-general of military operations (DGMOs) agreed to a cease-fire along the international border between India and Pakistan and the Line of Control (LoC) between the two parts of divided Kashmir. The cease-fire helped restrict infiltration by armed groups and raised hopes that a wider peace process might follow, accompanied by the restoration of political and human

rights. Though the cease-fire has held, it is now beginning to fray, as is suggested by the sudden low-cost drone attacks of June.

In June, hopes were raised again when Prime Minister Narendra Modi invited Jammu and Kashmir's political leaders to a meeting. The meeting had an open agenda and it seemed as if the Prime Minister wanted to consult regional representatives on how to restore a political process. It has been **three years** since the last elected administration, led by Chief Minister Mehbooba Mufti, was toppled. On the ground, most residents believe that an elected administration will be far more receptive to civil and human rights than the governor and lieutenant-governor's rule that they have had to subsist under.

The Prime Minister's offer, however, fell far short of expectations. The Reorganization Act, he said, would continue to be implemented, and elections would be held for a Union Territory assembly. Statehood would be restored only at an unspecified "appropriate time", as Home Minister Amit Shah said in parliament in February 2021 while piloting a bill to dissolve a key function of statehood, the Jammu and Kashmir administrative service.¹

These pre-conditions put regional parties in an awkward position, since the largest and most popular of them are in the Supreme Court of India, challenging both the hollowing out of Article 370 and the Reorganization Act. If they participate in assembly elections under these conditions, their challenges in court may be rendered infructuous. If they do not, there is a high risk that human rights abuses will continue unchecked.

Today, on the second anniversary of the military lockdown and loss of statehood combined with division of the state, the Forum is constrained to say that most of the violations described in the first two reports remain valid. Arbitrary detentions continue, public assembly is still prohibited under Section 144 of the Code of Criminal Procedure 1973 (CrPC), and close to 1,000 people are still in prison, including minors and elected legislators. Indeed, the Jammu and Kashmir administration appears to have added a new vigilantism against government employees, whose social media content is now subject to police scrutiny for 'anti-national activities', potentially leading to dismissal. Eighteen government employees have already been dismissed.

The former state's industries still reel under the dual impact of the lockdown and the Covid-19 pandemic. While the tourist industry showed signs of a recovery earlier in 2021, the second Covid-19 wave again halted recovery. Unemployment in Jammu and Kashmir has fallen somewhat but is still 11.56 percent; there is a media gag on healthcare workers; and

¹ Bureau report, *The Hindu*, 13 February 2021. Note the anomaly: while Home Minister Shah reassured parliament that statehood would be restored, his ministry continued to dismantle the apparatus of statehood, including its governance services. Shamefully, the Bill was passed by MPs on a voice vote.

the local and regional media have not regained what little independence they had.

Statutory bodies to which citizens could go to seek redress – for human rights, women and child rights, anti-corruption and the right to information – have not been reinstated, even though union territories too are entitled to independent statutory bodies for oversight, as pointed out in the Forum's earlier reports.

As with the Forum's previous reports, this report seeks to document the numerous human rights violations in Jammu and Kashmir under five broad heads: civilian security, health, children and youth, industry, and media. Its findings are as follows:

1. The security situation has not improved; on the contrary, it has worsened. Figures for fatalities remain much higher than they were in 2012-2016; moreover, the figures for 'terrorists killed' include child fighters, an issue that has not been flagged by either the union or the Jammu and Kashmir administration, though it is of serious concern.
2. Counter-insurgency concerns continue to be given priority over public, civilian and human security, leading to an across-the-board vitiation of human and civil rights protections. Notably, the Jammu and Kashmir High Court has shown renewed commitment to the rights to bail and fair and speedy trial, coupled with scrutiny of the possible misuse of draconian legislation, such as the Public Safety Act (PSA) and the Unlawful Activities Prevention Act (UAPA). Nevertheless, the Jammu and Kashmir administration continues to oppose bail and stifle dissent on increasingly bizarre grounds, such as the arrest of a political activist for saying he preferred local officers to outsiders.
3. Indeed, a new vigilantism has been introduced by measures such as a Special Task Force (STF), and recruitment of cyber volunteers, to monitor social media accounts, including of public servants, for 'anti-national' content.
4. The impact on children, youth and women has been particularly severe. Schools have functioned for barely 250 days between August 2019 and July 2021, due to repeated lockdowns. 2G limits as well as low internet spread have made it impossible for online classes to function adequately until February 2021, when 4G was restored. The continuing heavy security presence in towns and neighbourhoods has intensified trauma. Rates of suicide have gone up.

5. Rates of domestic abuse, too, have increased drastically. Incidents of dowry – and/or wife-burning, rarely heard of before, have surfaced. Though the Jammu and Kashmir police have set up woman-only help desks at police stations, the lack of a women’s commission for complainants is sorely felt.
6. Local and regional industries continue to suffer large losses, especially the discom, houseboat and animal husbandry industries. New land transfer policies have allowed widespread discrepancies in compensation. There are fresh complaints of illegal land occupation. New domicile rules, moreover, have eroded prior landownership and employment protections for local citizens. Nomadic tribes continue to be forcibly evicted by forestry officers.
7. The local media has been one of the worst sufferers. Journalists have been harassed, assaulted and charged under the UAPA. Recent security directions bar journalists from being present near counter-insurgency operations, removing scrutiny of potential human rights violations. Measures to implement the 2020 media policy allow the police forces opportunities to intimidate media outlets. Censorship by the Directorate of Information and Public Relations (DIPR) in coordination with security agencies has been institutionalized; the new policy of recruiting cyber volunteers adds further threat of both censorship and intimidation. A media gag on health workers has allowed rumours of the adverse impact of vaccines to spread unchecked.

Judging from the announcement that the delimitation commission, appointed under the 2019 Reorganization Act to add seven new assembly constituencies, will only complete its work by March 2022, and elections will only be held after that, the Forum is concerned that the current situation of continuing human rights abuses will continue unchecked, since Jammu and Kashmir will remain under the administration of a lieutenant-governor for at least another year, possibly much longer.

The Forum urges, therefore, that the recommendations made in this third report be implemented without further delay. Many of them have been repeated over the past two years, surely an unconscionable time for citizens to wait for their fundamental rights to be restored.

Recommendations

1. Release all remaining political detainees who were taken into preventive detention on or after August 4, 2019. Strictly implement the rights to bail and speedy trial. Repeal the PSA and other preventive detention legislation or amend them to bring them in line with our constitutional ethos. Strictly implement juvenile protection legislation in letter and in spirit, including with regard to child fighters. Release all detained juveniles and withdraw charges against them. Withdraw unsubstantiated charges under the PSA/ UAPA against political leaders, journalists and activists, and institute time-bound enquiries into allegations of torture in detention, such as those made in regard to the People's Democratic Party (PDP) leader Waheed Para.
2. Initiate criminal and civil actions against personnel of police, armed forces and paramilitary forces found guilty of violation of human rights, especially with regard to attacks on journalists. Release action-taken reports on the July 2020 extra-judicial killing of three Rajouri youth in Shopian, the December 2020 Hokersar deaths and the alleged custodial death of Irfan Ahmed Dar of Sopore, and the status of subsequent prosecutions.
3. Ensure that the army's additional directorate for human rights is given full freedom in the role it can play in investigating alleged human rights abuses, and monitoring adherence to the humanitarian guidelines to be followed when conducting Cordon and Search Operations (CASO), to prevent civilian deaths, injuries or any other damage or loss.
4. Curb the application of Section 144 to only those instances in which there is clear and present danger and ensure that District Magistrates strictly follow judicial guidelines restricting its use. Attacks on journalists and courier companies that have free passage during curfew can and must be avoided. Hold police and paramilitary personnel who harass civilians at checkpoints accountable and initiate appropriate disciplinary action.
5. Adequately compensate innocent citizens whose houses have been destroyed in CASO or land reclamation drives. Ensure that nomadic tribes are extended the rights that they are entitled to under the Forest Rights Act of 2006.
6. Reinstate all the former state's statutory oversight bodies, especially those

monitoring human rights, such as the Jammu and Kashmir Human Rights Commission and the Jammu and Kashmir Women and Child Rights Commissions. In the interim, their national counterparts under whose purview these rights fall, such as the National Human Rights or Women's Commissions, should set up branches in Jammu and Srinagar cities.

7. Compensate local businesses that were forced to shut down due to the government lockdown between August 2019 and March 2020 and ensure that they are given the government aid they require to the fullest extent possible. Provide immediate economic and anti-pollution aid to the houseboat industry.
 8. Rollback the new media policy, including police checks and/or raids on media outlets, bans on drones used by video-journalists and the bar on reporting from counter-insurgency sites. Review the empanelment policy to ensure media outlets are not punished for dissent. Withdraw the case against the *Kashmir Walla* and ensure that no such cases, that are clearly intended to stifle reports adverse to the government, are filed.
 9. Reconsider the establishment of village defence committees (VDCs) and the reinstatement of the Special Operations Group (SOG) and special police officers. In each case, these initiatives have been found to increase the vulnerability of employees as well as the public to acts of violence.
 10. Ensure that local communities are involved in facilitating the return of Kashmiri Pandits. Without local support, returnees will not be safe, and their reintegration will prove extremely difficult.
 11. Investigate allegations that there are twenty-five Kashmiris on the leaked Pegasus spyware list and rescind any orders that might have been given for its use, and put any justification in the public domain.
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LIST OF RIGHTS THAT CONTINUE TO BE VIOLATED

1-7 Right to habeas corpus, right to live in peace, right to protection against arbitrary arrest, illegal and/or preventive detention, custodial violence and injury, right to bail, right to fair and speedy trial.

The Constitution of India, Article 21: No person shall be deprived of his life or personal liberty except according to a procedure established by law. (Applies when a person is deprived of his life or personal liberty by the state as defined in Article 12). Includes:

Habeas corpus (*Maneka Gandhi v Union of India*², *Sunil Batra v Delhi Administration*³, *Francis Coralie Mullin v Administrator, Union Territory of Delhi and Others*⁴); Protection from injury (*Kharak Singh v State of Uttar Pradesh*⁵); Right against illegal detention (*Joginder Kumar v State of Uttar Pradesh*,⁶ *D.K. Basu v State of West Bengal*⁷); Right to bail (*Babu Singh v State of Uttar Pradesh*⁸); Right to speedy trial (*Hussainara Khatoon v Home Secretary, State of Bihar*,⁹ *A.R. Antulay v R.S. Nayak*,¹⁰ *Anil Rai v State of Bihar*,¹¹ *Zahira Habibullah Sheikh v State of Gujarat*¹²).

The Constitution of India, Articles 22(4) and 22(5). Protection against arrest and detention in certain cases: Preventive detention must be no more than three months unless an Advisory Board comprising High Court judges or their equivalent determines that there is

² AIR 1978 SC 597. In this case, the Court discussed the inter-relationship between Article 14, 19 and 21 and held that procedures under Article 21 must comply with the principle of reasonableness and meet the challenges of Articles 14 and 19.

³ AIR 1980 SC 1579. In this case, the Court expanded the scope of the habeas corpus writ to address custodial torture and affirmed that the right to life under Article 21 meant something more than mere animal existence.

⁴ AIR 1981 SC 746. In this case, the Court reaffirmed the principle that the right to life cannot be restricted to mere animal existence.

⁵ AIR 1963 SC 1295. In this case, the question was whether surveillance of the petitioner who was accused of dacoity and subsequently released for lack of evidence violated his fundamental rights. Held, 'domiciliary visits' were violative of the petitioner's right to 'personal liberty' under Article 21.

⁶ AIR 1994 SC 1349. In this case, the Court held that no arrest can be made merely on the allegation of the commission of a crime and without a reasonable satisfaction reached after investigation as to the genuineness of the complaint. The Court also held that the rights of the arrested person under Articles 21 and 22 must be protected.

⁷ AIR 1997 SC 610. This case was regarding deaths of detainees in police lock-ups and custody.

⁸ AIR 1978 SC 527. In this case, the Court discussed the conditions to be satisfied to grant bail.

⁹ AIR 1979 SC 1369. In this case, the Court observed that the State has a constitutional obligation to provide speedy trial to the accused.

¹⁰ AIR 1992 SC 1701. In this case, the Court while holding that the right to speedy trial flows from Article 21 laid down guidelines for speedy trial.

¹¹ AIR 2001 SC 3173. In this case, the Court reaffirmed that it was the policy and purpose of law to have speedy justice.

¹² AIR 2006 SC 1367. In this case, the Court observed that the failure to provide fair hearing violates the minimum standards of due process of law.

sufficient cause for extension of the detention period. Detainees should be given the earliest opportunity of making a representation against the order.

The Universal Declaration of Human Rights, 1948 (to which India is a party), Article 8: right to an effective legal remedy; Article 9: protection against arbitrary arrest, detention or exile; and Article 10: fair and public hearing.

The International Covenant for Civil and Political Rights, 1966 (to which India is a party), specifies pre-trial detention only for narrow purposes such as to “prevent flight, interference with evidence, or the recurrence of the crime”. The Working Group on Arbitrary Detention of the UN Human Rights Council (of which India is a member) states that “any detention must be exceptional and of short duration and a release may be accompanied by measures intended only to ensure representation of the defendant in judicial proceedings”.¹³

8-17 Protection of children, principle of natural justice and the principle of a fresh start, arrest only by a special juvenile police unit, detention only in homes for juveniles, presumption of innocence, non-waiver of rights, right to bail, right to privacy and confidentiality, aftercare and rehabilitation, treatment of children in armed conflict.

The Juvenile Justice (Care and Protection) of Children Act 2015, Section 3 (xvi), (i), (ix), (xi), which are based on the UN Convention on the Rights of the Child, 1992 (to which India is a party), Articles 38, 39, 40 (1, 2, 3): Principle of natural justice, presumption of innocence, non-waiver of rights, right to privacy and confidentiality. Under Section 8 of the Act, the Juvenile Justice Board is responsible for ensuring aftercare and rehabilitation. Under Section 2 (14) (xi), the Act includes within the ambit of “child in need of care and protection”, a child “who is victim of or affected by any armed conflict, civil unrest or natural calamity”.

The Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Act, 2013, Section 11(1), The Juvenile Justice (Care and Protection) of Children Act 2015, Chapter IV, Sections 10(1) and 12(1): Arrest (in heinous offences) only by a special juvenile police unit, production before the Juvenile Justice Board within 24 hours, detention only in homes for juveniles, right to bail.

¹³ Human Rights Council, ‘Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fifth session’, 12–16 August 2019, Opinion No. 34/2019 concerning Vladimir Alushkin (Russian Federation), A/HRC/WGAD/2019/34, 20 September 2019, para 59, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_34%20ADVANCEEDITEDVERSION.pdf.

Jurisprudence: *Sheela Barse v Union of India*,¹⁴ *Munna v State of U.P.*¹⁵, *Rajeev Kumar v State of U.P. & Ors.*¹⁶, *Vinod Solanki v Union of India*¹⁷, *Vikram Deo Singh Tomar vs. State of Bihar*¹⁸, *Salil Bali v Union of India*¹⁹, *Tanvi Ahuja v State of J&K and others.*²⁰

18-22 Right to free education for ages 6-14, right to free education up to university level, protection against mental harassment, making the child free of fear, trauma and anxiety and helping the child to express views freely, protection of the rights of the child by the National Commission for Protection of Child Rights.

The Right of Children to Free and Compulsory Education Act 2009: the right to free education for ages 6-14: (*Mohini Jain v State of Karnataka*,²¹ *Unni Krishnan J.P. v State of Andhra Pradesh*,²² *Avinash Mehrotra v Union of India*,²³ *Bachpan Bachao Andolan v Union of India*²⁴).

The Constitution of Jammu and Kashmir, Part IV: Directive Principles of State Policy, Articles 20(a-c), 21(b) and 23: the right to free education up to university level with equal opportunity.

The Constitution of India, Articles 21A and 45, and the Right of Children to Free and Compulsory Education Act 2009, Sections 3(1), 17(1): making the child free of fear, trauma

¹⁴ AIR 1989 SC 1278. In this case, the Court held that children should not be made to stay in Observation Homes for too long and as long as they were there, they should be kept occupied.

¹⁵ AIR 1982 SC 806. In this case, the Court held that even if the youths were found guilty, they should not be maltreated. It also noted that they do not shed their fundamental rights when they enter jail.

¹⁶ 2019 (2) SCT 697(Allahabad). In this case, the Court held that the right to privacy and confidentiality of a juvenile is required to be protected by all means and through all the stages of the proceedings, and this is one of the reasons why the identity of a juvenile in conflict with law is not disclosed.

¹⁷ (2008) 16 SCC 537. In this case, the Court reiterated the well-settled principle that presumption of innocence as contained in Article 14(2) of the International Covenant on Civil and Political Rights is a human right.

¹⁸ 1988 AIR 1782. In this case, the Court held that it is incumbent upon the State when assigning women and children to these establishments, euphemistically described as ‘Care Homes’, to provide at least the minimum conditions ensuring human dignity.

¹⁹ AIR 2013 SC 3743. In this case, the Court held that the essence of the Juvenile Justice (Care and Protection of Children) Act, 2000, and the 2007 Rules is restorative and not retributive, and is aimed at providing for the rehabilitation and reintegration of children in conflict with law into mainstream society.

²⁰ W/PIL no.9/2015. In this case, the Jammu and Kashmir High Court held that the J&K JJ Act 2013 and Rules 2014 had not been implemented on the ground, and ordered that the Juvenile Justice Board, which had not been constituted in the two years since the enactment of the legislation, be established. However, it was only in 2018 that the State established Juvenile Justice Boards, Child Welfare Committees, Juvenile Police Units, and District Child Protection Units.

²¹ AIR 1992 SC 1858. In this case, the Court held that the “right to education”, therefore, is concomitant to the fundamental rights enshrined under Part III of the Constitution. The State is under a constitutional-mandate to provide educational institutions at all levels for the benefit of the citizens.

²² AIR 1993 SC 2178. In this case, the Court ruled that Article 45 in Part IV has to be read in ‘harmonious construction’ with Article 21 in Part III of the Constitution, as Right to Life loses its significance without education.

²³ (2009)6 SC C398. In this case, the Court held that the Constitution directs both burdens to achieve one end: the compulsory education of children, free from the fetters of cost, parental obstruction, or State inaction.

²⁴ AIR 2011 SC 3361. In this case, the Court mentioned that the right of children to free and compulsory education had been made a fundamental right under Article 21A of the Constitution and that now, every child between the ages of 6 to 14 years has right to have free education in the neighbourhood school till elementary education.

and anxiety and helping the child to express views freely, protection of the rights of the child by the National Commission for Protection of Child Rights.

Disciplinary action against contraveners of the Right of Children to Free and Compulsory Education Act 2009, Sections 17(1), 17(2)), 29(g), 31 (1,2,3).

23-25 Right to health and medical care, right of children to a happy childhood with adequate medical care and attention, protection of the health and strength of workers.

The Constitution of India, Article 21: Right to life includes right to health and right to medical care: *Kharak Singh v State of Uttar Pradesh*,²⁵ *Sunil Batra v Delhi Administration*,²⁶ *State of Punjab v M.S. Chawla*,²⁷ *Vincent v Union of India*,²⁸ *Consumer Education and Research Centre v Union of India*,²⁹ *Paschim Banga Khet Mazdoor Samity v State of West Bengal*,³⁰ *Pravat Kumar Mukherjee v Ruby General Hospital & Others*.³¹

The Constitution of India, Article 47: Directive Principle of State Policy on the improvement of public health as one of the primary duties of the state.

The Constitution of India, Articles 39(e) and (f), 41, 42: Protection of the health and strength of workers

The Constitution of Jammu and Kashmir, Article 21(a): The State shall strive to secure to all children the right to happy childhood with adequate medical care and attention; Article 24: Duty of the State to improve public health.

²⁵ AIR 1963 SC 1295. In this case, the question was whether surveillance of the petitioner who was accused of dacoity and subsequently released for lack of evidence violated his fundamental rights. Held, ‘domiciliary visits’ were violative of the petitioner’s right to ‘personal liberty’ under Article 21.

²⁶ AIR 1980 SC 1579. In this case, the Court expanded the scope of the habeas corpus writ to address custodial torture and affirmed that the right to life under Article 21 meant something more than mere animal existence.

²⁷ AIR 1997 SC 1225. In this case, the Court in holding that the Government was required to reimburse the Government employee for the medical treatment availed by him, observed that the right to health is integral to the right to life.

²⁸ AIR 1987 SC 990. In this case, the situation was regarding a petition to ban the import, manufacture, sale and distribution of certain drugs. The Court held that the State under Article 47 had an obligation to enforce the production of qualitative drugs at reasonable price and also the elimination of harmful drugs.

²⁹ AIR 1995 SC 922. In this case, the Court observed that the right to health and medical care of a worker is an integral facet of the meaningful right to life under Article 21.

³⁰ AIR 1996 SC 2426. The Court held that the State’s failure to provide timely medical treatment to persons in need would amount to a violation of Article 21.

³¹ 2005(2) C.P.C.1. In the case, the Court noted that established principles of medical jurisprudence require providing treatment until “the last breath,” and sometimes even beyond with resuscitation. The Court excerpted The Code of Medical Ethics, which crystallized the duty of doctors, including practicing with skill and not withdrawing treatment from a patient without proper notice to the patient and his family.

26-27 Right to freedom of speech and expression, right to peaceful assembly.

The Constitution of India, Article 19(1): All citizens shall have the right, (a) to freedom of speech and expression; and (b) to assemble peaceably and without arms. Article 19(2): any restriction on speech must have a proximate connection with a specific head set out in the article and must show a real and imminent risk of harm arising from the speech and not vague speculation about possible future harms: *Chintaman Rao and Others v The State of Madhya Pradesh*,³² *Sakal Papers (P) Ltd., and Others v Union of India*,³³ *Shreya Singhal v Union of India*,³⁴ *Subramanian Swamy v Union of India*.³⁵

The Universal Declaration of Human Rights, 1948, Article 19: right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The Universal Declaration of Human Rights, 1948, Article 20(1): right to freedom of peaceful assembly and association.

28-29 Right to work, right to livelihood.

The Constitution of India, Article 19(4(g)): the right to practise any profession, or to carry on any occupation, trade or business.

The Constitution of India, Article 41: The State shall, within the limits of its economic capacity and development make effective provision for securing the right to work. *State of Maharashtra v Shobha Vitthal Kolte and Ors*,³⁶ *Air India Statutory Corporation v United Labour*

³² AIR 1951 SC 118. In this case, the Court observed that the restriction must have a reasonable relation to the object which it seeks to achieve.

³³ AIR 1962 SC 305. In this case, the Court observed that the State cannot restrict one freedom even for the better enjoyment of another freedom.

³⁴ AIR 2015 SC 1523. This case was regarding the constitutional validity of certain provisions of the Information Technology Act, 2000 and whether the provisions violated the freedom of speech and expression. The Court held that mere fear of serious injury in the absence of reasonable ground to believe that injury is imminent cannot justify the suppression of free speech and assembly.

³⁵ AIR 2016 SC 2728. This case was regarding the constitutional validity of Sections 499 and 500 of the Indian Penal Code (criminal defamation) and whether such provisions have a 'chilling effect' on the freedom of speech. The Court reaffirmed the principle that restrictions should not be excessive and that reasonableness would have to be adjudged based on the ultimate 'impact' on the right in question.

³⁶ AIR 2006 Bom 44. In this case, the Court held that right to work as fundamental right could be considered fundamental right in those cases where there was legislative guarantee.

*Union & Ors,*³⁷ *M/S Zee Telefilms Ltd. & Anr v Union of India & Ors,*³⁸ *Samir Bhattacharya And Ors. v The State of West Bengal And Ors,*³⁹ *Rishi Kumar v State Of U.P. And Ors*⁴⁰.

The Constitution of India, Article 21: the right to life includes the right to livelihood. *Delhi Development Horticulture Employees' Union v Delhi Administration, Delhi and Ors.*⁴¹

The Constitution of India, Article 39(a): the right to an adequate means of livelihood, the right not to be deprived of a livelihood. *Olga Tellis v Bombay Municipal Corporation.*⁴²

Universal Declaration of Human Rights, 1948, Article 23(1): the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; and Article 23(3): the right to just and favourable remuneration.

International Covenant on Economic, Social and Cultural Rights, 1966, Article 1(2): All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice. In no case may a people be deprived of its own means of subsistence); and Article 6(1): the right to work includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.

³⁷ AIR 1997 SC 645. In this case, the Court observed that due to economic constraints, though right to work was not declared as a fundamental right, the right to work of workman, lower class, middle class and poor people is a means to development and source to earn livelihood.

³⁸ AIR 2005 SC 2677. In this case, the Court observed that right to work, although is not a fundamental right but a right to livelihood, is within the terms of Article 21 of the Constitution of India.

³⁹ 1992 (1) CLJ 494. In this case, the Court drew light from a previous judgment that the right to life includes right to livelihood and observed that the right to livelihood therefore cannot hang on to the fancies of individuals in authority. The employment, the Court said, is not a bounty from them nor can its survival be at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income the right to work becomes as much fundamental. Fundamental rights can ill-afford to be consigned to the limbo of undefined premises and uncertain applications. That will be a mockery of them.

⁴⁰ 2003 3 AWC 1770 All. In this case, the Court reiterated that instrumentality of the State should ensure the service security to its employees and that there should be an end to arbitrary termination of services of such employees. It further observed that Articles 14 and 21 of the Constitution of India conferred upon a citizen the right to work and dignity of person with means of livelihood.

⁴¹ AIR 1992 SC 789. In this case, the Court observed that there is no doubt that broadly interpreted and as a necessary logical corollary, the right to life would include the right to livelihood and, therefore, right to work.

⁴² AIR 1986 SC 180. In this case, the Court stated that the right to live and the right to work are integrated and inter-dependant and, therefore, if a person is deprived of his job as a result of his eviction from a slum or a pavement, his very right to life is put in jeopardy.

30-33 Freedom of the press, right to know, right to publish, freedom of circulation

The Constitution of India, Article 21: the freedom of expression includes the freedom of the press: *Romesh Thapar v State of Madras*,⁴³ *Indian Express Newspapers v Union of India*,⁴⁴ *Sakal Papers v Union of India*⁴⁵; The right to know: *Reliance Petrochemicals. Ltd. v Proprietors Indian Express Newspapers*,⁴⁶ *Bombay Pvt. Ltd, Essar Oil Ltd. v Halar Utkarsh Samit*.⁴⁷

34-35 Right to registration of complaints (FIR), right to magisterial investigation in cases of alleged custodial deaths.

Section 174, CrPC. Since murder and causing grievous injury are cognizable offences and the police cannot claim immunity as of right, a report should be instituted by the police when family members make a complaint, even if the police themselves have a different or conflicting story. This issue acquires especial salience in the case of the death of Irfan Dar, who family members allege was detained by the police and died in custody, whereas the police claim he was found dead on account of cardiac arrest. Section 174 of the CrPC mandates that such matters have to be reported to the executive magistrate who is to hold and inquest to rule out foul play.

36. Right to due process in arrests.

Section 41 B of the CrPC. The police are obliged to prepare an arrest memo which has to be attested by a family member and countersigned by the person arrested. If a family member

⁴³ AIR 1950 SC 124. In this case, the Court observed that ‘where a law purports to authorise the imposition of restrictions on a fundamental right in language wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative action affecting such right, it is not possible to uphold it even so far as if may be applied within the constitutional limits, as it is not severable. So long as the possibility of its being applied for purposes not sanctioned by the Constitution cannot be ruled out, it must be held to be wholly unconstitutional and void. In other words, clause (2) of article 19 having allowed the imposition of restrictions on the freedom of speech and expression only in cases where danger to the State is involved, an enactment, which is capable of being applied to cases where no such danger could arise, cannot be held to be constitutional and valid to any extent.’

⁴⁴ AIR 1986 SC 515. In this case, the Court observed that in today’s free world, freedom of press is the heart of social and political intercourse.

⁴⁵ AIR 1962 SC 305. The Court has reiterated that the Indian Constitution does not expressly provide for the freedom of press but it has been held by this Court that this freedom is included in “freedom of speech and expression” guaranteed by clause (1) (a) of Article 19. The same was also observed in *Brij Bhushan v The State of Delhi*, AIR 1950 SC 129.

⁴⁶ AIR 1989 SC 190. In this case, the Court observed that the people at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy. The Right to Know is a basic right which citizens of a free country aspire in the broader horizon of the right to live in this age in our land under Article 21 of our Constitution.

⁴⁷ AIR 2004 SC 1834. In this case, the Court observed that the citizens who have been made responsible to protect the environment have a right to know and that there is a strong link between Article 21 and the right to know particularly where “secret Government decisions may affect health, life and livelihood”. It further observed that the role of voluntary organisations as protective watch-dogs to see that there is no unrestrained and unregulated development cannot be over-emphasized.

is not available, the arrested person has to be informed that s/he has the right to have a relative informed of her/his arrest.

37. Right to regular, free and fair elections.

Successive Supreme Court judgements have held that "democracy is a basic feature of the Constitution and election conducted at regular prescribed intervals is essential to the democratic system envisaged in the Constitution. So is the need to protect and sustain the purity of the electoral process." (*Kihoto Hollohon*, AIR 1993 SC 412). Again, in the same case, Verma, J., declared in his minority opinion: "democracy is a part of the basic structure of our Constitution; and the rule of law, and free and fair elections are basic features of democracy."

38. Rights of indigenous and forest dwelling communities.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, vests tribal populations with the rights to protection against forced displacement of forest dwelling communities, grazing rights and access to forest resources and products.⁴⁸ The Act also provides for the right to livelihood for tribal populations. Section 3 describes the rights of forest dwelling Scheduled Tribes and other traditional forest dwellers to hold and inhabit forest land, use it for cultivation, collect and use forest produce and products of water bodies.⁴⁹ Meanwhile, Section 4 provides protection against forced resettlement, illegal eviction or revocation of forest dwellers' rights.⁵⁰

39. Rights of burial / cremation according to religion.

The right to be buried or cremated according to the person's religious practice by their family members is a fundamental right.

Jurisprudence: *Vineet Ruia vs. The Principal Secretary, Ministry of Health and Family Welfare and Ors*⁵¹, WPA 5479 of 2020 and I.A. No. CAN/1/2020. The High Court of Calcutta held that even in the midst of a pandemic, provided that safety precautions are taken, the family of

⁴⁸ 'The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006', <https://www.indiacode.nic.in/bitstream/123456789/8311/1/a2007-02.pdf>.

⁴⁹ *India Code website*, 'Section 3. Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers', https://www.indiacode.nic.in/show-data?actid=AC_CEN_42_71_00001_200702_1517807323238§ionId=12491§ionno=3&orderno=3.

⁵⁰ *India Code website*, 'Section 4. Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.', https://www.indiacode.nic.in/show-data?actid=AC_CEN_42_71_00001_200702_1517807323238§ionId=12492§ionno=4&orderno=4.

⁵¹ *E-Courts Website*, High Court of Calcutta, 'Case Details: WPA 5479/ 2020 Vineet Ruia v Principal Secretary, Ministry of Health and Family Welfare, Government of West Bengal and Ors.', https://services.ecourts.gov.in/ecourtindiaHC/cases/case_no.php?state_cd=16&dist_cd=1&court_code=3&stateNm=Calcutta#.

the deceased person (a Covid-19 victim) has the right to “perform the last rites before the cremation/burial of the deceased person” which “is a right akin to Fundamental Right within the meaning of Article 21 of the Constitution of India”.

40-42 Women’s rights to protection against violence and sexual harassment. access to women’s police stations.

The National Policy on the Empowerment of Women, adopted in 2001, stressed the importance of tackling violence against women using operational strategy, such as, “... para 13.3 (d) Women’s Cells in Police Stations, Women Police Stations, Family Courts, Mahila Courts, Family Counselling Centres, Legal Aid and Nyaya Panchayats will be strengthened and expanded to eliminate violence and atrocities against women”.⁵² This infrastructure is to implement rights under the Protection under the Protection of Women from Domestic Violence Act, 2005⁵³, and The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013⁵⁴, but has not been put in place by the Jammu and Kashmir administration.

⁵² *UN Women Global Database on Violence against Women*, ‘National Policy on Empowerment of Women’, <https://evaw-global-database.unwomen.org/pt/countries/asia/india/2001/national-policy-on-the-empowerment-of-women-2001#:~:text=The%20National%20Policy%20on%20Empowerment.view%20to%20eliminate%20its%20incidence> .

⁵³ Made applicable to the Union Territory of Jammu and Kashmir under ‘The Jammu and Kashmir Reorganization Act, 2019’, <http://egazette.nic.in/WriteReadData/2019/210407.pdf> .

⁵⁴ *Ministry of Law and Justice Website*, Legislative Department, ‘The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013’, <http://legislative.gov.in/actsofparliamentfromtheyear/sexual-harassment-women-workplace-prevention-prohibition-and-redressal> .

1

CIVILIAN SECURITY

Overall security situation

According to available data, the security situation has worsened between 2019 and 2021. While overall fatalities were reported to be 283 in 2019 (January-December), they rose to 321 in 2020.⁵⁵ From January-early July 2021, the corresponding figure is 125, an apparent reduction.⁵⁶ However, recent reports indicate that the fall in casualties was only for a few months. In June and July 2021, there were sixteen counter-insurgency operations in which thirty-six militants were killed.⁵⁷ Figures for civilian fatalities too have risen, from thirty-two in 2020 to nineteen in the first six months of 2021, significantly higher than the corresponding figures for civilian fatalities from 2012-2016, which were below 20 per annum (except for 2013, when civilian fatalities mounted to 28).

Cross-border firing continued till February 2021. At end January 2021, a 20-year-old man was injured by cross-border shells in Shahpur sector; on 1 February, Poonch was subjected to repeated firing; and on 21 February, Pakistani firing across the international border targeted a border outpost in Kathua district, forcing residents to spend the night in underground bunkers.⁵⁸ In response to a Right to Information (RTI) query, official figures as of May 2021 show that cease-fire violations in 2020 were the highest in twenty years, at 4,645, almost three times the 2018 figure of 1,629. In 2019, the number of violations jumped to almost double, most of them after August 9. Indeed, the period 2014-2020 saw 11,424 ceasefire violations, as compared to 2004-2013 (the peace process years), in which there were 523 ceasefire violations.⁵⁹

⁵⁵ *South Asia Terrorism Portal*, 'Datashet- Terrorist attacks, Jammu and Kashmir', <https://www.satp.org/datasheet-terrorist-attack/fatalities/india-jammukashmir> .

⁵⁶ *South Asia Terrorism Portal*, 'Datashet- Terrorist attacks, Jammu and Kashmir', <https://www.satp.org/datasheet-terrorist-attack/fatalities/india-jammukashmir> .

⁵⁷ Deeptiman Tiwary, Naveed Iqbal, 'After three-month thaw, an uptick in militancy in Kashmir; June, July see 16 encounters', *Indian Express*, 22 July 2021, <https://indianexpress.com/article/india/after-three-month-thaw-an-uptick-in-militancy-in-kashmir-june-july-see-16-encounters-7416127/> .

⁵⁸ Press Trust of India, 'Pakistan violates ceasefire along international border in J-K's Kathua', *Business Standard*, 21 February 2021, https://www.business-standard.com/article/current-affairs/pakistan-violates-ceasefire-along-international-border-in-j-k-s-kathua-121022100236_1.html .

⁵⁹ *India Today*, 'Ceasefire Violations along India-Pakistan border were highest in 2020, reveals RTI', 11 May 2021, <https://www.indiatoday.in/india/story/ceasefire-violations-india-pak-border-highest-2020-rti-1801085-2021-05-11> .

The Central Reserve Police Force (CRPF) Director-General Kuldeep Singh reportedly stated on 18 March 2021 that stone-throwing incidents had reduced by 87 percent in 2020 as compared to 2019 (255 incidents in 2020 as compared to 1,999 in 2019 of which 1,193 were after the August 2019 removal of special status and division of the state).⁶⁰ Since 2020 was a lockdown year, however, these figures do not indicate anything other than a pandemic-related temporary improvement. While on 3 April 2021, 10 youths were arrested in Kakapora for various offences including stone-throwing as described below, a CRPF trooper was stoned and wounded in Khwaja Bazar Nowhatta.⁶¹ 275 encounters took place, and 378 arms recoveries were made.⁶²

Financial figures also indicate increasing security concerns. Replying to a written query by Lok Sabha MP Jugal Kishore, Minister of State for Home G Kishan Reddy stated that Rs. 1,297 crores were spent in the fiscal year 2019-2020 towards security-related expenditure in Jammu and Kashmir, an all-time high. In comparison, the same expenditure in the three preceding years, 2016-2019, ranged between Rs. 628 crores and Rs. 750 crores.⁶³ The data for 2020-2021 is not yet in the public domain.

In this worsening condition, the Indian and Pakistani DGMOs' announcement that their armies would strictly observe an LoC ceasefire in the "interest of achieving mutually beneficial and sustainable peace along the borders", effective 25 February 2021⁶⁴, offered hope but was greeted with mixed emotions. Civilians living in border areas displayed little trust in whether the agreement would hold, while local politicians broadly welcomed it.⁶⁵

Indications are that the renewed cease-fire did contribute to limited security improvement from March-June. On 24 June 2021, the General Officer Commanding (GoC) of the Srinagar-based 15 Corps, Lieutenant-General DP Pandey, stated that militancy in Jammu and Kashmir had seen a 50 percent drop, including in criminal activity inflicted from across the border, due to the cease-fire holding for the preceding three to four months,⁶⁶ as well as

⁶⁰ Press Trust of India, 'Stone-pelting incidents in J&K dropped by 87.13% in 2020: DGP', *Economic Times*, 2 January 2021, <https://economictimes.indiatimes.com/news/politics-and-nation/stone-pelting-incidents-in-jk-dropped-by-87-13-in-2020-dgp/articleshow/80075744.cms> .

⁶¹ KO Web Desk, 'CRPF Man injured in Stone Pelting', *Kashmir Observer*, 10 May 2021, <https://kashmirobservers.net/2021/05/10/crpf-man-injured-in-stone-pelting/> .

⁶² Press Trust of India, '226 terrorists killed in Jammu and Kashmir since 2020; stone pelting incidents reduced drastically: CRPF', *Economic Times*, 19 March 2021, <https://economictimes.indiatimes.com/news/defence/226-terrorists-killed-in-j-k-since-2020-stone-pelting-incidents-reduced-dramatically-crpf/articleshow/81571695.cms> .

⁶³ Agencies, 'Security Expenditure In J&K All Time High', *Kashmir Observer*, 2 February 2021, <https://kashmirobservers.net/2021/02/02/security-expenditure-in-jk-all-time-high/> .

⁶⁴ Ministry of Defence, 'Joint Statement', 25 February 2021, <https://pib.gov.in/PressReleasePage.aspx?PRID=1700682> .

⁶⁵ Bilal Kuchay, 'What prompted India-Pakistan ceasefire pact along Kashmir border?', *Al Jazeera*, 9 March 2021, <https://www.aljazeera.com/news/2021/3/9/will-the-india-pakistan-ceasefire-pact-along-kashmir-border-hold> .

⁶⁶ KO Web Desk, '50% Drop in Militancy Related Incidents In J&K: Army', *Kashmir Observer*, 24 June 2021, <https://kashmirobservers.net/2021/06/24/all-parameters-of-violence-in-kashmir-have-come-down-by-over-50-army/> .

seamless coordination between the army and police.⁶⁷ Why then, have the figures for fatalities not shown a corresponding drop of 50 percent? Are the security forces targeting suspected but not proven terrorists? This question acquires increased salience given the killing of two minors in CASO referred to below. Moreover, if militancy has declined so sharply, is the blanket application of the Armed Forces Special Powers Act (AFSPA) still required, as General Pandey stated?⁶⁸

A new element of security concern, which raised fears of the cease-fire fraying, was a low-level attack from twin drone-operated bombs that exploded within the Indian Air Force Station at the Jammu airport in the early hours of 27 June 2021, injuring two air force personnel and damaging a building in a high-security area of the airport. The fact that a low-cost improvised rotary drone was used to carry out the attack suggests that these easily-constructed devices may be added to militant arsenals.⁶⁹ Since 5 August 2019, security agencies have recorded over 300 drone sightings along the India-Pakistan border⁷⁰, and reports indicate that drone sightings continue to increase, despite residential verification drives conducted by the police, added surveillance and other security measures to prevent drone attacks.⁷¹

On 30 June 2021, the Rajouri District Magistrate's court imposed a ban on the use, storage, sale, transport or possession of drones in the border district, through its powers under Section 144 of the CrPC.⁷²

Explosives

According to Vijay Kumar, Inspector General of Police Kashmir, the use of improvised explosive devices (IEDs) and other ordinances was on the rise. "Militants change their

⁶⁷ Raj Chengappa, 'Kashmir Security: The Long Haul to Peace', *India Today*, 17 July, 2021, <https://www.indiatoday.in/magazine/cover-story/story/20210726-kashmir-security-the-long-haul-to-peace-1829116-2021-07-17> .

⁶⁸ Press Trust of India, 'Decline in number of active Pakistani terrorists in Kashmir over the years: Indian Army Officer', *Economic Times*, 25 June 2021, <https://economictimes.indiatimes.com/news/defence/decline-in-number-of-active-pakistani-terrorists-in-kashmir-over-the-years-indian-army-officer/articleshow/83839553.cms?from=mdr> .

⁶⁹ Manu Pubby, 'Improvised rotary wing drone used in Jammu airbase attack', *Economic Times*, 29 June 2021, <https://economictimes.indiatimes.com/news/defence/improvised-rotary-wing-drone-used-in-jammu-airbase-attack/articleshow/83944084.cms> .

⁷⁰ Press Trust of India, 'Alert Soldiers thwart another attack by drones on Army station in Jammu; RDX may have been used in explosives dropped on IAF station', *Economic Times*, 29 June 2021, <https://economictimes.indiatimes.com/news/defence/alert-soldiers-thwart-another-attack-by-drones-on-army-station-in-jammu-rdx-may-have-been-used-in-explosives-dropped-on-iaf-station/articleshow/83947011.cms> .

⁷¹ Press Trust of India, 'Drone Sightings Continue In Jammu, 2 More Spotted', *Kashmir Observer*, 30 June 2021, <https://kashmirobsrver.net/2021/06/30/drone-sightings-continue-in-jammu-2-more-spotted/> .

⁷² Press Trust of India, 'Drone Use Banned in Rajouri', *Kashmir Observer*, 30 June 2021, <https://kashmirobsrver.net/2021/06/30/ban-imposed-on-use-of-drones-in-rajouri/> .

modus operandi every year. Last year, they were attacking *naka* (search) parties, and this year, IEDs are being used".⁷³

On 14 February 2021, the anniversary of the Pulwama attack that killed forty troops of CRPF, explosive weighing seven kilograms were recovered near a usually crowded bus stand in Jammu.⁷⁴ On 20 February 2021, an old shell exploded at Hillwill private school in Kupwara, injuring cleaner Reyaz Ahmad Ahanger and raising doubts about the security of students.⁷⁵ Two days later, on 22 February, another suspected IED was found along a busy roadside in Nowgam and neutralized by bomb disposal teams.⁷⁶ On 5 April 2021, three anti-personnel mines were detected and destroyed in Samba district.⁷⁷ On the same day, an IED was recovered in Khanyar, while fifteen sticks of plastic explosives were recovered in the Tangdhar market.⁷⁸ Explosive material was also recovered in the Kamraazpora orchards in Pulwama on 13 April 2021.

49-year-old Sara Begum and her daughter, 19-year-old Gulnaza Banu, who were cleaning vegetables in their Handwara residence, were killed by the explosion of a dead shell that they had accidentally collected along with the vegetables they picked from a nearby forest, on 25 May 2021.⁷⁹

On 31 May 2021, security forces discovered and neutralized two IEDs in Awantipora, Pulwama district.⁸⁰ Similar devices were recovered on 5 and 16 June 2021, each weighing

⁷³ Shuja-ul-Haq, 'IED attacks on the rise in worrisome trend in Jammu-Kashmir', *India Today*, 23 February 2021, <https://www.indiatoday.in/india/story/ied-attacks-on-the-rise-in-worrisome-trend-in-jammu-kashmir-1772156-2021-02-23> ; KO Web Desk, 'IED Detected In South Kashmir's Tral', *Kashmir Observer*, 7 June 2021, <https://kashmiroobserver.net/2021/06/07/5-7-kg-ied-detected-in-south-kashmirs-tral/>; Sunil Bhat, 'Terror attack averted in Jammu; police recover 7 kg IED, two detained', *India Today*, 14 February, 2021, <https://www.indiatoday.in/india/story/7-kg-ied-detected-near-bus-stand-jammu-1769127-2021-02-14> .

⁷⁴ Sunil Bhat, 'Terror attack averted in Jammu; police recover 7 kg IED, two detained', *India Today*, 14 February, 2021, <https://www.indiatoday.in/india/story/7-kg-ied-detected-near-bus-stand-jammu-1769127-2021-02-14> .

⁷⁵ KO Web Desk, 'Sweeper Injured As Old Shell Explodes Inside School In Handwara', *Kashmir Observer*, 20 February 2021, <https://kashmiroobserver.net/2021/02/20/sweeper-injured-as-old-shell-explodes-inside-school-in-handwara/> .

⁷⁶ Press Trust of India, 'Security forces destroy suspected IED found in Jammu and Kashmir's Nowgam', *Economic Times*, 22 February 2021, <https://economictimes.indiatimes.com/news/defence/security-forces-destroy-suspected-ied-found-in-jammu-and-kashmirs-nowgam/articleshow/81153408.cms> .

⁷⁷ KO Web Desk, 'Explosive Material Found During Search Operation In Pulwama', *Kashmir Observer*, 13 April 2021, <https://kashmiroobserver.net/2021/04/13/explosive-material-found-during-search-operation-in-pulwama/> ; Sanjay Khajuria, 'Three Anti-Personnel Mines Destroyed In Samba', *The Times of India*, 7 April 2021, <https://timesofindia.indiatimes.com/india/three-anti-personnel-mines-found-in-samba/articleshow/81938776.cms#:~:text=JAMMU%3A%20Three%20anti%2Dpersonnel%20mines,J%26K's%20Samba%20district%20on%20Tuesday> .

⁷⁸ KO Web Desk, 'IED Recovered, Defused in Khanyar', *Kashmir Observer*, 5 April 2021, <https://kashmiroobserver.net/2021/04/05/ied-recovered-defused-in-khanyar/> ; KO Web Desk, 'Explosive Seized in Kupwara: Army', 5 April 2021, <https://kashmiroobserver.net/2021/04/05/explosives-seized-in-kupwara-army/> .

⁷⁹ KO Web Desk, 'Handwara 'Shell' Blast: After Daughter, Mother Loses Battle for Life', *Kashmir Observer*, 29 May 2021, <https://kashmiroobserver.net/2021/05/29/handwara-shell-blast-after-daughter-mother-loses-battle-for-life/> .

⁸⁰ Press Trust of India, 'Security forces destroy two IEDs in Jammu and Kashmir's Pulwama', *Economic Times*, 31 May 2021, <https://economictimes.indiatimes.com/news/defence/major-tragedy-averted-as-security-forces-destroy-ied-in-jammu-and-kashmirs-pulwama/articleshow/83110115.cms> .

ten kilograms, in Srinagar and Pulwama respectively.⁸¹ On 13 July, an anti-tank mine was defused by the Border Security Forces (BSF) in Samba after being discovered along the international border by a local resident.⁸² Two days later, an abandoned grenade exploded in Parraypora Kalaroos in Kupwara district, on 15 July 2021, wounding 10-year-old Zubair Ahmad, who was playing near his house.⁸³

Civilian deaths, injuries, and loss of property

Civilian deaths continue to be alarmingly high. Nineteen civilians have been killed in the first six months of 2021 alone, as compared to thirty in the previous twelve months. Four particular groups have emerged as targets: elected representatives, especially of the Bharatiya Janata Party (BJP); civilians killed in attacks on security forces and cross-fire; domicile-seekers; and special police officers, who occupy a grey zone between official and civilian status.

Attacks on elected representatives and political leaders

On 5 March 2021, it was reported that 12 panches and sarpanches in Budgam had resigned from their posts after receiving phone calls from militant groups threatening to behead them.⁸⁴

On 29 March 2021, Lashkar-e-Toiba (LeT) militants killed two municipal councillors, Riyaz Pir and Shamus Pir, and special police officer Shafat Ahmad, at a councillors' meeting in Sopore. The killers were arrested by the Jammu and Kashmir police on 10 April 2021, when they captured a module of six militants.⁸⁵ On 1 April 2021, in an attack on the residence of the BJP's Baramulla general secretary, Anwar Ahmad, militants fired upon and killed Constable Rameez Raja, his assigned guard.⁸⁶

⁸¹ *The Hindu*, 'IEDs recovered in Jammu and Kashmir', 16 May 2021, <https://www.thehindu.com/news/national/other-states/ieds-recovered-in-jammu-and-kashmir/article34569359.ece> ; Press Trust of India, 'Suspected IED Detected, Defused in Jammu and Kashmir's Srinagar', *News 18*, 5 June 2021, <https://www.news18.com/news/india/suspected-ied-detected-defused-in-jammu-and-kashmirs-srinagar-3814151.html> .

⁸² Press Trust of India, 'BSF Defuses Anti-Tank Mine In Samba', *Kashmir Observer*, 13 July 2021, <https://kashmirobsrver.net/2021/07/13/bsf-defuses-anti-tank-mine-in-samba/> .

⁸³ KO Web Desk, '10-year-old boy injured as 'Abandoned' Grenade Goes Off In Kupwara', *Kashmir Observer*, 15 July 2021, <https://kashmirobsrver.net/2021/07/15/10-year-old-boy-injured-as-abandoned-grenade-goes-off-in-kupwara/> .

⁸⁴ Azaan Javaid, 'Threatened by militants with beheading, 10 J&K panches & sarpanches resign', *The Print*, 5 March 2021, <https://theprint.in/india/threatened-by-militants-with-beheading-10-jk-panches-sarpanches-resign/615827/> .

⁸⁵ KO Web Desk, '6 LeT Workers Held Over Sopore Attack: Police', *Kashmir Observer*, 10 April 2021, <https://kashmirobsrver.net/2021/04/10/6-let-workers-held-over-sopore-attack-police/> .

⁸⁶ Press Trust of India, 'Policeman killed in militant attack on residence of BJP leader Anwar Ahmad in Srinagar', *The Print*, 1 April 2021, <https://theprint.in/india/policeman-killed-in-militant-attack-on-residence-of-bjp-leader-anwar-ahmad-in-srinagar/632301/> .

On 2 June 2021, Rakesh Pandita, a BJP municipal councillor was killed when unidentified militants fired shots at him in Tral, also critically wounding a family friend.⁸⁷ The murder of Pandita, a Kashmiri Pandit, prompted outrage amongst the Kashmiri Pandit community, a large number of whom have lived as displaced persons in Jammu since the early 1990s.

A bizarre **faked attack** was recorded on 21 July 2021, when the Jammu and Kashmir police arrested two BJP members, Ishfaq Ahmad Mir, the party's IT cell in charge for Kupwara, along with district spokesperson Basharat Ahmad, and their two security personnel. Mir and Ahmad had, allegedly, faked an attack in mid-July in which Mir was injured by accidental fire. The BJP said it had suspended Mir's father, district president for Kupwara, pending completion of the police probe.⁸⁸

Surveillance of politicians, journalists and activists

On 23 July 2021, the Pegasus spyware's leaked database revealed that over twenty-five Kashmiri journalists, politicians, businessmen and human rights activists were on a list of potential targets of surveillance between 2017 and mid-2019 (along with almost 300 counterparts across India), and may still be. Among those targeted were former dissident politician Bilal Lone, two members of Mehbooba Mufti's family, businessman and political leader Tariq Bukhari of the Jammu and Kashmir Apni Party, four members of Tehreek-e-Hurriyat leader Syed Ali Shah Geelani's family, the head of the Hurriyat Conference Mirwaiz Umar Farooq, and human rights activist Waqar Bhatti. Forensic analysis of Lone's phone by Amnesty International's Security Lab also found signs of Pegasus targeting.⁸⁹

Civilians killed in attacks on security forces and/or cross-fire

On 28 March 2021, Abdul Hamid and Irfan Ahmad, were injured in a grenade attack targeted at a CRPF bunker in Sangam, Bijbehara, Anantnag.⁹⁰ On 7 May 2021, six security personnel and a civilian, Hazik Ali Digoo, were injured in a grenade attack on a joint party of the Jammu and Kashmir police and CRPF troops in Nawabazar, Srinagar.

⁸⁷ Aditya Sharma, 'India: BJP politician shot dead in Kashmir', *DW*, 3 June 2021, <https://www.dw.com/en/india-bjp-politician-shot-dead-in-kashmir/a-57765868> .

⁸⁸ Bashaarat Masood , 'Two BJP workers, their PSOs held for faking militant attack in Kupwara', *Indian Express*, 21 July 2021. <https://indianexpress.com/article/india/two-bjp-workers-their-psos-held-for-faking-militant-attack-in-kupwara-7414492/> .

⁸⁹ Jehangir Ali and Kabir Agarwal, 'Forensic Evidence Shows Attempts Were Made to Infect Phones in Kashmir With Pegasus', *The Wire*, 23 July 2021, <https://thewire.in/rights/kashmir-pegasus-project-phones-spyware> .

⁹⁰ *South Asia Terrorism Portal*, 'Timeline for terrorist activities- March 2021', <https://www.satp.org/terrorist-activity/india-jammukashmir-Mar-2021> .

On 29 May 2021, 20-year-old Sanjeed Ahmad Parray, a technician, and 35-year-old Shahnawaz Ahmad Bhat, a three-wheeler driver, were killed in separate incidents of cross-fire between security forces and militants in Jablipora, Anantnag district.⁹¹

On 12 June 2021, civilians Bashir Ahmad and Manzoor Ahmad Shalla lost their lives in cross-fire between LeT militants and armed police in Sopore. The gunfight also killed two constables, Waseem Ahmad and Showkat Ahmad, injuring three more, including a civilian who suffered multiple gunshot injuries. In the subsequent CASO, entry and egress around the area were blocked off for several hours.⁹²

On 23 June 2021, shopkeeper Umer Nazir Bhat was killed in Srinagar inside his shop by LeT militants for opening his shop when they had ordered closure.⁹³

On 26 June 2021, Shakeela Bano was among four pedestrians injured in the blast from a grenade hurled at a CRPF bunker in Srinagar.⁹⁴ The other three injured, Hilal Ahmad, Mudasir Ahmad, and Shahid Nazir, were rushed to Shri Maharaja Hari Singh Hospital for treatment along with Shakeela Bano, but Mudasir Ahmad, a young shopkeeper, did not survive.

Domicile Killing

On 17 February 2021, 25-year-old Akash Mehraj was shot in Durganag, Srinagar. The armed Muslim Janbaz Force claimed responsibility for his killing, stating that it was targeting non-state subjects who applied for a domicile certificate and “those who will sell land to them and the property brokers involved in such deals”.⁹⁵ Mehraj was put on life support, but died later in the month.

The conflict over residency rights that arose after the union home ministry replaced the seventy-years extant state subject certificates with new domicile certificates on 1 April 2020⁹⁶, expanding the category of those qualified for new residency rights, has been discussed in the Forum’s January 2021 report (accessible [here](#)). The first casualty of violent

⁹¹ *The Hindu*, ‘2 civilians killed in Bijbehara attack’, 30 May 2021, <https://www.thehindu.com/news/national/other-states/2-civilians-killed-in-bijbehara-attack/article34679734.ece> .

⁹² KO Web Desk, ‘2 Cops, 2 Civilians Killed in Sopore Shootout’, *Kashmir Observer*, 12 June 2021, <https://kashmirobservers.net/2021/06/12/two-civilians-two-cops-killed-in-sopore-attack/> .

⁹³ *South Asia Terrorism Portal*, ‘Timeline of terrorist activities- June 2021’, <https://www.satp.org/terrorist-activity/india-jammukashmir-Jun-2021> .

⁹⁴ Zaid Bin Shabir, ‘Civilian Killed, 3 Others Injured in Srinagar Grenade Blast’, *Kashmir Observer*, 26 June 2021, <https://kashmirobservers.net/2021/06/26/civilian-killed-3-others-injured-in-srinagar-grenade-blast/> .

⁹⁵ *South Asia Terrorism Portal*, ‘Timeline for terrorist activities- February 2021’, 2021, <https://www.satp.org/terrorist-activity/india-jammukashmir-Feb-2021> .

⁹⁶ *Chronicle*, ‘Grant of Domicile Certificate (Procedure Rules) 2020’, <https://www.chronicleindia.in/current-affairs/459-grant-of-domicile-certificate-procedure-rules-2020> .

response to the new domicile policy was Satpal Nischal, a popular jeweller and long-time Srinagar resident, who had migrated to Kashmir decades earlier.⁹⁷

Attacks on special police officers

On 11 April 2021, unknown gunmen shot dead 35-year-old Nasir Khan, in Magam, Budgam district.⁹⁸ Khan was a former special police officer, a category of local recruits created during the counter-insurgency years of the 1990s who were much reviled since they operated in a grey zone in which torture and extra-judicial killing were tolerated. The special police officer policy was closed by Chief Minister Mufti Mohamed Saeed in 2004-5, but was gradually resurrected after the Modi administration came to power in 2014.

On the night of 27 June 2021, special police officer Fayaz Ahmad, his wife Raja Begum, and young daughter Rafia, were murdered in their home. The attack is suspected to have been carried out by Jaish-e-Mohammad (JeM) militants, one of whom is suspected to be Pakistani.⁹⁹

Cow-related murder

On 24 June 2021, *gau rakshaks* (cow vigilantes) in Muradpur, Rajouri, lynched 24-year-old Ajaz Dar while he was returning home with his buffalo. A First Information Report (FIR) has been registered in relation to his murder.¹⁰⁰ In July 2021, the director of planning at Jammu and Kashmir's Animal/Sheep Husbandry and Fisheries Department sought a ban on the slaughter of cows, calves and camels during Eid-ul-Adha (Bakra Eid) on 21-23 July 2021.¹⁰¹ A few days later, however, on 16 July 2021, the administration clarified that no such ban had been imposed.¹⁰²

Further questions on custodial death

The in-custody death of 23-year-old Irfan Ahmad Dar, covered in the Forum's January 2021 report, was brought up before the Jammu and Kashmir High Court in March 2021, on a plea

⁹⁷ The Forum for Human Rights in Jammu and Kashmir, 'Human Rights in Jammu and Kashmir: Mid Term Report, August 2020- January 2021 2020 Report', *Indian Cultural Forum*, 15 February 2021, <https://indianculturalforum.in/2021/02/15/human-rights-in-jammu-and-kashmir/>.

⁹⁸ KO Web Desk, 'Man Shot Dead In Central Kashmir's Budgam', *Kashmir Observer*, 11 April 2021, <https://kashmirobsvr.net/2021/04/11/man-shot-dead-in-central-kashmirs-budgam/>.

⁹⁹ Express Web Desk, 'Special police officer, wife and daughter shot dead by militants in J&K's Pulwama', *Indian Express*, 28 June 2021, <https://indianexpress.com/article/india/special-police-officer-his-wife-shot-dead-by-militants-in-jammu-and-kashmir-pulwama-7378892/>.

¹⁰⁰ *The Kashmir Walla*, 'Youth 'lynched' in J-K's Rajouri', 22 June 2021, <https://thekashmirwalla.com/2021/06/gujjar-youth-lynched-to-death-in-j-ks-rajouri/>.

¹⁰¹ Tariq Bhat, 'Jammu and Kashmir bans slaughter of cows, camels on Bakra Eid', *The Week*, 16 July 2021, <https://www.theweek.in/news/india/2021/07/16/jammu-and-kashmir-bans-slaughter-of-cows-camels-on-bakra-eid.html>.

¹⁰² Observer News Service, 'No Ban on Eid Animal Slaughter In J&K: Govt', *Kashmir Observer*, 16 July 2021, <https://kashmirobsvr.net/2021/07/16/no-ban-on-eid-animal-slaughter-in-jk-govt/>.

by his family that Dar was killed in police custody and that he did not “escape after taking advantage of the darkness”, as the Jammu and Kashmir police alleged. According to Irfan’s family, in the few minutes that they were granted to see his body before last rites, they saw “visible torture marks”, including on his head, chest and limbs, as well as apparent burn injuries, leading them to believe that this was a case of custodial torture and killing.¹⁰³ Their application for a copy of his post mortem report, made on 8 February 2021, was denied on the grounds that disclosure would “impede the investigation”, citing section 8(1) (h) of the RTI act. This interpretation was, however, rejected by the RTI Commission in 2011, which held that since a post mortem report is a factual report, it is “impossible to argue that disclosing (it) would impede the process of investigation.”¹⁰⁴

Two prior orders to the Jammu and Kashmir police, the first for a magisterial enquiry in September 2020, and the second by the National Human Rights Commission in October 2020, to file a detailed report, with inquest, post-mortem and viscera findings, along with the video CD of the post mortem examination, have yielded no result.

Following the family’s plea before the court, Irfan’s brother Javid was repeatedly visited by policemen, and he was detained at a checkpoint near Reban village on 15 June 2021 and taken to the Sopore police station for questioning.¹⁰⁵

The family have also alleged that concerned police officials have “approached them a number of times with an apology and are offering us an amount of one crore plus job, to go easy on the matter”. The allegations were denied by Senior Superintendent of Police Verma.¹⁰⁶

Further questions regarding the deaths of Ibrar Ahmed, Imtiyaz Ahmed and Ibrar Ahmed

As covered in the Forum’s previous report (accessible [here](#)), army and police investigation found that the killing of three young men, Ibrar Ahmed (16 years old), Imtiyaz Ahmed (25 years old) and Ibrar Ahmed (20 years old) from Rajouri district, on 18 July 2020, was staged by Captain Bhoopendra Singh of the 62 Rashtriya Rifles and two aides, Tabish Nazir and Bilal Ahmed Lone. The Jammu and Kashmir police filed a 200-page chargesheet against the

¹⁰³ Agencies, ‘Sopore ‘custodial death’: HC Seeks Govt’s Response on Family’s plea’, *Kashmir Observer*, 11 March 2021, <https://kashmirobsserver.net/2021/03/11/sopore-custodial-death-hc-seeks-govts-response-on-familys-plea/>.

¹⁰⁴ Umer Maqbool, ‘J&K Police Deny Post-Mortem Report to Family of Slain Man Saying it Would ‘Impede Probe’, *The Wire*, 24 March 2021, <https://thewire.in/government/jk-police-deny-post-mortem-report-to-family-of-slain-man-saying-it-would-impede-probe>.

¹⁰⁵ Auqib Javeed, ‘The Kashmiri Stories That Modi’s New Political Dialogue Ignored’, *Article 14*, 28 June 2021, <https://www.article-14.com/post/untitled-60d57b772beb0>.

¹⁰⁶ News Desk, ‘“Police offered us ₹1 crore, job”: Family of youth killed in custody as probe delayed’, *The Kashmir Walla*, 17 November 2020, <https://thekashmirwalla.com/2020/11/police-offered-us-1-crore-job-family-of-youth-killed-in-custody-as-probe-delayed/>.

three in December 2020, but it is not yet clear whether Captain Singh will be charged under the CrPC or through an army court martial.

In the Forum's January 2021 report and recommendations, the Forum noted that these appalling extra-judicial murders were fit to be tried under the CrPC. Whether the union home ministry has given permission for trial under the CrPC is unclear, nor is there much information in the public domain on progress in the army's trial procedure. Analyses of the police chargesheet reveal major infirmities that could lead to dismissal of charges against two of the three accused, in what would be a grave miscarriage of justice.

Terror-funding raids

Crackdowns on suspected militant activities have intensified, with raids by the National Investigation Agency (NIA) along with other security forces. On 11 July 2021, the NIA raided the Sirajul Uloom Islamic seminary in Srinagar, seizing its records and electronic devices, and arresting its chairperson, Adnaan Ahmad Nadvi. On the same day, raids were conducted in Pushroo, Sunsooma and Achabal (in south Kashmir), where several business professionals, shopkeepers and technical employees were taken into custody.¹⁰⁷ Reportedly, NIA raids were conducted at ten separate locations on 11 July 2021. Five youths were arrested for alleged links to the Islamic State of Iraq and Syria (ISIS).¹⁰⁸

Despite renewed standard operating procedures curtailing night CASO and/or raids, the Jammu and Kashmir police conducted one at 2.30 am on 15 April 2021, taking Batapora resident Javaid Ahmad into custody. His mother Khadija died of a heart attack upon hearing of his arrest.¹⁰⁹

CASO and the destruction of property

On 2 April 2021, a house was blown up in Kakapora, Pulwama, by security forces during a CASO that killed three militants¹¹⁰, alleged to have killed BJP leader Anwar Ahmad's house guard on 1 April.¹¹¹ Local residents protesting the CASO alleged that the security forces used

¹⁰⁷ KO Web Desk, 'NIA Carries Out Raids in Kashmir, Several Arrested', *Kashmir Observer*, 11 July 2021, <https://kashmirobservers.net/2021/07/11/nia-carries-out-raids-in-kashmir-several-arrested/>.

¹⁰⁸ Kamaljeet Sandhu, 'ISIS Module: NIA raids 10 locations in Kashmir, detains 5 in terror funding case', *India Today*, 11 July 2021, <https://www.indiatoday.in/india/story/isis-module-nia-raids-10-locations-in-kashmir-detains-5-in-terror-funding-case-1826580-2021-07-11>.

¹⁰⁹ Anees Zargar, 'Woman in Srinagar Dies of Heart Attack as Son is dragged Away during night raid by J&K police', *NewsClick*, 15 April 2021, <https://www.newsclick.in/Woman-Srinagar-Dies-Heart-Attack-Son-Dragged-Away-Night-Raid-J-%26-K-Police>.

¹¹⁰ Shakir Mir, 'Kashmir Journalists Confused, Worried by Police Warning Against Covering Gunbattles', *The Wire*, 8 April 2021, <https://thewire.in/media/kashmir-journalists-confused-worried-by-police-warning-against-covering-gunbattles>.

¹¹¹ Mir Ehsan, 'Militants who attacked BJP leader's house killed in Pulwama gunfight: Police', *Hindustan Times*, 2 April 2021, <https://www.hindustantimes.com/india-news/gunfight-underway-in-pulwama-village-in-south-kashmir-101617338642390.html>.

pellet guns against them. The next day, 3 April 2021, ten youth were arrested by the Jammu and Kashmir police for involvement in clashes at the encounter site; they had been videographed throwing stones at the security forces during the CASO and shouting 'anti-national slogans', according to police sources.¹¹²

A four-day CASO that began on 9 April 2021 in Rawalpura ended on 13 April, allegedly damaging two of its *mohallas* (neighbourhoods).¹¹³ Six houses were destroyed and two JeM militants were killed. The entire village had been cordoned off for the four days that the CASO lasted, though the operation was focused on a single three-storey house opposite the village mosque. On the second day of the CASO, residents were forced to vacate their homes, without being given a chance to retrieve their belongings. Some home-owners alleged that they were ordered to set their own homes ablaze.

Residents also alleged that they were forced to accompany security personnel in a house to house search, in clear violation of standard operating procedures.¹¹⁴

Abuse/harassment by security forces

Despite the creation of a human rights department within the Indian army, allegations of abuse by security forces continue. In a worrying return of the 1990s-era practices in Kashmir, on 22 February 2021, the SOG of the Jammu and Kashmir police, along with the CRPF, conducted surprise ID checks in Srinagar's Lal Chowk, cordoning off part of a street and forcing civilians to line-up and be frisked before they were allowed to leave.¹¹⁵

On 17 March 2021, sixteen-year-old Safran Ahmad was seriously wounded when he was hit by a CRPF vehicle in Saida Kadal, Srinagar, and was rushed to hospital for an operation.¹¹⁶ In a distressing instance of internal violence, special police officer Manohar Lal, shot and killed Kaka Ram, a senior grade constable, on 28 March 2021.¹¹⁷

On 10 May 2021, Adil Majeed Shah, a courier delivery agent, was stopped by security personnel at Srinagar's Batamaloo Chowk, even after he furnished ID proof and explained

¹¹² Observer News Service, 'Pulwama Clashes: 10 Youth Arrested', *Kashmir Observer*, 3 April 2021, <https://kashmiroobserver.net/2021/04/03/pulwama-clashes-10-youth-arrested/> .

¹¹³ *The Kashmir Walla*, 'A deluge of destruction in lengthy Kashmir gunfight', 16 March 2021, <https://thekashmirwalla.com/2021/03/rawalpura-gunfight-two-killed-houses-destroyed-in-lengthiest-gunfight-in-recent-years/> .

¹¹⁴ *India Today*, 'Using human shield to deal with situations not standard procedure: Army Chief Gen Bipin Rawat', 18 June 2017, <https://www.indiatoday.in/mail-today/story/army-chief-general-bipin-rawat-kashmir-unrest-human-shield-983301-2017-06-18> .

¹¹⁵ KO Web Desk, "'Crackdown' returns to Srinagar City Centre', *Kashmir Observer*, 22 February 2021, <https://kashmiroobserver.net/2021/02/22/crackdown-returns-to-srinagar-city-centre/> .

¹¹⁶ KO Web Desk, 'Teenager Critically Injured After Hit by CRPF Vehicle in Srinagar', *Kashmir Observer*, 17 March 2021, <https://kashmiroobserver.net/2021/03/17/teenager-critically-injured-after-hit-by-crpf-vehicle-in-srinagar/> .

¹¹⁷ KO Web Desk, 'Cop Shot Dead by His Colleague In Udhampur', *Kashmir Observer*, 28 March 2021, <https://kashmiroobserver.net/2021/03/28/cop-shot-dead-by-his-colleague-in-udhampur/> .

that he delivered medical supplies to hospitals. Security personnel, Shah alleged, “ruthlessly beat” him, inflicting a major arm injury. According to courier company owner, Abid Ali Bazaz, delivery agents, who are regarded as frontline workers, were frequently denied curfew passes even as the government demanded delivery of medical supplies. Qari Zahoor of the Kashmir Couriers’ Association added that police monitoring pandemic curfews did not allow free passage even when delivery agents were carrying the blood samples of patients.” Moreover, alleged Zubair Sheikh, Snapdeal’s regional head, the police made a surprise visit to the Snapdeal office in Srinagar on 12 May 2021, subjecting staffers to a baton-charge, injuring three employees and damaging parcels, phones and office equipment.¹¹⁸

On 19 June 2021, troops allegedly thrashed Jammu and Kashmir police officer Sameer Jilani at a Poonch checkpoint on the Mughal Road. Jilani was off duty and halted by army personnel, who ignored his police ID.¹¹⁹

On 24 June 2021, Abdul Rehman Bhat, sarpanch of the Mahoo panchayat in Ramban district, lodged a complaint at Police Post Khari that troops of the 23 Rashtriya Rifles¹²⁰ had seized the phones of three civilians, Mohammad Rafiq, Abdul Rasheed and Bilal Ahmad, robbed them of cash and beat them.¹²¹ While eight troops were booked on this complaint, there appears to have been no action taken on another complaint in the same week, of a 47-year-old man in Magam who was reportedly beaten unconscious by army personnel on 26 June 2021.¹²²

On 14 July 2021, an army vehicle ran over elderly Guljani Begum in Nadihal, north of Bandipora district. She was killed on the spot.¹²³

A video on social media that showed “highly unprofessional and unbecoming” treatment by police officers during interrogation of two suspects led to the suspension of two police officers and a probe against the Baramulla Station House Officer on 22 May 2021.¹²⁴

¹¹⁸ Irfan Amin Malik, ‘Delivery Boys in Kashmir Allege Abuse, Harassment Amid Lockdown’, *The Quint*, 3 June 2021, <https://www.thequint.com/coronavirus/delivery-boys-in-kashmir-allege-abuse-harassment-amid-covid-19-coronavirus-lockdown#read-more> .

¹¹⁹ Press Trust of India, ‘J&K Police officer Thrashed by Soldiers, FIR Filed’, *Kashmir Observer*, 19 June 2021, <https://kashmirobservers.net/2021/06/19/jk-police-officer-thrashed-by-soldiers-fir-filed/> .

¹²⁰ *Daily Excelsior*, ‘Eight Army men booked for beating up three people’, 25 June 2021, <https://www.dailyexcelsior.com/eight-army-men-booked-for-beating-up-three-people/> .

¹²¹ Press Trust of India, ‘8 Soldiers Booked For Thrashing People in Ramban’, *Kashmir Observer*, 24 June 2021, <https://kashmirobservers.net/2021/06/24/eight-army-men-booked-for-beating-up-three-people-in-ramban/> .

¹²² Press Trust of India, ‘Man Critical After ‘Thrashing’ by Soldiers’, *Kashmir Observer*, 26 June 2021, <https://kashmirobservers.net/2021/06/26/man-critical-after-thrashing-by-soldiers/> .

¹²³ KO Web Desk, ‘Army Vehicle Mows Down Elderly Woman’, *Kashmir Observer*, 14 July 2021, <https://kashmirobservers.net/2021/07/14/army-vehicle-mows-down-elderly-woman-in-north-kashmirs-bandipora/> .

¹²⁴ KO Web Desk, ‘2 Cops suspended After Interrogation Video Goes Viral’, *Kashmir Observer*, 22 May 2021, <https://kashmirobservers.net/2021/05/22/2-cops-suspended-after-interrogation-video-of-murder-accused-goes-viral/> .

On 17 July 2021, alleged journalist Akaash Hassan, he was approached by a sub-inspector named Zahid and his personal security officer, while stuck in a traffic jam, slapped and beaten with batons.¹²⁵

A dawning problem of child fighters?

On 9 April 2021, teenager Kashif Mir, recruited by the *Ansar Ghazwat ul Hind* (a militant group headed by Imtiyaz Ahmed Shah), was killed in Shopian district, in a joint CASO by the CRPF, Jammu and Kashmir police and 44 Rashtriya Rifles. Mir was the third member of his family to be killed in encounters; two of his elder brothers had previously joined the Hizbul Mujahideen and been killed in separate gunfights in 2010 and 2014.

On 10 April 2021, 14-year-old Faisal Ganaie, who had joined militant ranks just three days earlier, was killed in Handipora, Shopian, following a joint CASO by the police SOG, CRPF personnel and 34 Rashtriya Rifles. Though the police brought his family to appeal to him to surrender, he did not do so.¹²⁶

In other words, two teenagers were killed in Shopian in as many days, underlining the problematic issue of dealing with child fighters. Given that one was a very recent recruit and the other does not seem to have been accused of specific acts of violence, the army needs to consider whether it should revert to the 2010-2013 policy, when CASO were restricted to being conducted against proven terrorists, using a hearts and minds approach to woo disaffected youth.

Moreover, indications are that these two deaths might violate provisions of the juvenile justice act; the Jammu and Kashmir administration should, therefore, constitute an enquiry into the conditions under which both teenagers died and whether all conditions of juvenile justice were met in the CASO.

During both CASO, internet was suspended across Shopian as “a precautionary measure”, according to official sources.¹²⁷

Resurrection of village defence committees

The union home ministry recently reinstated an earlier policy to form, train and arm VDCs along the Jammu borders with Pakistan and the Pakistan-held part of Jammu and Kashmir,

¹²⁵ KO Web Desk, ‘Former Chief Minister Condemns Assault on Scribe’, *Kashmir Observer*, 17 July 2021, <https://kashmiroobserver.net/2021/07/17/former-chief-minister-condemns-assault-on-scribe/>.

¹²⁶ KO Web Desk, ‘14 Year Old Among 5 Militants Killed In Twin Encounters In South Kashmir’, *Kashmir Observer*, 11 April 2021, <https://kashmiroobserver.net/2021/04/11/14-year-old-among-5-militants-killed-in-twin-encounters-in-south-kashmir/>.

¹²⁷ News Desk, ‘Family Loses Third Son During Encounter in Shopian’, 9 April 2021, *The Kashmiriyat*, <http://thekashmiriyat.co.uk/family-loses-third-son-during-encounter-in-shopian-kashmir/>.

as a second line of defence against infiltration. The policy had first been adopted during the insurgency years in the 1990s; it was then revived in 2002 by then home minister LK Advani but was allowed to fall into disuse because it was found that incidents of internecine violence, even occasional ‘friendly fire’, increased. In April 2021, the army began to train VDCs in Rajouri and Reasi districts. Reportedly, there are today 4,125 VDCs in Jammu and Kashmir.¹²⁸

Prisoners, detainees and rule of law issues

Prior to Prime Minister Modi’s June 24 meeting with the leaders of Jammu and Kashmir’s political parties, the union home ministry released senior politicians Sartaj Madni¹²⁹ and Naeem Akhtar¹³⁰, raising hopes of release of those who still remained in detention, such as politician Engineer Rashid who was arrested on 9 August 2019 on terror-funding charges that he had been cleared of by the NIA in 2017¹³¹, and journalist Aasif Sultan, jailed for over a thousand days now.¹³² That has not yet happened. In a statement by Union Minister of State for Home G Kishan Reddy in the Lok Sabha, 173 persons remained in custody as of March 2021.¹³³ According to media reports based on police sources, however, as of mid-July, 913 of those arrested in the past two and a half years remain in prison. Additionally, 65 of the 600-plus arrested under the PSA are still in detention.¹³⁴

Treatment of dissident political leaders and/or former militants

Hurriyat Conference leader Mirwaiz Farooq was finally released after twenty months of detention on 4 March 2021, only to be rearrested less than twenty-four hours later, on 5

¹²⁸ Ravi Krishnan Khajuria, ‘Army imparts weapons training to VDC members’, *The Hindustan Times*, 11 April 2021, <https://www.hindustantimes.com/india-news/army-imparts-weapons-training-to-vdc-members-101618115250740.html> .

¹²⁹ Press Trust of India, ‘PDP Leader Sartaj Madni released from detention’, *Economic Times*, 19 June 2021, <https://economictimes.indiatimes.com/news/politics-and-nation/pdp-leader-sartaj-madni-released-from-detention/articleshow/83664426.cms?from=mdr> .

¹³⁰ *India Today*, ‘PDP leader Naeem Akhtar released from house detention’, 21 June 2021, <https://www.indiatoday.in/india/story/pdp-leader-naeem-akhtar-released-from-house-detention-1817313-2021-06-21> .

¹³¹ Deeptiman Tiwary, Bashaarat Masood, ‘Amid crackdown on leaders in Kashmir, Engineer Rashid arrested in terror funding case’, *The Indian Express*, 10 August 2019, <https://indianexpress.com/article/india/nia-arrests-former-jk-mla-rashid-engineer-terror-funding-case-5893060/> .

¹³² Umar Mukhtar, ‘1,000 Days and Counting: How Long Will Kashmiri Journalist Aasif Sultan Remain in Jail’, *The Wire*, <https://thewire.in/media/kashmir-journalist-aasif-sultan-1000-days-jailed> .

¹³³ Press Trust of India, ‘173 People Still in Detention Since August 2019 in Kashmir: Govt.’, *Kashmir Observer*, 9 March 2019, <https://kashmirobsserver.net/2021/03/09/173-people-detained-since-art-370-abrogation-still-under-custody-govt/> .

¹³⁴ Raj Chengappa, ‘Kashmir Security: The Long Haul to Peace’, *India Today*, 17 July, 2021, <https://www.indiatoday.in/magazine/cover-story/story/20210726-kashmir-security-the-long-haul-to-peace-1829116-2021-07-17> .

March 2021.¹³⁵ In April, the Hurriyat drew attention to the ill-treatment of its members who were arrested by the NIA in July 2017 and lodged in different jails across north India, while facing sluggish trial proceedings. Hurriyat media advisor Shahidul Islam, the Hurriyat said, who was lodged in Delhi's Tihar jail, had Covid-like symptoms but was neither tested nor treated and was severely unwell. Tehreek-e-Hurriyat member Ayaz Akbar was not given permission to visit his wife who had cancer and subsequently lost her life.¹³⁶

According to Farooq Ahmad Dar, former armed militant and leader of the Jammu and Kashmir Liberation Front-R (JKLF-R), he too was given no medical attention when he complained of Covid-19 symptoms. His family was not allowed to meet him.¹³⁷ A statement released by the Jammu and Kashmir High Court Bar Association on 1 May 2021, added that dissident brain tumour patient Bashir Ahmad Bhat was very sick in prison. The health condition of other prisoners, including Muhammad Yasin Malik of the Jammu and Kashmir Liberation Front, Shabir Ahmed Shah of the Jammu and Kashmir Democratic Freedom Party, Nayeem Khan of the National Front, Asiya Andrabi of Dukhtaran-e-Millat, and Ayaz Akbar of Hurriyat Conference (G), among others, the association said, was deteriorating fast.¹³⁸

On 6 May 2021, Tehreek-e-Hurriyat Chairman Muhammad Ashraf Sehrai died of pneumonia developed during his preventive custody at Udampur Jail. He had complained of weakness at least ten days before his demise, and, according to his son, was denied proper treatment. A plea in court seeking medical care for Ashraf had been pending since April 2021.¹³⁹ During his funeral, police filed FIRs against twenty people, including his two sons, for raising "pro freedom and provocative" slogans.¹⁴⁰

Questionable arrests

¹³⁵ Shuja-ul-Haq, 'J&K cleric Mirwaiz Umar Farooq placed under house detention again, claims Hurriyat Conference', *India Today*, 5 March 2021, <https://www.indiatoday.in/india/story/j-k-cleric-mirwaiz-umar-farooq-placed-under-house-detention-again-claims-hurriyat-conference-1776014-2021-03-05> .

¹³⁶ *Hindustan Times*, 'Kashmiri political prisoners at risk amid Covid surge: Hurriyat', 27 April 2021, <https://www.hindustantimes.com/cities/chandigarh-news/kashmiri-political-prisoners-at-risk-amid-covid-surgehurriyat-101619471420308.html> .

¹³⁷ Ishfaq Naseem, 'Despite India-Pakistan 'engagement' Kashmiri separatist leaders still under lock and key', *First Post*, 21 April 2021, <https://www.firstpost.com/politics/india-pakistan-engagement-notwithstanding-kashmiri-separatist-leaders-remain-under-lock-and-key-9550431.html> .

¹³⁸ KO Web Desk, 'Bar Concerned Over Health Condition of Kashmiri Prisoners', *Kashmir Observer*, 1 May 2021, <https://kashmirobsrver.net/2021/05/01/bar-concerned-over-health-condition-of-kashmiri-prisoners/> .

¹³⁹ Bashaarat Masood, 'Jailed Hurriyat leader Mohammad Ashraf Sehrai passes away at Jammu hospital', *Indian Express*, 6 May 2021, <https://indianexpress.com/article/cities/jammu/ashraf-sehrai-dies-jammu-hospital-7302921/> .

¹⁴⁰ KO Web Desk, 'Sehrai's funeral: FIR Against 20 People For Raising 'Pro Azadi' Slogans', *Kashmir Observer*, 10 May 2021, <https://kashmirobsrver.net/2021/05/10/sehrais-funeral-fir-against-20-people-for-raising-pro-azadi-slogans/> .

The Jammu and Kashmir police have continued to make questionable arrests, indicating that the pattern of arbitrariness instituted in August 2019 has not reformed. Indeed, in some cases, we see increased rather than decreased arbitrariness, as the examples below show.

On 15 May 2021, twenty-one people were arrested for pro-Palestinian demonstrations protesting Israeli strikes on Gaza, including graffiti artist Mudasir Gul and religious preacher, Sarjan Barkati. According to police sources, they were “attempting to leverage the unfortunate situation in Palestine to disturb public peace and order in the Kashmir valley.”¹⁴¹ On 16 May 2021, the police set seventeen of the arrested persons free after ‘counselling’, including Gul.¹⁴² Barkati, who had previously been detained for four years, was reportedly moved into preventive custody though no FIR had been registered against him.¹⁴³

In an appalling display of high-handedness, a National Conference activist and trader, 50-year-old Sajad Rashid Sofi of Ganderbal, was arrested on 10 June 2021, and charged under Section 153 of the Indian Penal Code (IPC) for telling the Lieutenant-Governor’s advisor, Baseer Ahmed Khan, that he “expected more from local officers than non-locals.”¹⁴⁴ Allegedly, Sofi was booked at the instance of Deputy Commissioner Krittika Jyotsna, who took exception to his remarks. Despite an order granting bail, Sofi was still not released by the police, who re-booked him instead under Section 107 of the IPC, which grants police the powers to detain a person preventively for being a threat to peace.¹⁴⁵ After public outcry, Sofi was released on 16 June 2021, but he spent six days in jail for what cannot be construed as an offence by any stretch of the imagination.

Rule of law issues: the PSA

In an encouraging development, the Jammu and Kashmir High Court has questioned the protocols followed by police investigation and arrests under the PSA in a series of quashings. Repeated errors by detaining authorities caused the court to reiterate on 3 March 2021, that the same grounds could not be used to take a person into preventive detention

¹⁴¹ Azaan Javaid, ‘J&K Police arrest 21 for pro-Palestine demonstrations, warn against attempts to incite violence’, *The Print*, 15 May 2021, <https://theprint.in/india/jk-police-arrest-21-for-pro-palestine-demonstrations-warn-against-attempts-to-incite-violence/659027/>.

¹⁴² KO Web Desk, ‘Pro Palestine Demos: Mural Artist, 16 others Set Free After ‘Counselling’’, *Kashmir Observer*, 16 May 2021, <https://kashmirobsvber.net/2021/05/16/pro-palestine-demos-mural-artist-16-others-set-free-after-counselling/>.

¹⁴³ Observer News Service, ‘South Kashmir Preacher Detained Two Days After Eid Speech’, *Kashmir Observer*, 15 May 2021, <https://kashmirobsvber.net/2021/05/15/south-kashmir-preacher-detained-two-days-after-eid-speech/>.

¹⁴⁴ *The Hindu*, ‘Ganderbal political activist released after public outcry’, 16 June 2021, <https://www.thehindu.com/news/national/other-states/ganderbal-political-activist-released-after-public-outcry/article34831174.ece>.

¹⁴⁵ KO Web Desk, ‘Man Jailed For ‘No Expectations From Outsiders’ Remark Released’, *Kashmir Observer*, 16 June 2021, <https://kashmirobsvber.net/2021/06/16/gbl-man-jailed-for-no-expectations-from-outsiders-remark-released/>.

under the PSA repeatedly. Hearing the case of Mushtaq Ahmad Wani, the bench ruled that a prior order of detention could not be used to influence a subsequent order, especially when the prior order had been quashed by the court. Moreover, if such a prior order had expired or been revoked, it could only be revived in a subsequent order if the detaining authority brought fresh facts.¹⁴⁶

In February 2021, the court quashed the detention of Omar Mir, a young student from Sopore, who was arrested in 2019 and booked under the PSA.¹⁴⁷ On 3 April 2021, the court quashed detention orders against Zubair Ahmad Laway and Bashir Ahmad Bhat, ordering their release. Laway had been detained under three FIRs registered in 2016; however there was little evidence of his involvement in illegal activity. Despite the paucity of evidence, he was arrested under the PSA in 2019. In its 2021 ruling, the court pointed out a distinct absence of grounds to justify his arrest, and added that the deputy commissioner had delayed passing a detention order for three years. Due to the delay, the link between the FIRs lodged against Laway and the detention order of 2019 no longer subsisted and the detention order was therefore quashed.¹⁴⁸

In the same month, April 2021, three more people booked under the PSA, Manzoor Bhat, Mohammad Hafiz and Shakir Mir, were ordered to be released by the court.¹⁴⁹ On 31 May, the court quashed the detention of shopkeeper Rameez Ahmad Malla, who was booked under the PSA on 14 February 2020 and had been kept in preventive detention since (for 17 months). Ordering his release, the court observed that “it is clear that either there is (a) lapse on (the) part of the police to provide all relevant material to the detaining authority or there is a lack of application of mind on (the) part of the detaining authority.”¹⁵⁰ Releasing another detenu on 31 May 2021, Manzoor Ahmed Khan, who was booked under the PSA in August 2020, the court noted that the materials relied upon by the detaining authority were not supplied to the detenu, vitiating his right to make an effective representation against the detention.¹⁵¹

¹⁴⁶ Agencies, ‘No person Be Booked Under PSA On Old Grounds: HC’, *Kashmir Observer*, 3 March 2021, <https://kashmiroobserver.net/2021/03/03/no-person-be-booked-under-psa-on-old-grounds-hc/>.

¹⁴⁷ KO Web Desk, ‘Court quashes student’s PSA detention’, *Kashmir Observer*, 26 February 2021, <https://kashmiroobserver.net/2021/02/26/court-quashes-students-psa-detention/>.

¹⁴⁸ Agencies, ‘HC quashes 2 PSA Detention Orders’, *Kashmir Observer*, 3 April 2021, <https://kashmiroobserver.net/2021/04/03/hc-quashes-2-psa-detention-orders/>.

¹⁴⁹ Agencies, ‘HC Quashes 3 PSA Detention Orders’, *Kashmir Observer*, 7 April 2021, <https://kashmiroobserver.net/2021/04/07/hc-quashes-3-psa-detention-orders-3/>.

¹⁵⁰ *The Kashmir Walla*, ‘J-K High Court quashes PSA detention of 9th standard student’, 31 May 2021, <https://thekashmirwalla.com/2021/05/j-k-hc-quashes-psa-detention-of-9th-standard-student/>.

¹⁵¹ Agencies, ‘HC Quashes 9th Class Student’s PSA Order’, *Kashmir Observer*, 31 May 2021, <https://kashmiroobserver.net/2021/05/31/hc-quashes-9th-class-students-psa-order/>.

The indulgence to abuse afforded by the PSA was again highlighted on 14 June 2021, when the court ordered the release of a young detainee booked in August 2019. The detainee, Tanveer Ahmad Shergojri, was a Pulwama resident who had been in custody for nearly two years. During the two years he was in custody, Shergojri was not supplied the materials the deputy commissioner had considered in arriving at his detention order, nor was the relevant material placed on record to justify even the suspicion that he had violated the PSA. Noting the infirmities in investigation, the court ordered his immediate release.¹⁵²

There have been several challenges to the PSA after the vitiation of Article 370 in August 2019. In September 2019, lawyer Syed Tassadaque Hussain filed a public interest litigation (PIL) before the court, challenging the act's overall validity¹⁵³, but the hearings have been inordinately delayed.¹⁵⁴ In 2021, lawyer Mustafa MH filed a PIL challenging the constitutionality of the maximum period of detention (two years) under section 18 of the PSA, when the maximum detention period under the all-India National Safety Act is one year. In its response to the PIL, the Jammu and Kashmir administration submitted that the PSA, even though it was earlier a state law, should be deemed to be an act passed by the Indian parliament because it was retained under the Jammu and Kashmir Reorganisation Act. Therefore, the act, according to the Jammu and Kashmir administration, operated outside the scope of challenge set out in the PIL.¹⁵⁵

As yet, the Jammu and Kashmir High Court has not ruled on these PILs. When they do, it is to be hoped that they take into account the recommendations of two official bodies, the Prime Minister's Working Group on Human Rights of 2006 and the Group of Interlocutors' report of 2011, that the PSA should either be repealed or amended to meet widely-accepted norms for preventive detention.

Arrests under the UAPA

Dr. Abdul Bari, a professor at the Udhampur government college, was arrested from the college premises on 6 March 2021, and booked under UAPA charges made out against him

¹⁵² *Kashmir Observer*, 'HC Orders Release Of Youth Arrested In August 2019', 14 June 2021, <https://kashmirobservers.net/2021/06/14/hc-orders-release-of-youth-arrested-in-august-2019/>.

¹⁵³ Safwat Zargar, 'Why a lawyer in Kashmir is asking for a constitutional amendment from 1979 to be enforced', *Scroll*, 4 June 2021, <https://scroll.in/article/996477/why-a-lawyer-in-kashmir-is-asking-for-a-constitutional-amendment-from-1979-to-be-enforced>.

¹⁵⁴ Utkarsh Anand, 'Modi Govt Shows No Urgency to Change Law Much Abused During Emergency by Indira Gandhi', *News 18*, 3 January 2019, <https://www.news18.com/news/india/centre-shows-no-urgency-to-change-law-much-abused-during-emergency-by-indira-gandhi-1989955.html>.

¹⁵⁵ Umer Maqbool, 'J&K Public Safety Act Shall be Deemed to be an act passed by the Parliament,' Admin Tells HC', *The Wire*, 10 April 2021, <https://thewire.in/government/jk-public-safety-act-shall-be-deemed-to-be-an-act-passed-by-parliament-admin-tells-hc>; *BarandBench*, 'Plea in Jammu and Kashmir High Court claims section 18 of Public Safety Act unconstitutional after scrapping of Article 370; HC seeks govt. response', 23 February 2021, <https://www.barandbench.com/news/plea-jammu-kashmir-high-court-section-18-public-safety-act-unconstitutional-after-scrapping-of-article-370>.

three years earlier, in 2018. According to Bari's brother, he is an activist who spoke out against corruption and on social issues. When Bari sent the police a show cause notice concerning his UAPA charges, he was apparently told that he had been charged with the non-existent offence of requesting the army to move their camp away from a graveyard and a children's playground in 2018.

Another FIR was brought against him after he protested the thrashing of a young man by Army officials during a CASO. Bari was also booked for inciting violence on the college campus, where students threw stones at police forces in retaliation for their firing teargas shells inside the premises.¹⁵⁶ The Jammu and Kashmir police claimed that Bari had been evading arrest since 2018, though he had been working as a government employee. He had supervised quarantine centres in Kulgam throughout the Covid-19 crisis and had his name listed under the Kulgam college's faculty where he worked for over six years until January 2021, when he transferred to the Udhampur government college. His activism had previously led to exposure of corruption, fund-siphoning and illegal tree-felling.¹⁵⁷

On 4 March 2021, Hilal Akbar Lone, the son of MP Muhammad Akbar Lone, was booked under the UAPA for a speech he made during the District Development Council elections. The court granted him bail, observing that "there is not any allegation that Hilal Akbar Lone has called for the secession of the territory of the state from the Union of India, nor were his words intending to cause disaffection against the country... What is alleged therein is regarding the policies of the government of the day, which according to the petitioner is 'branding Muslims as terrorists, whereas its own people are terrorising others and preventing them from discharging their religious beliefs'. Such spoken words wouldn't prima facie lead to the commission of offences of unlawful activity of the type as provided in section 2(o) of the Act."¹⁵⁸

On 5 March 2021, Mushtaq Wani, the father of an alleged slain militant, was booked under the UAPA for demanding his son's remains. According to the police, Wani's son was buried far away from his home due to Covid-19. When Wani organized a protest march over the denial of his son's body to his family, he was arrested along with six other people under

¹⁵⁶ News Desk, 'Kashmiri Assistant Professor booked under UAPA arrested', *The Kashmir Walla*, 7 March 2021, <https://thekashmirwalla.com/2021/03/kashmiri-assistant-professor-booked-under-uapa-arrested/>.

¹⁵⁷ Safwat Zargar, 'This college professor did Covid-19 duty in Kashmir – but police say he was absconding under UAPA', *Scroll*, 25 March 2021, <https://scroll.in/article/990441/this-college-professor-did-covid-19-duty-in-kashmir-but-police-say-he-was-absconding-under-uapa>.

¹⁵⁸ Umer Maqbool, 'J&K Court Grants Bail to National Conference MP's Son in UAPA case', *The Wire*, 5 March 2021, <https://thewire.in/law/jk-court-grants-bail-to-national-conference-mps-son-in-uapa-case>.

Section 13 of the UAPA, criminalising “advocating, abetting, advising or inciting the commission of any unlawful activity”.¹⁵⁹

On 22 June 2021, the Juvenile Justice Board granted bail to a minor child in Jammu and Kashmir, who was booked under Section 13 of the UAPA for “raising slogans considered anti national” at a funeral.¹⁶⁰ The board members ruled that the offence could not be considered heinous, citing Rule 8 of the Juvenile Justice Act of 2015, which provided that a minor could only be booked for conflict with the law if they had committed heinous offences. For non-heinous offences, a record reflecting the offences in a general diary was sufficient.

In the now infamous repeated arrests of PDP leader Waheed Para, new developments surfaced on 2 July 2021.¹⁶¹ Para was detained on 25 November 2020 three days after filing his candidacy for the District Development Council elections. On 31 March 2021, a group of UN human rights experts on arrests, torture and mistreatment wrote to the Indian government reporting allegations that the NIA had threatened Para after he engaged with members of the UN Security Council on 30 July 2020, “in a closed virtual meeting where he raised alarm about the Government of India’s actions in Jammu and Kashmir, its treatment of Muslim minorities, and the recent border tensions with China.” Further, the experts wrote, he was “held in a dark underground cell at sub-zero temperature, was deprived of sleep, kicked, slapped, beaten with rods, stripped naked and hung upside down. His ill-treatment was recorded. Mr. Para was examined by a government doctor three times since his arrest last November (November 2020) and three times by a psychiatrist. He requested medication for insomnia and anxiety.”¹⁶²

Among other allegations, Para was also accused of supporting an alleged terrorist, Bashir Ahmad Baba, for whom he arranged legal aid. Baba was imprisoned under the UAPA in 2010 and spent 11 years in jail before the court acquitted him of all charges in June 2021, observing that “a person cannot be held guilty merely on its (the prosecution’s) fear of

¹⁵⁹ Safwat Zargar, “For anything and everything’: UAPA cases are rising in Kashmir’, *Scroll*, 9 April 2021, <https://scroll.in/article/991077/for-anything-and-everything-uapa-cases-are-rising-in-kashmir> .

¹⁶⁰ Umer Maqbool, “Offences Not Heinous’: Kashmir Minor Booked Under UAPA gets Bail’, *The Wire*, 22 June 2021, <https://thewire.in/rights/jammu-and-kashmir-minor-teenager-uapa-bail-heinous-juvenile-justice-board> .

¹⁶¹ Gafira Qadir, ‘Police accused Para of helping ‘terrorist’, who was acquitted of all charges by court’, *The Kashmir Walla*, 2 July 2021, <https://thekashmirwalla.com/2021/07/police-accused-para-of-helping-terrorist-who-was-acquitted-of-all-charges-by-court/> .

¹⁶² Letter UA IND 4/2021, ‘Mandates of the Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’, 31 March 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26181> .

anarchy".¹⁶³ Kept in the dark regarding the charges made against him, Baba was held prisoner for over a decade without a shred of evidence.

Despite being granted bail by order of a special NIA court on 9 January 2021, which ruled that no offences were *prima facie* made out against Para, he was re-arrested. On 23 February 2021, the special court denied him bail.¹⁶⁴ In June 2021, claiming that Para "used to receive instructions and advice from Pakistan-based secessionist and terrorist leaders and communicated action-taken reports and a host of information in furtherance of terrorism and secessionism", the Jammu and Kashmir police requested Google US to preserve his correspondence on three email addresses. According to the charge sheet filed by the counter-intelligence wing of the Jammu and Kashmir police, Google complied with the request, that was also forwarded through the India-US Mutual Legal Assistance Treaty.¹⁶⁵

Denial of passports

PDP chairperson Mehbooba Mufti suffered further bar on her movement in March 2021. Mufti and her mother were denied passports due to an adverse report by the Jammu and Kashmir police's Crime Investigation Department (CID). Mufti apparently failed her police verification test because the CID report cited "detriment(al) to security of India" under Section 6 of the Passports Act.¹⁶⁶

Prison conditions

Official data as of 10 May 2021, reveals troubling figures of 4,572 prisoners in Jammu and Kashmir jails, whose housing capacity is 3,426 persons overall.¹⁶⁷ As of February 2021, only 170 prisoners had been officially convicted, 3,971 persons were under trial, and 209 persons were booked under the PSA. The high security Kot Balwal jail in Jammu housed the highest number of arrested persons, 865.¹⁶⁸ Parliament was informed by Minister of State for

¹⁶³ Auqib Javeed, 'No Evidence Found: How Innocent Kashmiri Spent 11 yrs in Gujarat Prison', *Kashmir Observer*, 30 June 2021, <https://kashmirobservers.net/2021/06/30/no-evidence-found-how-innocent-kashmiri-man-spent-11-years-in-prison/>.

¹⁶⁴ Press Trust of India, 'Special court rejects bail plea of PDP leader Waheed Parra', *The Hindu*, 23 February, 2021, <https://www.thehindu.com/news/national/other-states/special-court-rejects-bail-plea-of-pdp-leader-waheed-parra/article33915831.ece>.

¹⁶⁵ Press Trust of India, 'Google asked to preserve data of Waheed-ur-Rehman Parra's emails to Pakistan-based terror groups: Police', *Economic Times*, 13 June 2021, <https://economictimes.indiatimes.com/news/defence/google-asked-to-preserve-data-of-waheed-ur-rehman-parras-emails-to-pakistan-based-terror-groups-police/articleshow/83480517.cms>.

¹⁶⁶ Scroll Staff, 'Mehbooba Mufti says government denied her passport based on CID report citing national security', *Scroll*, 29 March 2021, <https://scroll.in/latest/990864/mehbooba-mufti-says-government-denied-her-passport-based-on-cid-report-citing-national-security>.

¹⁶⁷ News Desk, 'Jails in Jammu and Kashmir overcrowded, reveals data', *The Kashmir Walla*, 17 May 2021, <https://thekashmirwala.com/2021/05/j-k-jails-overcrowded-4572-prisoners-lodged-against-capacity-of-3426-reveals-data/>.

¹⁶⁸ Agencies, '4350 Persons Lodged in J&K Jails', *Kashmir Observer*, 9 April 2021, <https://kashmirobservers.net/2021/04/09/4350-persons-lodged-in-jk-jails/>.

External Affairs V. Muraleedharan on 4 February 2021, that at least seven residents of Jammu and Kashmir were detained in foreign jails, two in Bangladesh, two in Pakistan, with one each in Lebanon, Portugal and Cambodia.¹⁶⁹

On 7 May 2021, the Supreme Court of India, recalling its order of March 2020 to constitute High Powered Committees to determine the prisoners who could be released on parole or interim bail given the dangerous rise in Covid-19 cases, noted the rise of a second wave and directed that those inmates who were granted parole should be re-paroled for a period of 90 days.¹⁷⁰ Following this direction, on 18 May 2021, the Jammu and Kashmir High Court ordered the Jammu and Kashmir jail administration to release previous parolees and ramp up efforts to vaccinate prisoners.¹⁷¹ As of 19 May 2021, only two percent of the jail population in Jammu and Kashmir had been inoculated against Covid-19.¹⁷² Covid-19 cases have begun to rise in Jammu and Kashmir prisons. The district jail Kathua reported twenty-one Covid-19 positive cases on 11 May 2021.¹⁷³ In Rapid Antigen Tests taken in Udhampur jail, 72 prisoners and seven staffers tested positive.¹⁷⁴

There have been several suicides and/or mysterious deaths in the jails in Jammu province. On 5 April 2021, under-trial prisoner Sunny Singh was discovered dead in mysterious circumstances at the Kot Balwal jail. An investigation into the cause of death is reported to be underway.¹⁷⁵ On 8 April 2021, under-trial prisoner Rajinder Singh committed suicide in the Kathua jail where he had been lodged since November 2019, after his arrest under the Narcotic Drugs and Psychotropic Substances Act.¹⁷⁶

Refugees

In February 2021, a division bench of the Jammu and Kashmir High Court ordered the administration to report measures taken to 'identify and deport' illegal immigrants from the

¹⁶⁹ Agencies, '8 J&K Residents Languishing in Foreign Jails: MEA', *Kashmir Observer*, 4 February 2021, <https://kashmiroobserver.net/2021/02/04/8-jk-residents-languishing-in-foreign-jails-mea/>.

¹⁷⁰ 'Bail would be based upon the nature and severity of offences, the number of years to which the person has been sentenced, stage of trial or any other relevant factor which the Committee thinks appropriate.' - p. 8.

¹⁷¹ Press Trust of India, 'J&K HC Orders 90 Days Interim Bail to Jail Inmates', *Kashmir Observer*, 18 May 2021, <https://kashmiroobserver.net/2021/05/18/hc-decides-to-release-jail-inmates-amid-covid-second-wave/>.

¹⁷² KO Web Desk, 'Only Two Percent Of Prisoners Vaccinated So Far In J&K', *Kashmir Observer*, 19 May 2021, <https://kashmiroobserver.net/2021/05/19/only-two-percent-of-prisoners-vaccinated-so-far-in-jk/>.

¹⁷³ Observer News Service, '23 Prisoners Covid Positive in J&K Jails', *Kashmir Observer*, 11 May 2021, <https://kashmiroobserver.net/2021/05/11/23-prisoners-covid-positive-in-jk-jails/>.

¹⁷⁴ Press Trust of India, '92 Inmates Test Positive in two J&K Jails', *Kashmir Observer*, 17 May 2021, <https://kashmiroobserver.net/2021/05/17/92-inmates-test-positive-for-covid-19-in-two-jk-prisons/>.

¹⁷⁵ Press Trust of India, 'Under-Trial Prisoner Dies in Jammu Central Jail', *Kashmir Observer*, 3 April 2021, <https://kashmiroobserver.net/2021/04/03/under-trial-prisoner-dies-in-jammu-central-jail/>.

¹⁷⁶ Press Trust of India, 'Prisoner Found Hanging Inside Bathroom in Kathua Jail', *Kashir Observer*, 8 April 2021, <https://kashmiroobserver.net/2021/04/08/prisoner-found-hanging-inside-bathroom-in-kathua-jail/>.

neighbouring countries of Myanmar and Bangladesh.¹⁷⁷ The Jammu and Kashmir home department estimates the number of Rohingya refugees in Jammu to be around 8,000, in three dozen locations in the region, out of the roughly 40,000 in India overall.

On 6 March 2021, a large police team visited a Rohingya camp in Narwal, Jammu, and asked community leaders to send refugees to a nearby ground for verification purposes and Covid-19 tests. Following the request, 300 Rohingya assembled at the stadium and were barred by the police from leaving. Those without identification from the United Nations High Commissioner for Refugees (UNHCR) were called out and bused to Hiranagar, a detention centre close to Jammu. Given that many had come to the stadium without their families, the detentions separated “wives from their husbands, mothers from sons, sisters from brothers... and grandfathers and grandmothers from their families”.¹⁷⁸ As of 26 May 2021, the number of Rohingya refugees living in the detention centre is estimated at 220.¹⁷⁹

The conditions of the detention centres in which Rohingya refugees are held are reportedly dire. On 31 May 2021, 62-year-old Noor Aisha Begum died after contracting Covid-19 at the Kathua detention centre in Jammu province.¹⁸⁰ 52 other inmates at a holding centre in Kathua were also found to have Covid-19 on 26 May 2021.¹⁸¹

Facing deportation to a country that is in the grip of a military coup, the Burmese origin ‘illegals’ had their details despatched to Delhi. An interlocutory application was filed on 12 March 2021 before the Supreme Court of India by Mohammad Salimullah and Nigannad Shaqir, two Rohingya refugees registered with the UNHCR in India. Outlining their escape from extreme violence in their home country, the petitioners submitted that deportation of Rohingyas from India violated the constitutional provisions of Article 14 and Article 21 guaranteed as fundamental rights, while also breaching the customary international law of *non-refoulement*, a widely recognized principle mandating non-return of refugees by host countries, to peril in their home countries.

Seeking interim relief, Salimullah and Shaqir prayed for the Supreme Court to release Rohingya detainees and issue directions to the Union of India not to deport them. Referring

¹⁷⁷ Mohit Kandhari, ‘HC asks J&K to list steps taken to identify, deport illegal Rohingyas in 1 month’, *Daily Pioneer*, 12 February 2021, <https://www.dailypioneer.com/2021/india/hc-asks-j-k-to-list-steps-taken-to-identify--deport-illegal-rohingyas-in-1-month.html> .

¹⁷⁸ Aakash Hassan and Zaffar Aafar, ‘Repeat of what happened in Myanmar’: India detains 160 Rohingya’, *AlJazeera*, 8 March 2021, <https://www.aljazeera.com/news/2021/3/8/repeat-of-what-happened-in-myanmar-india-detains-160-rohingya> .

¹⁷⁹ Press Trust of India, ‘53 Detained Rohingyas Test Positive’, *Kashmir Observer*, 26 May 2021, <https://kashmirobsvr.net/2021/05/26/53-detained-rohingyas-test-positive-for-covid-19-in-kathua/> .

¹⁸⁰ Umer Maqbool, ‘She was Desperate to Get Out’: J&K Rohingya Detention Centre sees its First COVID Death’, *The Wire*, 12 June 2021, <https://thewire.in/rights/jammu-and-kashmir-rohingya-detention-centre-covid19-death> .

¹⁸¹ Press Trust of India, ‘53 Detained Rohingyas Test Positive’, *Kashmir Observer*, 26 May 2021, <https://kashmirobsvr.net/2021/05/26/53-detained-rohingyas-test-positive-for-covid-19-in-kathua/> .

to the 'internal security of the country', the court denied relief to the refugees, allowing their deportation.¹⁸² In an unending wave of misfortune, the Rohingya also suffered fires that destroyed their temporary settlements in Jammu, rendering over twenty settlements uninhabitable on 5 April 2021, and destroying their belongings and food.¹⁸³

¹⁸² *Supreme Court of India website*, 'Order- Interlocutory Application No. 38048 of 2021 in Writ Petition (Civil) no. 793 of 2017', 8 April 2021, https://main.sci.gov.in/supremecourt/2017/27338/27338_2017_31_1502_27493_Judgement_08-Apr-2021.pdf.

¹⁸³ *Kashmir Life*, '20 Slum Structures Guttled in Jammu Midnight Blaze', 5 April 2021, <https://kashmirlife.net/20-slum-structures-guttled-in-jammu-midnight-blaze-263656/>.

2

CHILDREN, WOMEN AND HEALTH

Children and youth

In May 2021, United Nations Secretary-General Antonio Guterres highlighted the widespread use of pellet guns against children as a serious concern. Guterres pointed out that thirty-nine children had been injured by pellet guns in Kashmir; children were also tortured in detention. Guterres urged the Indian government to “ensure that children are detained as a measure of last resort and for the shortest appropriate period of time, and to prevent all forms of ill-treatment in detention.”¹⁸⁴ Among other protective provisions, he called for improved juvenile justice legislation.

Further, a 2021 study by Aligarh Muslim University researcher Tarushikha Sarvesh found that it was extremely difficult for pellet victims – mostly youth – to be treated in hospitals without first being interrogated by government officials.¹⁸⁵

Schools

Primary education restarted in Kashmir on 15 March 2021, after almost a year of virtual schooling. Classes were staggered to follow social distancing protocols. However, curbs meant that in many schools, children were “not allowed to eat anything at the school. They were not even allowed to talk freely with each other.” A Srinagar primary school teacher, Saqib Ahmad, expressed dismay at the continuing time lost by students, now stretching to two years, due first to the security lockdown of August 2019-January 2020 and then to Covid-19 lockdowns. “We will have to innovate ways to resume their education”, he

¹⁸⁴ *United Nations General Assembly*, ‘Promotion and Protection of the rights of Children- Children and armed conflict A/75/873-S/2021/437’, 6 May 2021, https://www.un.org/ga/search/view_doc.asp?symbol=S/2021/437&Lang=E&Area=UNDOC; *Kashmir Observer*, ‘UN Chief Asks India To End Pellet Gun Use in Kashmir’, 30 June 2021, <https://kashmirobsvserver.net/2021/06/30/un-chief-asks-india-to-end-pellet-gun-use-in-kashmir/>.

¹⁸⁵ Tarushikha Sarvesh, ‘The Burden of Conflict that Women of Kashmir Bear’, *The India Forum*, 30 April 2021, <https://www.theindiaforum.in/article/burden-conflict-upon-kashmiri-women>.

commented wryly Another teacher despaired at the lack of funds and overcrowding in schools, when they did not even “receive money for sanitisers”.¹⁸⁶

Fees

An RTI inquiry, answered on 27 April 2021, revealed that the Jammu and Kashmir Services Selection Board had collected Rs.770,947,432 in fees from job aspirants between March 2016 and September 2020. However, the recruitment agency failed to conduct written tests for fifty job advertisements in 2018 to fill a hundred and fifty vacancies. On 3 February 2021, the recruitment board issued almost a thousand vacancy advertisements for which job aspirants made applications, and were asked to pay department-wise fees for each vacancy. For each form and to sit for each examination, the aspirants submitted a separate fee, sometimes amounting to Rs. 1,000 per form, and even after four years, vacancies remained, nor were aspirants given updates on the recruitment process. Following an outcry, the Services Selection Board announced its decision to charge one-time application fees, with single examinations for identical job posts while denying that they had been overcharging aspirants on exam fees.¹⁸⁷

Women

As in all violent conflicts, there has been an unequal impact of the conflict on Kashmiri women. Sarvesh’s 2021 study highlighted the stigma attached to the wives of alleged militants. Sadaf, a resident of Anantnag, whose husband had disappeared (his family suspected he had been taken by security personnel on militancy-related queries), was forced to find temporary accommodation after her husband’s disappearance, while she struggled to buy basic necessities for herself and her daughter. Ishrat, whose husband was arrested on suspicion of ‘anti-national activities’ was drained financially by attempts to secure her husband’s bail and/or release. She was eventually sent back to her marital home by her husband’s family, upon which her family was stigmatized for the return of a married daughter. Regular visits by police forces and increased social vulnerabilities left Ishrat with intense anxiety and health problems.¹⁸⁸

¹⁸⁶ Ashiq Hussain, ‘Primary schools open in Kashmir after a year’, *Hindustan Times*, 15 March 2021, <https://www.hindustantimes.com/education/news/primary-schools-open-in-kashmir-after-a-year-101615818349852.html> .

¹⁸⁷ Observer News Service, ‘After Rs 77 Crore Disclosure, Unemployed Youth Await Exams, Employment’, *Kashmir Observer*, 7 June 2021, <https://kashmirobsrver.net/2021/06/07/after-rs-77-crore-disclosure-unemployed-youth-await-exams-employment/> .

¹⁸⁸ Tarushikha Sarvesh, ‘The Burden of Conflict that Women of Kashmir Bear’, *The India Forum*, 30 April 2021, <https://www.theindiaforum.in/article/burden-conflict-upon-kashmiri-women> .

Following the vitiation of Article 370 in August 2019, Sarvesh found that after almost every CASO, the residents of houses suspected of harbouring militants were forced to vacate by security forces, causing the loss of precious possessions and neighbourhood relations that women had painstakingly acquired.

A civilian compensation claim for disabilities arising due to military action requires the affected parties to prove that they were present during the action. By proving their presence at the militancy site, they risk linking themselves to militant elements, which could in turn lead to repeated interrogation, even detention.

Gender based violence

Gender-based violence saw a sharp increase in Kashmir. On 10 April 2021, a woman from Anantnag committed suicide following constant assault by her parents-in-law. In March, another Anantnag resident, a 28-year-old woman, was set on fire by her marital family and suffered 80 percent burns. Similar incidents of extreme violence against women were reported in December and October 2020.¹⁸⁹ A survey conducted by the Union Ministry of Health and Family Welfare, in 2019-20, stated that almost 10 percent of women under the age of fifty experienced domestic violence that year in Jammu and Kashmir.¹⁹⁰ A report on police helplines showed a worrying upward trajectory of distress calls over domestic violence in Srinagar which recorded 55 calls in 2019, 177 calls in 2020, and over 120 women seeking help in just the first few months of 2021.¹⁹¹ Ezabir Ali, a women's activist in Srinagar, was quoted as stating in April 2021, that "there is hardly any support structure for women going through or facing violent intimate partner relationships. There are no shelters for women to walk out and stay safe. The Women's Commission is a dead entity for many years now. Under these conditions where do women go to seek help or support?"¹⁹²

Access to redress

On 12 February 2021, following innumerable reports of the lack of access to redress for women in Jammu and Kashmir due to the closure of the state women's commission, the National Commission for Women (NCW) arranged a 'Mahila Jan Sunwai' (women's hearing) in collaboration with the State Resource Centre for Women in the Department of

¹⁸⁹ Zulfikar Majid, 'Violence against women sees sharp rise in Kashmir', *Deccan Herald*, 13 April 2021, <https://www.deccanherald.com/national/north-and-central/violence-against-women-sees-sharp-rise-in-kashmir-973771.html>.

¹⁹⁰ *Ministry of Health and Family Welfare Website*, 'Annual Report 2019-20', <https://main.mohfw.gov.in/sites/default/files/Annual%20Report%202019-2020%20English.pdf>.

¹⁹¹ Rifat Fareed, 'Kashmir: The link between armed conflict and domestic violence', *DW*, 20 April 2021, <https://www.dw.com/en/kashmir-the-link-between-armed-conflict-and-domestic-violence/a-57268013>.

¹⁹² Rifat Fareed, 'Kashmir: The link between armed conflict and domestic violence', *DW*, 20 April 2021, <https://www.dw.com/en/kashmir-the-link-between-armed-conflict-and-domestic-violence/a-57268013>.

Social Welfare. Chairperson Rekha Sharma heard 85 complaints and twelve accused were presented before her. The authorities were ordered to provide an 'action taken' report on pending complaints.¹⁹³

In April 2021 the NCW noted the severe and 'peculiar' issues faced by women in Jammu and Kashmir and Ladakh, and set up a special 'J&K and Ladakh cell' in the Commission.¹⁹⁴ The functions of the special cell would be to organize meetings, seminars, awareness programmes, and look into complaints received.

However, these efforts are likely to fall woefully short considering that cases of gender violence require on the spot action and easy access to avenues for complaint. More than 250 such cases were pending before the state women's commission in Jammu and Kashmir before it was closed following the Reorganization Act. As women's rights lawyer Fiza Firdous commented, the NCW's hearing in Srinagar was no substitute for a Jammu and Kashmir women's commission. "A camp has been recently set up in Srinagar city. Do you think such camps can resolve issues in a day? There can be a hearing but not a verdict."¹⁹⁵

As of 23 April 2021, authorities announced, 59 new women's helpdesks were established in police stations, with a view to reduce response time for gender-based complaints. According to Inspector General of Police Kashmir Vijay Kumar, training, sensitisation and counselling assistance will be provided to staff on how to provide comfort to female assistance-seekers.¹⁹⁶

Women's rights defender

Badrul Duja, a twenty-two-year-old lawyer in Srinagar, was able to get over 70 government departments to set up sexual harassment committees. Dubbed an 'information warrior', Duja filed his first RTI on 26 December 2019 before Jammu and Kashmir's General Administrative Department (GAD), asking how many government departments had constituted a sexual harassment committee. The answer was, only eighteen. After his third RTI inquiry, on 21 January 2021, Badrul discovered that, due to his RTI queries, the number of sexual harassment committees in government departments were set to almost quadruple

¹⁹³ Observer News Service, 'Maiden 'Mahila Jan Sunwai' Held In Srinagar', *Kashmir Observer*, 12 February 2021, <https://kashmirobsvser.net/2021/02/12/maiden-mahila-jan-sunwai-held-in-srinagar/>.

¹⁹⁴ National Commission for Women Website, 'J&K and Ladakh Cell', <http://ncw.nic.in/ncw-cells/jk-and-ladakh-cell>.

¹⁹⁵ *ETV Bharat*, 'Women suffering in the absence of Women's commission in Kashmir', 19 March 2021, <https://react.etvbharat.com/english/national/state/jammu-and-kashmir/women-suffering-in-the-absence-of-womens-commission-in-kashmir/na20210319033816900>.

¹⁹⁶ Press Trust of India, '59 Women Help Desks In Police Stations', *Kashmir Observer*, 23 April 2021, <https://kashmirobsvser.net/2021/04/23/59-women-help-desks-established-in-police-stations-across-kashmir/>; Observer News Service, 'SP Pulwama Inaugurates Women Help Desk At PS Litter, Kakapora', *Kashmir Observer*, 12 April 2021, <https://kashmirobsvser.net/2021/04/12/sp-pulwama-inaugurates-women-help-desk-at-ps-litter-kakapora/>.

to 70. “In addition to the newly established committees, many old committees have been updated and upgraded”, Duja explained.¹⁹⁷

Vaccine hesitancy

In the first round of vaccinations, vaccine hesitancy gravely impacted Kashmiri women, who were forced to choose between risking infection by the Covid-19 virus or facing social stigma. Unverified and fearmongering reports circulated widely in Kashmir, asserting that the vaccine was designed to ‘block’ reproduction and affected a woman’s fertility. The rumours were so widely rampant that, according to several health workers, even some nurses and health workers chose to risk Covid-19 over the risk of losing fertility.¹⁹⁸ Dr. Shahid Hussain, involved in immunisation efforts in Kashmir, tied the glaring gender gap in immunisation, with 62 percent of the male population vaccinated as against 38 percent of women, to infertility rumours.

By the second round of vaccinations, however, most of the vaccine hesitancy disappeared. Jammu and Kashmir has today one of the highest rates of vaccination in the country, at 67 percent of its 45-plus population.¹⁹⁹

Attack on health-workers

On 12 May 2021, a constable was suspended for an assault on a doctor and a paramedic.²⁰⁰

Suicides

An increase in suicides in Jammu and Kashmir was flagged by the Mutahida Majlis-e-Ulema (MMU), a socio-religious group, that asserted that “at least 2 to 4 people are committing suicide everyday”, and highlighted the increased mental stress among youth, elderly and women, further citing the prolonged lockdown as having “severely affected the social fabric in Kashmir.”²⁰¹ On 30 June 2021, it was reported that Kashmir’s SMHS Hospital had dealt

¹⁹⁷ KO Web Desk, ‘A Lawyer’s Women Advocacy Is Creating Institutional Change in Kashmir’, *Kashmir Observer*, 15 July 2021, <https://kashmirobservers.net/2021/07/15/a-lawyers-women-advocacy-is-creating-institutional-change-in-kashmir/>.

¹⁹⁸ Aliya Bashir, ‘Why fewer women are getting vaccines in militarised Kashmir’, *The New Humanitarian*, 23 June 2021, <https://www.thenewhumanitarian.org/news-feature/2021/6/23/why-fewer-women-are-getting-vaccines-in-militarised-kashmir>; News 18, ‘Vaccine Hesitancy High Among Women in Rural Kashmir due to Fertility Concerns’, 28 June 2021, <https://www.news18.com/news/india/vaccine-hesitancy-high-among-women-in-rural-kashmir-due-to-fertility-concerns-3899771.html>.

¹⁹⁹ Sravasti Dasgupta, ‘News to celebrate from Jammu & Kashmir, two-thirds of 45+ vaccinated, leads in India’, *The Print*, 28 May 2021, <https://theprint.in/health/news-to-celebrate-from-jammu-kashmir-two-thirds-of-45-vaccinated-leads-in-india/666771/>.

²⁰⁰ KO Web Desk, ‘Cop Suspended for beating Doctor, Paramedic’, *Kashmir Observer*, 12 May 2021, <https://kashmirobservers.net/2021/05/12/cop-suspended-for-beating-doctor-paramedic/>.

²⁰¹ News Desk, ‘Rise in suicide cases needs awareness campaign: MMU’, *The Kashmir Walla*, 26 June 2021, <https://thekashmirwala.com/2021/06/rise-in-suicide-cases-needs-awareness-campaign-mmua/>.

with over 515 cases of suicide in the year.²⁰² Between April-June 2021, seventeen people were brought to the hospital on account of suicide attempts through hanging, while fifteen had attempted to drown themselves.

²⁰² Observer News Service, '500 Suicide Cases Reported at SMHS Hospital In one Year', *Kashmir Observer*, 30 June 2021, <https://kashmirobsvber.net/2021/06/30/500-suicide-cases-reported-at-smhs-hospital-in-one-year/> .

3

LAND, DEMOGRAPHY, AND IDENTITY RIGHTS

As pointed out in the Forum's January 2021 report, the sudden revocation of the state's autonomy, coupled with new and expanded domicile rules, triggered alarm in the former state that the Indian government was looking to re-structure Jammu and Kashmir's demography, both through land ownership and through resettlement.

Land

After a probe into the 'Roshni Scam', and the ensuing judicial pronouncements that were covered in the Forum's January 2021 report, a number of petitions called upon the Jammu and Kashmir High Court to adjudicate whether freehold and proprietary grants given to individuals before the Roshni act was revoked were valid. In a conclusive order dated 18 May 2021, Judges Ali Mohammad Magrey and Justice Vinod Koul ruled that the government could not take shelter under the Roshni verdict to challenge the rights of lessees who obtained proprietary rights under a completely different scheme which had nothing to do with the Roshni act.²⁰³

Two of the all-India laws that were extended to Jammu and Kashmir under the 2019 Reorganization Act – the right to transparency in land acquisition and fair compensation – would have been welcome additions, but as yet have not been implemented on the ground. According to noted RTI activist Raja Muzaffar Bhat, previously applicable land acquisition rights under the state law were replaced with an effectively non-operational statute. In land acquisition cases of 2020 and 2021, the Financial Commissioner (Revenue) approved reduced rates under the repealed state laws, causing immense prejudice to landowners.

A 2017 Srinagar Ring Road project lapsed due to the expiry of deadlines, after the government acquired more than 600 acres of highly fertile land, effectively destroying farmlands. The compensation claims process under the project's acquisition rules, with compensation only partially delivered till date, was so penalising to landowners that ex-serviceman Harbans Lal committed suicide after the government priced compensation for

²⁰³ Agencies, 'Proprietary Rights Over State Land: HC Upholds Pre-Roshni Orders', *Kashmir Observer*, 18 May 2021, <https://kashmirobservers.net/2021/05/18/proprietary-rights-over-state-land-hc-upholds-pre-roshni-orders/>.

his house, and half a *kanal* or roughly 253 square meters of land, at Rs.11 lacs (1.1 million).²⁰⁴ Landowners were compensated for lost apple, plum and pear trees resulting from the acquisition of orchard land at the rate of Rs. 13-16 per kilogram when the prevailing wholesale market rate was Rs. 60-70 per kilogram.

Commented Bhat, “(If) Article 370 was abrogated on the promise that the new laws will benefit the people, then why are not benefits of (the) Right to Fair Compensation Act reaching them?”

Land acquisition by the security forces

In February 2021, farmers protested a BSF proposal to acquire 515 kanals or just over 64 acres of land to set up location points for BSF troops in Samba, Jammu. Following the protests, the Jammu and Kashmir administration rejected the proposal on the grounds that such large areas of land could not be allotted to the BSF. Instead, the BSF was asked to identify 160 kanals or 20 acres of land that would be suitable for their requirements.²⁰⁵ Illegal occupation of land by security forces was also alleged in Anantnag district on 15 February 2021, when residents of Shangus Tehsil complained that their grazing lands had been forcibly occupied by CRPF troopers.²⁰⁶

Eviction of nomadic tribes

Continuing the eviction of nomadic tribes from forest lands that was noted in the Forum’s January 2021 report, forest officials forcibly evicted nomadic tribes from Shopian’s forested areas on 24 May. Eighteen people, including five journalists, suffered injuries in the ensuing protest when Gujjar nomads resisted eviction from their sheds. Forest officials had neglected to serve an eviction notice, opting to carry out forcible eviction instead.²⁰⁷

In partial recognition of the problem, the tribal affairs department of the Jammu and Kashmir administration identified fourteen routes on which appropriate migratory facilities would be provided for nomadic tribes.²⁰⁸ Public hearings on the Forest Rights Act and its implementation were held by government officials and attended by nomadic forest-

²⁰⁴ Raja Muzaffar Bhat, ‘Life After Article 370: Orchards of Distress’, *The Leaflet*, 13 February 2021, <https://www.theleaflet.in/life-after-article-370-orchards-of-distress/>.

²⁰⁵ Agencies, ‘Govt. Rejects Land Acquisition Request by BSF’, *Kashmir Observer*, 8 May 2021, <https://kashmirobsver.net/2021/05/08/govt-rejects-land-acquisition-request-by-bsf/>.

²⁰⁶ Agencies, ‘Shangus Locals oppose CRPF Move to ‘Occupy Land’’, *Kashmir Observer*, 15 February 2021, <https://kashmirobsver.net/2021/02/15/shangus-locals-oppose-crpf-move-to-occupy-land/>.

²⁰⁷ KO Web Desk, ‘Forest Dept’s Eviction Drive Turns Violent in Shopian’, *Kashmir Observer*, 24 May 2021, <https://kashmirobsver.net/2021/05/24/forest-depts-eviction-drive-turns-violent-in-shopian/>.

²⁰⁸ *Kashmir Reader*, ‘Maiden survey of nomadic population starts in J&K’, 25 June, 2021, <https://kashmirreader.com/2021/06/25/maiden-survey-of-nomadic-population-starts-in-jk/>.

dwelling groups such as Gujjars, Bakerwals and Chopan.²⁰⁹ In June 2021, the Jammu and Kashmir administration began a survey of the region's nomadic, underdeveloped, and tribal populations, to issue digitized documentation to them.²¹⁰

Demography and minority rights

Suspicion that the new domicile rules would encourage demographic change through settlement by non-Kashmiris was discussed in our previous reports. The figures for domicile certificates issued in 2020 indicate that roughly 3.5 percent of the total were issued to non-permanent residents²¹¹, mostly in Jammu, raising fears there about loss of land and livelihood. There were relatively few applications in Kashmir, perhaps for fear of being attacked ([see the section on domicile killings in the chapter on civilian security](#)).

The issue of demography acquired renewed salience following the June 24 meeting at which Prime Minister Modi stressed the need for the delimitation commission to complete its work of redrawing constituencies to add seven more, causing the number of assembly seats in Jammu and Kashmir to go up from 83 to 90, as mandated under the Reorganisation Act. In the valley, apprehension of loss of political rights was widely expressed: that the addition would favour Jammu, bringing its seats closer to par with those of the valley, when the population of the latter is greater. Between 6 and 9 July 2021, the delimitation commission visited Jammu and Srinagar and, together with the Jammu and Kashmir election commissioner K.K. Sharma, met 290 groups in addition to senior administration officials, assuring them that the commission would act in a fair, transparent and judicious manner. Before finalising their report, they said, a draft would be placed in the public domain for comments.²¹² The commission now has until 6 March 2022 to complete its work.²¹³

However, a series of questions remain about the issue of delimitation. When challenges against the Reorganisation Act are pending in the Supreme Court, what is the status of the commission? Will its redrawing of constituencies apply even after statehood is restored, as

²⁰⁹ Dr. Raja Bhat, 'Public Hearings on FRA implementation', *Kashmir Observer*, 14 April 2021, <https://kashmirobsver.net/2021/04/14/public-hearings-on-fra-implementation/>.

²¹⁰ Express News Service, 'J&K launches survey of nomadic population', *Indian Express*, 30 May 2021, <https://indianexpress.com/article/india/jk-launches-survey-of-nomadic-population-7336146/>.

²¹¹ Ministry of Home Affairs, 'Domicile Certificates Issued for J&K', *Press Information Bureau*, 17 March 2021, <https://pib.gov.in/PressReleasePage.aspx?PRID=1705573>.

²¹² Arun Sharma, 'J&K delimitation exercise will be fair, transparent, assures Commission', *Indian Express*, 10 July 2021, <https://indianexpress.com/article/india/jk-delimitation-exercise-will-be-fair-transparent-assures-commission-7397479/>.

²¹³ Press Trust of India, 'Delimitation Commission preparing draft report after J&K visit', *Business standard*, 18 July 2021, https://www.business-standard.com/article/current-affairs/delimitation-commission-preparing-draft-report-after-j-k-visit-121071800321_1.html.

promised by the union home minister? Will there have to be another delimitation exercise five years later, in 2026, based like the rest of India on the 2021 census rather than the 2011 census?

In Jammu, Dogra leaders such as former Deputy Chief Minister Tara Chand protested Dogra under-representation in employment, land ownership and cultural rights, demanding the return of statehood; others, such as the Dogra Front and Ikkjutt Jammu (United Jammu) complained that Jammu's interests were neglected in the all-party meeting on 24 June.²¹⁴ Kashmiri Pandit groups also complained that they were not invited to the prime minister's meeting.²¹⁵

Meanwhile, displaced Pandit groups complain that government support for their return to the valley is even more sluggish than it was prior to the vitiation of Article 370.²¹⁶ Satish Mahaldar, chairman of the group for Reconciliation, Return and Rehabilitation of Kashmiri Pandits, commented that 3,000 acres of land was transferred for use by the industry and commerce sector, but the government had failed to allot 200-300 acres of land to resettle Pandits.²¹⁷

According to a statement made to parliament by Minister of State for Home G Kishan Reddy on 17 March 2021, 2,000 Kashmiri Pandits are expected to return in 2021, though only 520 have returned since August 2019.²¹⁸ The Jammu and Kashmir administration is speeding up work to complete the 6,000 transit accommodations on which work had begun in 2002 (with over 5,000 completed by 2013). The new accommodations will be at Ganderbal, Shopian, Bandipora, Baramulla, and Kupwara and are expected to be ready in spring-autumn 2022.²¹⁹ Apparently Pandits are being asked to register to return.

Irrespective of government support, the safe return of Kashmiri Pandits depends on the goodwill of local communities. Prime Minister Manmohan Singh's package for Pandit returns and rehabilitation was launched in 2008; though several thousand teachers did

²¹⁴ *Daily Excelsior*, 'Give right to job, land protection to locals: Ex DyCM', 8 July 2021, <https://www.dailyexcelsior.com/give-right-to-job-land-protection-to-locals-ex-dycm/>.

²¹⁵ Sunil Bhat, 'BJP surrendered to Kashmir parties: Jammu outfits up in arms over no invitation to PM Modi's meeting', *India Today*, 22 June 2021, <https://www.indiatoday.in/india/story/jammu-outfits-up-in-arms-over-no-invitation-to-pm-modi-meeting-1817819-2021-06-22>.

²¹⁶ Sudha Ramachandran, 'Can Kashmir's Pandits Ever Return Home?', *The Diplomat*, 26 February 2020, <https://thediplomat.com/2020/02/can-kashmirs-pandits-ever-return-home/>.

²¹⁷ Tarushi Aswani, 'We're Only Used to Garner Votes: Why Kashmiri Pandits Have Lost Faith in the BJP', *The Wire*, 9 November 2020, <https://thewire.in/rights/kashmiri-pandits-bjp-rehabilitation-resettlement>.

²¹⁸ Deeptiman Tiwary, '520 Kashmiri migrants returned after Art 370 move, 2,000 to return this year: Govt in House', *Indian Express*, 18 March 2021, <https://indianexpress.com/article/india/520-kashmiri-migrants-returned-after-art-370-move-2000-to-return-this-year-govt-in-house-7233306/>.

²¹⁹ *The Hindu*, 'J&K Govt. to speed up measures for the return of Kashmiri Pandits', 18 July 2021, <https://www.thehindu.com/news/national/other-states/jk-govt-to-speed-up-measures-for-the-return-of-kashmiri-pandits/article35391079.ece>.

return under the policy, they did not bring their families or reintegrate because the then state government did not try to involve the leaders of local communities in making the returnees feel welcome. A series of proposals for safe return were outlined in the October 2011 report of the home ministry-appointed group of interlocutors, which were not implemented.²²⁰

Identity

A long-standing issue of identity and citizenship rights was highlighted by Pakistani women married to former Kashmiri militants. The Jammu and Kashmir administration's rehabilitation policy of 23 November 2010, announced by then Chief Minister Omar Abdullah, laid out the procedure for return of ex-militants to Jammu and Kashmir. The plan expressly stated that returnees, along with their dependents, would be eligible for consideration under the policy, and that "The wives, children and other dependants of those returnees who have married in PoK/Pakistan will be considered for entry as per the existing laws of the land and the necessary certificate for entry will be issued to them."²²¹

Pakistani women married to Kashmiris staged numerous protests in 2021, saying that no rights of citizenship were afforded to them, as they "don't get Aadhar Cards, Ration Cards, Voter Identity Cards", all essential for day-to-day functioning. They demanded the authorities "either provide them with citizenship rights or deport them back to Pakistan". Some had suffered domestic abuse at the hands of their husbands, unemployment and broken families, without the resources to return to Pakistan.²²² As Misbah Mushtaq, a protester, noted "The problems we face here are immense. One of the women committed suicide and others have been divorced. Kashmir is not an ordinary place to live. What we are asking is for avenues to make our lives here easier and a chance to travel home once a while".²²³

²²⁰ *Group of Interlocutors for Jammu and Kashmir*, 'Final Report: A New Compact for Jammu and Kashmir', October 2011, <https://www.mha.gov.in/sites/default/files/J%26K-InterlocutorsRpt-0512.pdf> .

²²¹ *Ministry of Home Affairs Website*, 'Government of Jammu and Kashmir Home Department- Policy and Procedure for return of Ex-Militants to Jammu and Kashmir State', 23 November 2010, https://www.mha.gov.in/sites/default/files/JKRehabilitatioPolicy2010_07062017.pdf .

²²² KO Web Desk, 'Give us citizenship or repatriate us', *Kashmir Observer*, 1 February 2021, <https://kashmirobsvr.net/2021/02/01/give-us-citizenship-or-repatriate-us/> ; KO Web Desk, 'Provide Citizenship Rights or Deport Us: Pak Wives of Ex-Militants', *Kashmir Observer*, 23 February 2021, <https://kashmirobsvr.net/2021/02/23/provide-citizenship-rights-or-deport-us-pak-wives-of-ex-militants/> .

²²³ Azaan Javaid, 'International Women's day is meaningless for us, say Pakistani wives based in Kashmir', *The Print*, 8 March 2021, <https://theprint.in/india/international-womens-day-is-meaningless-for-us-say-pakistani-wives-based-in-kashmir/617868/> .

Reportedly, appeals to the government requesting citizenship or repatriation rights have long been ignored, causing an entire generation of families to despair.²²⁴ The Jammu and Kashmir administration is said to routinely deny Pakistani wives the travel documents necessary to visit their families in Pakistan and Pakistan-held Kashmir. In the recent district council elections, two Pakistani wives contested the polls, but counting was halted after the administration recorded complaints of their citizenship.

Other Kashmiri travellers who were in possession of appropriate travel documents were also denied passage to Pakistan through the Wagah border in March 2021. Kashmiris were informed by border officials that fresh procedural changes had been implemented requiring them to obtain home ministry approval to cross the LoC, signifying a reversal of one of the key CBMs of the 2002-2013 peace process.²²⁵

²²⁴ Arshiya Bhayana, 'Reintegrating Kashmir's ex-militants: An examination of India's surrender and rehabilitation policy', *Observer Research Foundation*, 3 October 2019, https://www.orfonline.org/research/reintegrating-kashmirs-ex-militants-an-examination-of-indias-surrender-and-rehabilitation-policy-56044/#_edn38.

²²⁵ KO Web Desk, 'Kashmiri Students, Travellers 'Barred' from visiting Pak', *Kashmir Observer*, 17 March 2021, <https://kashmirobservers.net/2021/03/17/kashmiri-students-travellers-barred-from-visiting-pak/>.

4

INDUSTRY AND EMPLOYMENT

High speed internet was finally restored in eighteen out of Jammu and Kashmir's twenty districts in February 2021, that is, after **one and a half years**. After facing a 40-50 percent decline in every major sector, commercial associations welcomed the restoration. "This move will give a boost to the economic recovery now," said Sheikh Aashiq, president, Kashmir Chamber of Commerce and Industry.²²⁶ The second wave of the Covid-19 pandemic, however, postponed recovery again.

In a July meeting with the Concerned Citizen's Group, the Kashmir Economic Alliance (KEA), said that businesses were closed for eleven out of the twenty-three months from August 2019 to July 2021. Estimated loss to business, the KEA claimed, was approximately Rs. 70,000 crore – of this Rs.50,000 crore was due to closures, and another Rs. 20,000 crore due to demand contraction caused by falling purchasing power. What had made the situation worse for businesses in Kashmir, was that "banks no longer trust traders and businessmen in an uncertain economic environment with unpredictable incomes, preferring to give loans to government employees with regular salaries instead."²²⁷

Discoms

A July 2021 report revealed that Jammu and Kashmir faced the highest utility losses amongst power distribution companies in India hitting an aggregate technical and commercial loss of 60.5 percent between April 2019 and March 2020. Samitosh Mohapatra, an industry expert on energy utilities and resources practice, cited a lack of political will among others as the reason for the losses, observing that, "Utilities in Jammu and Kashmir and the North-East had limited reforms over the last two decades – be it in the field of corporatization, governance, capital investments, tariff, PPP (public-private-partnership), technology or people initiatives. Quality, reliability and customer service is significantly low, which in turn is impacting economic development. A lack of political will and financial

²²⁶ Press Trust of India, 'Restoration of 4G services will boost economic recovery in JK: Trade bodies', *Business Standard*, 6 February, 2021, https://www.business-standard.com/article/current-affairs/restoration-of-4g-services-will-boost-economic-recovery-in-jk-trade-bodies-121020601085_1.html.

²²⁷ *Concerned Citizens' Group on Jammu and Kashmir*, 'Ninth Report', 5-7 July 2021.

and commercial losses have inhibited the ability to undertake reforms.”²²⁸ In light of the Forum’s coverage of frequent power outages in the January 2021 report ([link to report](#)), significant losses faced by power distribution companies is all the more worrying.

Between February and June 2021, the unemployment rate in Jammu and Kashmir was 3 points higher than the national average, according to the Centre for Monitoring the Indian Economy (CMIE). Female unemployment in Jammu and Kashmir was significantly higher, at 93.85 points (the highest in the country), compared to an average of 26.62 for India overall.²²⁹

Months	February 2021	March 2021	April 2021	May 2021	June 2021	Average
Jammu and Kashmir average unemployment rates	14.2	9.5	11.4	12.1	10.6	11.56
India average unemployment rates	6.9	6.5	8.0	11.9	9.2	8.5

Source: CMIE²³⁰

Article 311 dismissals

A 6-member STF was constituted on 21 April 2021, headed by the Additional Director-General of Police (CID), to identify and investigate government employees in Jammu and Kashmir who may have been involved in ‘anti-national activities’. The STF was tasked with recommending names to a committee established to decide upon dismissals under Article 311(2)(c) of the Indian constitution, empowering designated authorities to dismiss civil servants without affording them a hearing or inquiry, in exceptional cases, including where

²²⁸ Utpal Bhaskar, ‘Jammu & Kashmir leads in discom losses, Delhi turns best performer’, *Hindustan Times*, 26 July 2021, <https://www.hindustantimes.com/business/jammu-kashmir-leads-in-discom-losses-delhi-turns-best-performer-101627246895253-amp.html> .

²²⁹ *Centre for Monitoring Indian Economy*, ‘Unemployment in India, A statistical profile’, January- April 2021, <https://unemploymentinindia.cmie.com/kommon/bin/sr.php?kall=wdlstatpdf&file=754759> .

²³⁰ *Centre for Monitoring Indian Economy*, ‘Monthly Time series’, https://unemploymentinindia.cmie.com/kommon/bin/sr.php?kall=wsttimeseries&index_code=050050000000&dtype=total .

the authorized power “is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry”.²³¹

The jurisprudence on this issue is highly unfavourable to employees. In a Supreme Court judgement, *Union of India v Tulsiram Patel*²³², the apex court allowed wide discretion to dismissing authorities. A perceived likelihood that breach of security of the state would be committed was sufficient to justify dismissal.

Within the three months that the STF has functioned, over a dozen government employees have been dismissed in Jammu and Kashmir in the interest of the security of the state. Most of them are alleged to be linked to armed groups that attack security forces and government installations, but no evidence has been placed in the public domain.

On 11 July 2021, eleven government employees were reported to have been terminated at STF recommendation, including an orderly held to abet and harbour LeT terrorists, and another orderly suspected of supporting the Hizbul Mujahideen. Two teachers from Anantnag were also dismissed over alleged propagation of ‘anti-national’ and secessionist ideology. Jabbar Paray and Nisar Tantray, former employees of the Jammu and Kashmir education department were dismissed on account of secessionist ideology. Shaheen Lone of the power department was sacked over suspected arms-smuggling to the Hizbul Mujahideen. Abdul Shigan, a constable dismissed in the committee’s fourth meeting, was suspected of carrying out attacks on the security forces.²³³ The children of prominent secessionist Syed Ali Shah Geelani and Hizbul head ‘Syed Salahuddin’ were also dismissed. As of 20 July 2021, total dismissals numbered eighteen.²³⁴

In an earlier set of dismissals in May, Deputy Superintendent of Police Davinder Singh and two teachers, Bashir Sheikh and Ghulam Ganie, were ousted by Lieutenant Governor Manoj Sinha. Davinder Singh had been arrested on 10 January 2020 and jailed for facilitating two Hizbul Mujahideen militants.²³⁵

²³¹ *Legislative Department, Ministry of Law and Justice Website*, ‘Constitution of India’, <https://legislative.gov.in/constitution-of-india> .

²³² 1985 AIR 1416, 1985 SCR Supl. (2) 131.

²³³ News Desk, ‘Cleaning J&K Admin’: 11 Govt Employees Sacked Due to Involvement in ‘Terror, Anti-national Activities’, *News 18*, 10 July 2021, <https://www.news18.com/news/india/cleaning-jk-admin-11-govt-employees-sacked-due-to-involvement-in-terror-anti-national-activities-3948527.html> .

²³⁴ Agencies, ‘Elected governments failed to curb separatist elements in its ranks’, *Kashmir Observer*, 19 July 2021, <https://m.kashmirobservers.net/2021/07/19/elected-govts-failed-to-curb-separatist-elements-in-its-ranks/amp/> .

²³⁵ KO Web Desk, ‘Jailed SOG DySP, 2 Govt. Teachers Sacked from Services’, *Kashmir Observer*, 20 May 2021, <https://kashmirobservers.net/2021/05/20/tainted-police-officer-two-more-teachers-dismissed-from-services/> .

Fair wages to government employees

There have been a series of complaints of violation of the Minimum Wages Act. On 1 March 2021²³⁶, healthcare workers, instrumental in the fight against Covid-19, protested the shockingly low payments of “Rs. 100-500 per month” made to consolidated workers²³⁷ in the health department, demonstrating outside the Press Enclave in Srinagar. Protestors demanded appropriate remuneration to consolidated workers under the Minimum Wages Act, along with regularisation of long-term workers.²³⁸ In October 2020, the director of health services in Kashmir had requested Jammu and Kashmir the administrative department to implement minimum wages for health workers, a plea which has not been acted upon till date.²³⁹

District development council members in Jammu and Kashmir, across all political lines, also protested their honorarium protocol, terming it a ‘humiliation’ and threatening to resign *en masse* if the orders were not revoked. The government had granted council members protocols equivalent to block development council chairpersons, though blocks are sub-units of districts. Following the protests, Lieutenant-Governor Sinha agreed to redraft the emolument policy for district council members.²⁴⁰

Education department

In February 2021, contractual lecturers protested against a ‘use and throw’ policy by the Jammu and Kashmir government post August 2019. Over 1,700 contractual lecturers were disengaged by the government without any formal order, while failing to release their pending salaries till date. The teachers had hoped for regularisation of their jobs.²⁴¹ Sixteen teachers of the Muslim Educational Institute, Pampore, lodged complaints in the grievance cell constituted by Lieutenant-Governor Sinha, alleging that they had not been paid their salary for several months. Soon after lodging complaints, they were fired.²⁴²

²³⁶ Observer News Service, ‘CH Workers Demand Implementation of Minimum Wages Act’, *Kashmir Observer*, 1 March 2021, <https://kashmirobserver.net/2021/03/01/ch-workers-demand-implementation-of-minimum-wages-act/>.

²³⁷ Consolidated workers are temporary or short-term employees whose jobs have not yet been regularised by the Health Department.

²³⁸ Beenish Qureshi, ‘Consolidated Health Workers demand Minimum Wages Act Implementation’, *Greater Kashmir*, 7 March 2021, <https://www.greaterkashmir.com/editorial/consolidated-health-workers-demand-minimum-wages-act-implementation>.

²³⁹ Raja Muzaffar Bhat, ‘Life After Art. 370: How J&K Government Insults Covid Warriors’, *The Leaflet*, 18 February, 2021, <https://www.theleaflet.in/life-after-art-370-how-jk-government-insults-covid-warriors/>.

²⁴⁰ Ravi Krishnan Khajuria, ‘After protests, new orders puts J&K DDC chiefs at par with mayors’, *Hindustan Times*, 7 April 2021, <https://www.hindustantimes.com/india-news/after-protests-new-orders-puts-j-k-ddc-chiefs-at-par-with-mayors-101617735800830.html>.

²⁴¹ Khalid Bashir Gura, ‘Broken Contract’, *Kashmir Life*, 9 July 2021, <https://kashmirlife.net/broken-contract-vol-13-issue-14-271597/>.

²⁴² KO Web Desk, ‘Dialing LG’s Grievance Cell Costs Job to 16 Teachers in Pulwama’, *Kashmir Observer*, 1 February 2021, <https://kashmirobserver.net/2021/02/01/dialing-lgs-grievance-cell-costs-job-to-16-teachers-in-pulwama/>.

Dismissals have not been accompanied by recruitment. As many as 530 departmental posts in Jammu and Kashmir's school education department were reported vacant as of 2 February 2021, including 329 principal positions.²⁴³

Tourism and the houseboat industry

Following the near-collapse of the houseboat industry reported in the Forum's January 2021 report, the Jammu and Kashmir administrative council chaired by Lieutenant-Governor Sinha adopted a policy for sustainable operation of houseboats with a view to preserve the fragile ecosystem of the Dal and Nigeen Lakes. The policy set a cap on the number of houseboats and mandated online registration after compliance with ecologically sustainable measures, including waste-treatment mechanisms and fire safety machinery.²⁴⁴

Though the number of tourists had severely declined since August 2019, from 1 million to 84,000²⁴⁵, the houseboat industry revived between January and March 2021, witnessing a surge of about 30 percent. While officials were reported to estimate about 1 million arrivals in 2021, planning multiple festivals and programmes to attract further tourists²⁴⁶, residents were more ambiguous. The tourist influx caused a spike in Covid-19 cases, as it had in other tourist resorts. Kashmir's tulip gardens alone hosted 50,000 visitors in a week, with little respect for masking or social distancing norms.²⁴⁷

Animal husbandry

An outbreak of foot and mouth disease hit the valley in May 2021, infecting livestock in Budgam, Bandipora, Baramulla and Bijbehara. Local farmers cited failure by the animal husbandry department to conduct animal vaccinations on time. A meeting of the Jammu and Kashmir Chopan (sheep-herders) Welfare Association (CWA), held on 27 June 2021, estimated that lack of action might lead to starvation in the community in the coming months. According to news reports, locally raised lamb and mutton accounted for only 30 percent of consumption in Jammu and Kashmir as of 14 March 2021, partly due to an escalation in local production costs, especially during the winter. An acute mutton shortage

²⁴³ Agencies, '530 Vacancies in J&K School Education Department', *Kashmir Observer*, 8 February 2021, <https://kashmirobsrver.net/2021/02/08/530-vacancies-in-jk-school-education-dept/>.

²⁴⁴ Mir Ehsan, 'Finally, a comprehensive policy for houseboats in Srinagar's Dal, Nageen lakes', *Hindustan Times*, 31 March 2021, <https://www.hindustantimes.com/cities/others/finally-a-comprehensive-policy-for-houseboats-in-srinagar-s-dal-nageen-lakes-101617133670306.html>.

²⁴⁵ Press Trust of India, 'From 1 Million to 84,000: Tourist Arrivals in Kashmir Nosedive', *Kashmir Observer*, 2 February 2021, <https://kashmirobsrver.net/2021/02/02/tourist-arrivals-in-jk-declined-since-revocation-of-article-370-centre/>.

²⁴⁶ Firdous Hassan, '58,000 and counting: Kashmir fully sold out as tourism witnesses dream start in 2021', *Kashmir Monitor*, April 2021, <https://www.thekashmirmonitor.net/58000-and-counting-kashmir-fully-sold-out-as-tourism-witnesses-dream-start-in-2021/>.

²⁴⁷ Tooba Towfiq, 'Deadly Tourism', *Kashmir Observer*, 15 April 2021, <https://kashmirobsrver.net/2021/04/15/deadly-tourism/>.

since November 2020 also contributed to decreased sales as rates shot up. Of the 22 lac sheep slaughtered in the valley, only 6.5 were raised locally.²⁴⁸

Chopan families were also prevented from repairing their old shelters, damaged in the forest department's drive mentioned in the Forum's [January 2021 report](#), forcing them to seek shelter under plastic sheets and tarpaulins.²⁴⁹, in violation of the Forest Rights Act's proviso against forcible eviction and for provision of alternative accommodation.

²⁴⁸ Haseeb Ibn Hameed, 'Kashmir consumes 22 lakh sheep annually, only 6.5 lakh raised locally', *Greater Kashmir*, 14 March 2021, <https://www.greaterkashmir.com/news/kashmir/kashmir-consumes-22-lakh-sheep-annually-only-6-5-lakh-raised-locally/>.

²⁴⁹ *Daily Excelsior*, 'CWA concerned over spike of FMD', 28 June 2021, <https://www.dailyexcelsior.com/cwa-concerned-over-spike-of-fmd/>.

5

THE FREEDOM OF MEDIA, SPEECH & INFORMATION

The overall degradation of rights to freedom of reporting, expression and access to information in India has been noted in the World Press Freedom Index of 20 April 2021, which ranks India 142 out of 180 countries, a fall of 9 ranks since 2016, when India ranked 133.²⁵⁰ These curbs multiply exponentially when it comes to Jammu and Kashmir. 4G internet services were restored only on 5 February 2021, after **550 days** of slow or no internet services in the former state.²⁵¹ There were still curbs on pre-paid SIM card holders, who are to be provided services only after the verification that is generally applied to post-paid users.

Access to information

Amendments weakening the all-India RTI act, enacted on 25 July 2019, have progressively impacted access to information in Jammu and Kashmir. Following complaints by RTI activists about the lack of current information on government websites, Lieutenant-Governor Sinha ordered all departments of the Jammu and Kashmir administration to update their websites by February 18 2021, but the order went largely unimplemented. Moreover, the Jammu and Kashmir administration has increasingly denied information sought through applications made under the amended RTI act. Applications relating to district-wise funding allocation and expenditure for Covid-19 treatment, went unanswered for months. Appeals to the first appellate authority under the RTI act, lingered for up to or even over a year. By comparison, appeals under the now-repealed Jammu and Kashmir RTI act were typically heard within 60 days.²⁵²

The closure of the State Information Commission following the Reorganisation Act has compounded the problem. The commission was empowered to hold public information officers accountable if they failed to provide information within the specified time limit. With no accountability, it has become routine practice to withhold information, apparently

²⁵⁰ *Reporters without borders*, '2021 World Press Freedom Index: Journalism, the vaccine against disinformation, blocked in more than 130', 2021, <https://rsf.org/en/2021-world-press-freedom-index-journalism-vaccine-against-disinformation-blocked-more-130-countries> ; *Reporters without Borders*, <https://rsf.org/en> .

²⁵¹ KO Web Desk, 'After 550 Days, Govt Lifts 4G Ban in J&K', *Kashmir Observer*, 5 February 2021, <https://kashmirobservers.net/2021/02/05/4g-internet-restored-after-550-days-in-jk/> .

²⁵² Ishtyaq Ahmad, 'JK government asks departments to update websites regularly', *Kashmir News Service*, 11 April 2018, <http://www.knskashmir.com/-jk-government-ask-departments-to-update-websites-regularly--25502> .

even from the central information commission. The commission's 2019-2020 report made no mention of RTI data from the department of Jammu and Kashmir and Ladakh affairs, which was created on 21 October 2019.²⁵³

Activists also observed that the weakening of the RTI structure in Jammu and Kashmir had an undesirable impact in the fight against Covid-19. Citizens were unable to receive information about vaccines, oxygen ventilators and beds.²⁵⁴

Coercion of the media

The 2020 media rules discussed in the Forum's [January 2021 report](#), combined with the union government's new information technology rules that allow for clamps on social media²⁵⁵, have led to a spate of coercive measures in Jammu and Kashmir.

On 5 April 2021, the Jammu and Kashmir information and public relations department inspected newspaper houses in Srinagar for 'physical verification' of the office infrastructure, publication and printing details, staff verification. According to the joint director of the department, the verification was required to support "genuine publications who are running their newspapers professionally".²⁵⁶ However, such verifications may also provide additional opportunities for curbs on newspapers and journalists considered to be critical of government, which are already considerable.

Government restrictions on media grew when, on 6 April 2021, media professionals were directed by the Inspector-General of Police Kashmir Vijay Kumar not to be present in the vicinity of counter-insurgency operations or 'law and order' situations, as it could endanger their lives. Arguing that freedom of speech and expression are subject to reasonable restrictions, Mr. Kumar added that media presence may disturb troops engaged in operations, and that such media coverage may trigger public unrest. The next day, 7 April, he told journalists that he had issued written directions to all district senior

²⁵³ Venkatesh Nayak, 'Findings from a preliminary study of the Central Information Commission's latest Annual Report on the Implementation of the RTI Act (2019-20)', *Commonwealth Human Rights Initiative*, 25 March 2021, <https://www.humanrightsinitiative.org/blog/findings-from-a-preliminary-study-of-the-central-information-commissions-latest-annual-report>.

²⁵⁴ Athar Parvaiz, 'How the weakening of Right to Information in Kashmir makes the fight against Covid-19 more difficult', *Scroll*, 8 June 2021, <https://scroll.in/article/996440/how-the-right-to-information-has-become-weaker-in-kashmir-since-the-abrogation-of-article-370>.

²⁵⁵ *PRS Legislative Research*, 'The Information Technology (Intermediary Guidelines and Digital Media Ethic Code) Rules, 2021', <https://prsindia.org/billtrack/the-information-technology-intermediary-guidelines-and-digital-media-ethics-code-rules-2021>.

²⁵⁶ Observer News Service, 'Info Deptt Officials Inspect Newspaper Offices', *Kashmir Observer*, 5 April 2021, <https://kashmirobsrver.net/2021/04/05/info-deptt-officials-inspect-newspaper-offices/>.

superintendents of police to take legal action against media that came close to counter-insurgency operations or law and order ‘situations’.²⁵⁷

Demanding withdrawal of Mr. Kumar’s directive, the Editors Guild of India and other media bodies called it “draconian and undemocratic”, adding that it appeared to be an attempt to allow security forces to escape media scrutiny.²⁵⁸ Local journalists pointed out that there were already restrictions that ensured media remained at a distance during counter-insurgency operations; they wondered whether “the police is trying to convey that we mustn’t cover these events at all”.²⁵⁹ If this was the case, they feared considerable loss of livelihood, since freelance journalists are required to provide live video/photographic coverage to sell their pieces.²⁶⁰

Attacks on journalists

On 5 March 2021, photojournalists Saqib Majeed and Shafat Farooq were assaulted by police during their coverage of a protest in downtown Srinagar. They were chased, slapped, and dragged across the road. Farooq was hit with the rear end of a rifle and had to be hospitalised. Though senior police officials apologised²⁶¹, Majeed was assaulted by police again in May 2021, during the pandemic lockdown in Srinagar, despite the fact that police units in Jammu and Kashmir had been directed to allow free passage to journalists and doctors upon their furnishing identification, which Majeed had done.²⁶² Criticising the attack, the Journalists’ Federation of Kashmir commented in a social media post that “There has been a disturbing pattern of targeting journalists and the state is yet to hold anyone accountable”.²⁶³

On 3 March 2021, online news outlet *The Kashmir Walla* moved the Jammu and Kashmir High Court, praying for quashing of an FIR filed against them for a story on a Shopian

²⁵⁷ KO Web Desk, ‘SSPs to Brief Media About Encounters: IGP’, *Kashmir Observer*, 9 April 2021, <https://kashmirobservers.net/2021/04/09/ssps-to-brief-media-about-encounters-igp/>.

²⁵⁸ Observer News Service, ‘EGI Slams Police Advisory on Live Encounters’, *Kashmir Observer*, 17 April 2021, <https://kashmirobservers.net/2021/04/17/egi-slams-police-advisory-on-live-encounters/>; Yusuf Jameel, ‘Encounters: Jammu and Kashmir police ban live coverage’, *Asian Age*, 8 April 2021, <https://www.asianage.com/india/politics/080421/jk-police-ban-live-coverage-of-encounters-between-security-forces-and-militants.html>.

²⁵⁹ Shakir Mir, ‘Kashmir Journalists Confused, Worried by Police Warning Against Covering Gunbattles’, *The Wire*, 8 April 2021, <https://thewire.in/media/kashmir-journalists-confused-worried-by-police-warning-against-covering-gunbattles>.

²⁶⁰ Kaisar Andrabi, Shakir Mir, ‘Indian media decree threatens Kashmir journalists’ jobs’, *Nikkei Asia*, 28 April 2021, <https://asia.nikkei.com/Politics/Indian-media-decree-threatens-Kashmir-journalists-jobs2>.

²⁶¹ *The Wire*, ‘Srinagar: Kashmir Press Club Condemns Assault of 2 Photojournalists by Police’, 5 March 2021, <https://thewire.in/media/srinagar-kashmir-press-club-condemns-assault-of-2-photojournalists-by-police>.

²⁶² KO Web Desk, ‘Facilitate Free Movement Of Medicos, Journos: IGP To Police Units’, *Kashmir Observer*, 29 April 2021, <https://kashmirobservers.net/2021/04/29/facilitate-hassle-free-movement-of-medicos-journos-igp-to-police-units/>.

²⁶³ Observer News Service, ‘KPC Condemns Cop’s Attack on photojournalist in Srinagar’, *Kashmir Observer*, 10 May 2021, <https://kashmirobservers.net/2021/05/10/kpc-condemns-cops-attack-on-photojournalist-in-srinagar/>.

school that was allegedly coerced to hold a Republic Day event. The story was an honest reportage of events, the petition said, published after investigation.²⁶⁴

On 4 June 2021, 23-year-old journalist Sajid Raina was booked under Sections 153 and 505 of the IPC, when he posted a picture on WhatsApp of the boat tragedy on Wullar Lake in 2006, in which twenty-two children died, on its 15th anniversary. His post, the Jammu and Kashmir police tweeted, “attracts investigation into the contents and intention” behind it.²⁶⁵

Self-censorship in the Kashmiri media

A report published in *Article 14* analysed the increasing tendency of Kashmiri journalists to self-censor for fear of government backlash. Independent journalist Shakir Mir, for example, recounted having to ‘tuck away’ a detail of soldiers stealing jewellery from an encounter site in a small quote, rather than beginning his story with it.

Sajad Gul, a freelance reporter was booked in Bandipora on charges of “rioting, trespassing, and assault”, for covering a demolition drive on 9 February 2021. The next day, the officer who had led the demolition drive went to Gul’s maternal uncle’s house to demolish it too, in what was assumed by Gul to be a deliberate move. Thereafter, the officer filed an FIR against people who protested the demolition, including Gul’s four maternal uncles.²⁶⁶ “My hands shiver whenever I try to write a story now ...”, Gul said, “it has impacted my mental health and I am unable to think properly when I have to work.” Added journalist Shams Irfan, the atmosphere of fear prevented Kashmiri journalists from reporting freely.²⁶⁷

Media gag on healthcare workers

In early May 2021, the Director of Health Services Kashmir, Dr. Mushtaq Rather, issued a circular imposing a media ban on health officials and doctors: “All Chief Medical Officers/Medical Superintendents/Block Medical Officers of Kashmir division are enjoined upon to issue instructions to all the staff under their administrative domain to desist from media interactions, as it has been seen that contradictory and confusing messages are being

²⁶⁴ *Scroll*, ‘Kashmir Press Club condemns alleged assault on two photojournalists covering protests in Srinagar’, 5 March 2021, <https://scroll.in/latest/988719/kashmir-press-club-condemns-alleged-assault-on-two-photojournalists-covering-protests-in-srinagar> .

²⁶⁵ Bashaarat Masood, ‘Jammu and Kashmir journalist booked for post on 2006 tragedy’, *Indian Express*, 6 June 2021, <https://indianexpress.com/article/cities/srinagar/jammu-and-kashmir-journalist-booked-for-post-on-2006-tragedy-7345962/> .

²⁶⁶ Kaisar Abdrabi, ‘Kashmir: FIR Against Journalist After Tehsildar Vows Revenge Over Demolition Drive Report’, *The Wire*, 22 February 2021, <https://thewire.in/media/kashmir-fir-against-journalist-after-tehsildar-vows-revenge-over-demolition-drive-report> .

²⁶⁷ Quratulain Rehbar, ‘State Intimidation Forces Kashmiri Journalists to Self-Censor’, *Article 14*, 12 March 2021, <https://www.article-14.com/post/how-state-intimidation-forces-kashmiri-journalists-to-self-censor> .

circulated, which misinforms the public and creates unnecessary and avoidable panic".²⁶⁸ Violations of the order invited strict disciplinary action.²⁶⁹

A better way, surely, would have been to ensure that all healthcare workers were equipped with accurate information to disseminate to the public through the media.

New social media restrictions

As part of a new recruitment policy, the Jammu and Kashmir administration mandated that government employees submit their social media history for scrutiny by the Jammu and Kashmir police. In early February 2021, the police issued a circular under a union home ministry initiative, the Indian Cyber Crime Coordination Centre (I4C)²⁷⁰, seeking cyber volunteers to flag "posts that are against the sovereignty and integrity of India, against the defence of India, against the security of the State, against friendly relations with foreign States, content aimed at disturbing public order, disturbing communal harmony and child sex abuse material."²⁷¹ Further, on 4 March 2021, the GAD tied salary payment to the scrutiny of the social media accounts of employees, asking department heads to hold pay checks until cleared by police scrutiny.²⁷²

Drones fallout

Dozens of young photographers and filmmakers in Jammu and Kashmir suffered as their drone equipment, often worth lakhs, was confiscated by the authorities, impacting their ability to report.²⁷³

²⁶⁸ *The New Indian Express*, 'Kashmir health director imposes media gag on doctors, medical officials', 6 May 2021, <https://www.newindianexpress.com/nation/2021/may/06/kashmir-health-director-imposes-media-gag-on-doctors-medical-officials-2299327.html> .

²⁶⁹ *The New Indian Express*, 'Kashmir health director imposes media gag on doctors, medical officials', 6 May 2021, <https://www.newindianexpress.com/nation/2021/may/06/kashmir-health-director-imposes-media-gag-on-doctors-medical-officials-2299327.html> .

²⁷⁰ *Ministry of Home Affairs Website*, 'Details about Indian Cybercrime Coordination Centre (I4C) Scheme', https://www.mha.gov.in/division_of_mha/cyber-and-information-security-cis-division/Details-about-Indian-Cybercrime-Coordination-Centre-I4C-Scheme .

²⁷¹ Press Trust of India, 'Govt Seeks Cybercrime Volunteers To Check Anti-National Content', *First Post*, 9 February 2021, <https://www.firstpost.com/india/govt-seeks-cyber-crime-volunteers-to-report-on-anti-national-posts-project-launched-in-jammu-and-kashmir-9286071.html> .

²⁷² Jehangir Ali, 'J&K Admin to Monitor Social Media of Employees, Says No Pay for 'Errant' Officials', *The Wire*, 6 March 2021, <https://thewire.in/government/jammu-kashmir-admin-social-media-employees> .

²⁷³ Auqib Javed, 'Grounded Drones create professional crisis for Kashmiri photographers', *Kashmir Observer*, 6 July 2021, <https://kashmirobsvr.net/2021/07/06/grounded-drones-create-professional-crisis-for-kashmiri-photographers/> .

CONCLUSION

Two years after the hollowing out of Article 370 and the introduction of the Reorganization Act, grave violations of human rights continue. Indeed, new methods that endanger civilian security, political freedoms, government service, and media independence have been added. There appears to be little accountability for violations by the union government and security forces. The Forum urges that accountability bodies, both within and outside government, take serious note of the recommendations made in this third report.

LIST OF ABBREVIATIONS

AFSPA- Armed Forces Special Powers Act
BJP- Bharatiya Janata Party
BSF- Border Security Forces
CASO- Cordon and Search Operations
CID- Crime Investigation Department
CMIE- Centre for Monitoring the Indian Economy
CrPC- Code of Criminal Procedure 1973
CRPF- Central Reserve Police Force
CWA- Chopan Welfare Association
DGMOS- Directors-general of military operations
DIPR- Directorate of Information and Public Relations
FIR- First Information Report
GAD- General Administrative Department
GoC- General Officer Commanding
HPCs- High Powered Committees
IEDs- improvised explosive devices
IPC- Indian Penal Code
ISIS- Islamic State of Iraq and Syria
I4C- Indian Cyber Crime Coordination Centre
JeM- Jaish-e-Mohammad
JKLF-R- Jammu and Kashmir Liberation Front-R
KEA- Kashmir Economic Alliance
LeT- Lashkar-e-Toiba
LoC- Line of Control
MMU- Mutahida Majlis-e-Ulema
NCW- National Commission for Women
NIA- National Investigation Agency
PDP- Peoples Democratic Party
PIL- Public Interest Litigation
PSA- Public Safety Act
RTI- Right to Information
SOG- Special Operations Group
STF- Special Task Force
UAPA- Unlawful Activities Prevention Act
UNHCR- United Nations High Commissioner for Refugees
VDCs- Village Defence Committees

APPENDIX

About the Forum for Human Rights in Jammu and Kashmir

The Forum for Human Rights in Jammu and Kashmir comprises a group of concerned citizens who believe that, in the prevailing situation in the former State, an independent initiative is required so that human rights violations do not go unnoticed. The aim of the Forum is to highlight, report, and seek action. It will focus primarily on human rights protected by the constitutions of India and of Jammu and Kashmir, as well as those identified in international treaties/instruments which India has ratified. It will research evident violations, and may take suo motu note of any violation, irrespective of whether or not a formal complaint is received. On issues of common concern, the Forum may include Ladakh in its purview.

The Forum for Human Rights in Jammu and Kashmir will receive information/materials on human rights violations to its email hrforumjk@gmail.com and through other means, and it may report/forward complaints to relevant authorities with recommendations for action. Please note that this is not an adjudicatory body.

The members of the Forum for Human Rights in Jammu and Kashmir take allegations of inaccuracy, bias, or any other criticism founded in fact, very seriously. Criticism of this nature will be considered and responded to in real time.

Short Bios of members of The Forum for Human Rights in alphabetical order:

Enakshi Ganguly is a human rights activist, writer and researcher. Beginning her career at the Indian Social Institute in 1985, she was Deputy Director of the Multiple Action Research Group (MARG), worked with Mobile Creches and the Population Council and co-founded the HAQ Centre for Child Rights in 1998. She is currently advisor to HAQ and a freelance consultant. She is the President of the Society for Rural, Urban Tribal Initiatives (SRUTI) and on the boards of the Gender Centre of the Lal Bahadur Shastri Academy for Administration (LBSNAA) and National Centre for Advocacy Studies (NCAS). Ms. Ganguly was a member of the Steering Committee of the Planning Commission for the Eleventh and Twelfth Five Year Plans and a technical expert for several UN agencies. In 2003, she was awarded the Ashoka Fellowship and has been profiled in a book entitled WOMANKIND: Faces of Change Around the World by Donna Nebenzahl and Nance Ackerman (Raincoast Books:

2003). In 2019, she was awarded the REX Karmaveer Chakra award instituted by iCONGO in Partnership with the United Nations.

Ramachandra Guha is a historian and biographer based in Bengaluru. He has taught at the universities of Yale and Stanford, held the Arné Naess Chair at the University of Oslo, and served as the Philippe Roman Professor of History and International Affairs at the London School of Economics. In 2019-20 he held the Satish Dhawan Chair in the humanities at the Indian Institute of Science. Guha's books include a pioneering environmental history, *The Unquiet Woods* (University of California Press, 1989), an award-winning social history of cricket, *A Corner of a Foreign Field* (Picador, 2002), and a best-selling history of independent India, *India after Gandhi* (Macmillan/Ecco Press, 2007). His most recent work is a two-volume biography of Mahatma Gandhi: *Gandhi Before India* (2013), and *Gandhi: The Years that Changed the World* (2018).

Air Vice Marshal (retd) Kapil Kak served in the Indian Air Force in the flying branch for over three decades and undertook combat missions in the India-Pakistan War of 1971. For 'distinguished service of exceptional order', the President of India awarded him the Ati Vishist Seva Medal, as well as the Vishist Seva Medal. A former Deputy Director at the Institute for Defence Studies and Analyses in New Delhi, and Advisor (Strategic Studies) at the University of Jammu, Air Marshal Kapil Kak is the Founding Additional Director of the Centre for Air Power Studies, New Delhi, and is closely associated with the Track II initiatives of multiple public policy think tanks on the India-Pakistan peace process, and conflict resolution and peace building in Jammu and Kashmir. He is a member of the University Council of Cluster University, Jammu; Board of National Security Studies, Central University, Jammu, and on the Board of Directors of the New Delhi-based Healing Minds Foundation.

Radha Kumar (co-chair) is former Director General of the Delhi Policy Group (2010-2015) and a specialist on peace and security. Earlier Director of the Mandela Centre for Peace at Jamia Millia Islamia University, Dr. Kumar was also Senior Fellow at the Council on Foreign Relations in New York, Warren Weaver Fellow at the Rockefeller Foundation, Associate Fellow at the Institute for War and Peace Studies at Columbia University and Executive Director of the Helsinki Citizen's Assembly in Prague. She has served on the boards of the UN Institute for Training and Research (UNITAR) and the Foundation for Communal Harmony and is currently a member of the United Nations University Council (which she chaired from 2016-19), and Board member of the Stockholm International Peace Research Institute (SIPRI). She was a member of the three-person Group of Interlocutors for Jammu and Kashmir appointed by the Government of India (2010-11), who prepared the report

titled *A New Compact for Jammu and Kashmir*. Dr. Kumar's latest books are *A Gender Atlas of India* (Sage: 2018) and *Paradise at War: A Political History of Kashmir* (Aleph: 2018).

Justice Madan Lokur (co-chair) graduated in law from Delhi University in 1977 and joined the Bar immediately thereafter. He was appointed Additional Solicitor General of Delhi in 1998 and judge of the Delhi High Court in 1999, and as Chief Justice of the Gauhati High Court in 2009 and of the Andhra Pradesh High Court in 2011. In June 2012, he was appointed judge of the Supreme Court. After his retirement in December 2018, he was appointed judge of the Supreme Court of Fiji in January 2019 and took the oath of office in August. Justice Lokur's expertise includes alternative dispute resolution mechanisms (such as arbitration and mediation), legal aid, judicial education, child rights and human rights.

Justice Hasnain Masoodi is a former judge of the High Court of Jammu and Kashmir and a Member of Parliament (Lok Sabha, the lower house of the Indian parliament), from the Anantnag constituency of Jammu and Kashmir.

Major General (Retd.) Ashok Kumar Mehta retired from the Indian army in 1991. He served in Uri, south of the Pir Panjal in Rajouri, and in the Kargil and Ladakh sectors. He fought in the 1965 and 1971 India-Pakistan wars, both in the eastern and western theatres of the conflict. He also commanded the Indian Peace-Keeping Force in Sri Lanka, fought counter-insurgency operations in Nagaland, and engaged in UN Peacekeeping Operations in 1962-63. He returned to Jammu & Kashmir in 1988 as a member of the Defence Planning Staff, Ministry of Defence. He has subsequently visited Jammu and Kashmir after retirement in 1993 and in mid-2000 as part of Track II assignments. In 2003, he became the convenor of an annual India Pakistan conference which continued almost uninterrupted till 2018.

Justice Bilal Nazki is a former Chief Justice of the High Court of Orissa and has served as judge in the high courts of Jammu and Kashmir, Andhra Pradesh and Bombay, and as Advocate General of Jammu and Kashmir. He was Chairman of the Jammu and Kashmir State Human Rights Commission and the Human Rights Commission of Bihar and headed the committee set up by the Government of India to review the functioning of the Haj Committee of India and its state units. He has been President of the Andhra Pradesh State Judicial Academy, Chancellor of National Academy of Legal Studies & Research University (NALSAR), Hyderabad, and Executive Chairman of the Andhra Pradesh State Legal Services Authority.

Justice Ruma Pal is a former judge of the Supreme Court of India (2000-2006) as well as of the Calcutta High Court. She has served as Chancellor of Sikkim University, Executive Council member of the International Academy of Law, Executive Chairperson of the National Services Authority, Chairperson of the Academic Council of the Indian Law

Institute, Executive Council member of the National Judicial Academy and the WB National University of Juridical Sciences. She is a member of the International Association of Women Judges and advisor to the Asia Pacific Forum on Equality Issues, as well as member of the Committee of experts on the Application of Conventions and Recommendations, International Labour Organization.

Lieutenant General (retd.) H S Panag is former GOC-in-C of the army's Northern Command, Udhampur, and Central Command, Lucknow. He is experienced in both counter-insurgency and high-altitude operations, and has served as an Instructor in the Indian Military Officers' Training Academy, commanded an Infantry brigade, the 31 Armoured Division and the XXI Corps, the strike formation of the Southern Command. Post-retirement he was appointed an Administrative Member of the Armed Forces Tribunal, Chandigarh Bench. His awards include the Param Vishisht Seva Medal and the Ati Vishisht Seva Medal. He is a frequent contributor to the media on strategic and military affairs and an expert on Chinese strategic planning.

Amitabha Pande is a former member of the Punjab Cadre of the Indian Administrative Service who retired in 2008 as the Secretary of the Inter State Council of the Government of India, a constitutional machinery for federal policy coordination, diversity management and consensus building between the Union of India and the states, and among the states. The Council represents India in the Forum of Federations – an international organisation for the promotion of federalism with headquarters in Ottawa, Canada. He has written several articles on the subject of intergovernmental relations in India, with a focus on the dynamics of the interplay between democracy, diversity, identity and the idea of a monolithic 'nation state'. He also had a long stint in the Ministry of Defence involving close interaction with the armed forces. That and his experience in Punjab during its most troubled period has given him insights into security related issues which have a bearing on the current situation in Jammu and Kashmir.

Gopal Pillai is a former member of the Kerala Cadre of the Indian Administrative Service, who retired as Union Home Secretary in June 2011. He has served as Under Secretary/Deputy Secretary in the Defence Ministry, Deputy Secretary Labour, Kerala Special Secretary for Industries, Secretary Health and Family Welfare, Principal Secretary to the Chief Minister of Kerala, Joint Secretary (North East) in the Home Ministry, Additional Secretary in the Department of Commerce, Special Secretary in Commerce, and Secretary in the Department of Commerce, before becoming Union Home Secretary (2009-11). As Union Home Secretary, he dealt closely with security, political, legal and humanitarian issues relating to Jammu and Kashmir. Along with the then Home Minister, he instituted the Multi-Agency Centre for security and intelligence coordination between the Centre and

States (MAC), and floated the National Counter-Terrorism Centre (NCTC) and the Crime and Criminal Tracking Network System (CCTNS).

Justice Anjana Prakash is a former judge of the Patna High Court (2009-2016). She has practiced law since 1982 and is currently a senior advocate based out of Delhi. She is also a frequent contributor of opinion pieces on constitutional issues in journals, such as Live Law, and newspapers, including The Wire. In early 2020 she served as amicus curiae to the Supreme Court on the death penalty for the Nirbhaya rape-murder convicts.

Nirupama Rao was Foreign Secretary in the Government of India (2009-2011) and earlier served as Spokesperson of the Ministry of External Affairs; she was High Commissioner of India in Sri Lanka and Ambassador to the People's Republic of China. She was Ambassador of India to the United States from 2011 to 2013. On retirement, Rao was a Fellow at Brown University and also taught there from 2015-16. She was George Ball Adjunct Professor at Columbia University in Fall 2018. In 2019, she was a Pacific Leadership Fellow at UC San Diego. She is a Global Fellow of The Woodrow Wilson Center, Washington DC and Councillor of the World Refugee Council. She is a frequent contributor of opinion pieces on foreign policy and global affairs to a number of Indian media outlets.

Moosa Raza is a polyglot and a respected scholar of Islam who has been Principal Secretary to the Chief Minister of Gujarat, Chief Secretary in Jammu and Kashmir, Adviser to the Governor of Uttar Pradesh, and Secretary to the Government of India in the Cabinet Secretariat and in the Ministry of Steel. Currently, he is the chairman of the South Indian Educational Trust (SIET), which runs six educational institutions, and of the Executive Committee of Coastal Energen Pvt. Ltd. In 2010, he was honoured with the Padma Bhushan. His latest book is Kashmir: Land of Regrets (Context:2019).

Anand K. Sahay is a columnist who has held senior positions at the Patriot, Times of India, The Hindu, BITV, Hindustan Times and Asian Age and written for the Indian Express, Times of India, Economic Times, The Wire and the Citizen. He reported and commented for the BBC in New Delhi and London and was a Kabul-based advisor to the Afghanistan Times. He reported the fall of Gorbachev and end of communism out of Moscow, the dismantling of apartheid and the first all-race election in South Africa and the transfer of Hong Kong to China, as well as insurgency and militant politics in Kashmir, Punjab and Assam. He has been visiting professor at the Nehru Centre, Jamia Millia Islamia University and guest lecturer at the National Defence College. He has also been president of the Press Club of India.

Probir Sen joined the Indian Administrative Service after graduating from Cambridge, and retired as Secretary to the Government of India and Secretary General of the National

Human Rights Commission. During the course of his career he headed a large number of organizations, including Indian Airlines and Air India. After retirement he was appointed Director, India International Centre and subsequently served on the Boards of a number of corporations, companies, trusts and NGOs. He possesses wide exposure to issues relating to management, organizational development and leadership.

Justice Ajit Prakash Shah served as a judge of the Bombay High Court and later as Chief Justice of Madras and Delhi High Courts. After retirement, he headed the Twentieth Law Commission of India (2013-2015), which submitted 19 reports, including on the Arbitration and Conciliation Act, commercial courts, electoral reforms and the death penalty. He has been Chairperson of the Broadcasting Content Complaints Council (BCCC), a selfregulatory body appointed by the Indian Broadcasting Foundation, and member of the Governing Council appointed by the Ministry of Law and Justice for judicial reforms. He also served as member of the Expert Committee of the International Labour Organization for implementation of ILO Conventions by member countries and headed a Committee appointed by the Planning Commission for drafting the Privacy and Data Protection Laws. He is nominated as the Commissioner in the International Commission of Jurists (ICJ). He has also acted as ombudsman for sports bodies such as the Board for Cricket Control in India.

Dr. R D Sharma is a business education expert and former Vice Chancellor of Jammu University (2015-2018). He has written extensively on business education and management over his forty-year career as a teacher, and has guided over fifty M Phil and Ph D students. He was also Vice Chancellor of Noida International University, Chairman of the JK Board of Professional Examinations and a Fullbright Scholar. Besides publications in business education, Sharma also co-edited a book entitled Politics of Autonomy in Jammu and Kashmir.

Shantha Sinha, is the Founder Secretary of M V Foundation which withdrew over a million children from child labour and enabled completion of their education up to class 10. She headed the National Commission for the Protection of Child Rights as its first Chairperson for two consecutive terms from 2007-2013. She also served as a Professor, Department of Political Science, University of Hyderabad. She is a recipient of the Ramon Magsaysay Award, 2003, for community leadership and was awarded the Padma Shri in 1998 by the Government of India.

Hindal Haidar Tyabji joined the J&K cadre of the IAS in 1965. He has served in the State Govt. as well as the Central Govt. in a variety of positions. He was Chief Secretary Jammu and Kashmir during the Governor's Rule of General Krishna Rao in 1994. In 1995, he moved

to the Ministry of Home Affairs (Department of Justice) as Additional Secretary. He returned to the state in October 1996 when an elected government was sworn in and headed the state's Agriculture and Rural Development departments. He took premature retirement in 1998 to take up a 5-year assignment as the Chairman of the Jammu and Kashmir Public Service Commission. In August 2008, he returned to Jammu and Kashmir to serve as an Adviser to the then Governor Shri NN Vohra. After the period of Governor's Rule ended and the newly elected government was sworn in he returned to Delhi where he and his wife reside.

