

Why Are People Protesting in Kashmir?

**A Citizen's report on the violation of democratic rights in the
Kashmir Valley in 2016**

MAY 2017

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EXECUTIVE SUMMARY

On July 8, 2016, the Indian Army and Jammu & Kashmir Police killed three Hizbul Mujahideen commanders Burhan Wani, Sartaj Sheikh and Pervaiz Lashkari in an ‘encounter’ in Kokernag. Following the killing, the valley broke out into mass protests, which sprang from rural villages in Kashmir and extended to its towns and cities. Mourners and protestors attempting to reach Burhan Wani's funeral in his hometown of Tral were met with fire fired upon by state forces, triggering a cycle of public protest demonstrations that was met by severe state repression. In the first three days alone, over 30 protestors lost their lives in firing by state forces. In four months, 102 unarmed civilians were killed by the Indian army, the J&K Police and central paramilitary forces. According to reports in the media, more than 15,000 people were injured by armed firing, and in pellet firing and shelling. Hundreds were blinded by the use of pellet guns, most of whom are young and many are minors. A regime of indiscriminate arrests and false charges was let loose.

In November 2016, twenty five citizens of India visited Kashmir over a period of 10 days to understand first-hand the situation of the people of the Kashmir valley that emerged in the summer of 2016, and look into the roots of discontentment. These citizens represent various people's movements, human rights groups, women and youth organisations, trade unions, individuals who are journalists, writers and filmmakers from the states of Gujarat, Delhi, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Nagaland, Odisha, Tamil Nadu and Telangana, whose objective was to listen to the voices of the people of Kashmir.

Over 10 days, members of the team visited the districts of Anantnag, Bandipora, Baramulla, Budgam, Ganderbal, Kulgam, Kupwara, Pulwama, Shopian and Srinagar. The members met with families of those who have been killed by the Indian Army, the Border Security Force (BSF), the Central Reserve Police Force (CRPF), and the J&K Police (JKP), including the Special Operations Group (SOG) and Special Task Forces (STF). We met with families of those who have disappeared or have been jailed, including human rights defenders. We also met with victims grievously injured, including those blinded by pellet gunfire and PAVA (short for PELARGONIC Acid Vanillyl Amide, an organic compound found in natural chilli pepper) shell fire over these past four-and-a-half-months.

Members also met with lawyers, including the leadership of the J&K Bar Association (JKBA); trading and business communities, including the Kashmir Economic Alliance (KEA), Kashmir Fruit Growers & Dealers Association and district-level traders' federations; state government employees and their unions, including the Employees' Joint Action Committee (EJAC); students' unions; human rights defenders including the Jammu Kashmir Coalition of Civil Society (JKCCS)

and the Association of Parents of Disappeared Persons; political organisations and parties including the Jammu Kashmir Liberation Front (JKLF), other member parties of the All Party Hurriyat Conference, Jammu & Kashmir Peoples Democratic Party (PDP), and the Muslim League; Kashmiri Pandit community, including the Kashmiri Pandit Sangharsh Samiti (KPSS); relief, voluntary and social welfare organisations including the Kashmir Centre for Social and Development Studies, Firdous Educational Trust for Orphans as well as scholars, academics, journalists, doctors and paramedics, artists, and theatre professionals.

Since our return from the Kashmir valley, by the end of 2016, public attention shifted away from Jammu and Kashmir, and the familiar cyclical narrative of Kashmir ‘limping back to normalcy’ dominated the press in India, and the summer of 2016, like other previous summers of unrest was seen as having ended with the ‘restoration’ of an uneasy ‘calm’. However, the year 2017 has seen an escalation in violence. In comparison to the first three months of 2016, January-March 2017 saw a rise in the numbers of deaths of civilians, militants and armed forces personnel. In this light, and with continuing protests in the valley at this moment, we believe it is all the more important to present the findings of this report.

Following the alleged extrajudicial killing of 8 July, in the violence unleashed by state armed forces unarmed protests were met with sustained attack by the Indian Army, J&K police and paramilitary, including with the use of pellet guns, PAVA shells and firearms. We learnt of several deaths caused by targeted killings of unarmed civilians by armed forces in the absence of protests or demonstrations. Most deaths we came across have been caused by injuries waist-above, without any warning fire. Deaths and injuries caused by pellet guns too are all above the waist and preponderantly at eye level causing blinding or long-term ophthalmic damage. In the case of deaths, we learnt that the J&K Police has lodged ‘cross’ FIRs using similar and repetitive, if not identical, charges of the victim being ‘anti-national’. These government actions amount to a violation of the right to life.

Families that have pursued the legal remedy to identify the representatives of the Indian Army, J&K police and paramilitary, including those granted immunity under the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, who engaged in acts of killing innocent people, have become targets of repeated arrests, torture and raids. These government actions amount to criminal intimidation and have served as a deterrent to many families from pursuing the course of justice.

Of the papers of those who have been arrested, especially under the Jammu and Kashmir Public Safety Act, 1978 (PSA), that we were able to look at, the charges lack prima facie substance and employ similar, if not identical, language. We spent a

morning attending proceedings at the J&K High Court. In all the cases involving arrests under the PSA, including the case of PSA filed against human rights defender Khurram Pervez, the Government Counsel merely sought to delay cases by seeking more time to file documents when in fact the FIR/case dossier forms the basis of the arrest. We came across several cases of those who won their release through the courts, being promptly rearrested on the basis of new FIRs filed against them by the government. Cases of arrests of minors, including under the PSA, were also brought to our notice. These government actions amount to a violation of the principles of natural justice.

Families of detained and arrested persons also brought to our attention instances of grievous custodial torture by government interrogators in police stations and jails, indicating the levels of impunity enjoyed by the Indian Army, under the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, and the state police, under the Jammu and Kashmir Public Safety Act, 1978. People also reported that multiple wings of the intelligence were in operation, causing fear, mistrust and suspicion among people.

In the towns and villages where there were killings by the Indian Army, J&K police and paramilitary, we met with ordinary people who narrated a cycle of search and seizure raids following killings, and of indiscriminate firing, including at funerals and memorial gatherings. In several of these instances the Indian Army, J&K police and paramilitary broke windows and destroyed household goods, livestock, and food rations in peoples' homes. In several of the villages and towns we visited, the armed forces, during their search and seizure operations, routinely destroy the local electricity transformer or sub-station, denying the entire village or locality access to electricity. These government actions amount to handing out collective punishment. Women spoke of being subjected to violence and molestation by the Indian Army, J&K police and paramilitary, and reported several instances of verbal and physical abuse during the search and seizure operations. Paramedics working in the government health system reported that during this period they witnessed a significant increase in the number of miscarriages, which were caused by physical violence. These government actions amount to a violation of every law and the international covenant that is aimed at protecting women from sexual and other forms of violence.

We were very moved by the extraordinary efforts of the doctors, nurses and paramedics of the state's public health system in responding to the huge number of cases of those injured by the Indian Army, J&K police and paramilitary. Most of them, at various points during heightened state violence in the summer, have worked twenty-four hours a day, two to three days at a stretch. We, however, found that many

doctors were harassed by government intelligence to reveal the identity of their patients. The J&K police and paramilitary have also raided hospitals, including in one instance a women's ward. We met with ambulance drivers who were intimidated and threatened by the armed forces for ferrying the injured. We learnt that pharmacies and kitchens set up by relief and social welfare organisations and the business community, who stepped in to assist the government hospitals in meeting the extraordinary challenge of saving lives, were disbanded by the armed forces. In at least one case, a key leader of this 'critical assistance', as described by a senior government doctor, was arrested and jailed for over a fortnight. These government actions against emergency relief workers and health professionals are in violation of international covenants and India's own commitment to UN treaties.

We were witness to the closure of local town and village mosques by government authorities, across the Kashmir valley, including the Jamia Masjid in Srinagar and Jamia Masjid in Shopian. These government actions amount to violation of the right to freedom of religion.

We were witness to the ban on internet on mobile telephone services. We also noted from media reports of raids at newspaper offices, the shutting down of all newspapers in Kashmir for three days in July, and the blanket ban on the publishing of the newspaper Kashmir Reader. These government actions amount to a violation of the right to freedom of speech and internationally accepted norms of freedom of the press.

We noted the targeting of J&K state government employees, including the summary dismissal of 12 employees and the denial of salaries, issuing of show cause notices, and the suspension of several others. Office bearers of government employees' unions who have protested these government actions of unfair labour practice have been detained or arrested. These government actions amount to a violation of the right to freedom of association.

We witnessed the people's affirmative response to the strike call issued by the All Party Hurriyat Conference through the nine days that we were in Kashmir. We see this as the resilience and resoluteness of the resistance of the peoples of Kashmir against the actions of the Indian state.

Nearly every voice that we heard of the Kashmir peoples talked of the long-standing Kashmir dispute from the days of India's independence and partition, the division of Kashmir between India and Pakistan in 1948, and the sustained efforts of the peoples of Kashmir to assert their right to self-determination. From common people we heard articulate accounts of what they have faced from the Indian state and, in

particular, of the sustained attack on their democratic rights from 1989 onwards. The failure of the Indian state and every government since independence to address the political sentiments of Kashmir's peoples is a source of both hurt and enormous resentment.

We heard from every quarter we spoke to that, in this present phase, the BJP government at the centre and the PDP-BJP government in J&K has refused to address the strongly felt sentiments of the peoples of Kashmir. The stubbornness of the BJP government at the centre and the PDP-BJP government in J&K to dialogue with the people of the Kashmir valley and their representatives is well documented in the media. The PDP, in our meeting with them, confirmed Delhi's policy of non-dialogue and non-compromise and set out their support for this policy.

We also noted that, alongside this, the BJP government at the centre has sought to create a war-like situation with Pakistan along the border of J&K, employing the alleged Uri attack to build a Hindu majoritarian sentiment against Kashmir, Pakistan and those of the Islamic faith.

We conclude that the BJP government at the centre and the PDP-BJP government in J&K are engaged in actions that amount to a complete violation of universally accepted human and democratic rights and of the very Indian Constitution they claim to want to impose in the Kashmir valley. With use of government force and the rest of the machinery at their disposal, the government has acted and continues to act in grievous violation of the right to life, the right to free speech, the right to freedom of association, the right to freedom of religion, the right to freedom of press and the principles of natural justice. We are also distressed by the fact that senior members of the BJP government have made, and continue to make, inflammatory and provocative statements against the peoples of Kashmir. Regrettably, the parliamentary opposition has lacked the political courage and will to call upon the accountability of government actions.

We also conclude that the actions of the BJP government at the centre and the PDP-BJP government in J&K are acts of vengeance aimed at forcing the peoples of Kashmir into subjugation by using every possible force available to the government for breaking the peoples' resolve for a democratic settlement to achieve their aspirations. As representatives of diverse peoples' movements, trade unions and other organisations in India, and as India's citizens, we can say without reservation that the actions of the Indian state in Kashmir amount to profound violation of democratic and human rights. Hence, we call upon the Government of India to forthwith:

1. Recognise the Kashmir dispute and accept that its resolution can only come through a political solution, not through military intervention and a suppression of all human and democratic rights;
2. Withdraw the army and other paramilitary forces including the Central Reserve Police Force, Border Security Force and Indo Tibetan Border Police from civilian areas of Jammu and Kashmir;
3. Repeal the Jammu and Kashmir Public Safety Act, 1978 and the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990;
4. Release all political prisoners and, in particular, all prisoners arrested under the Jammu and Kashmir Public Safety Act, 1978;
5. Grant access to the UN High Commissioner for Human Rights for a UN fact-finding mission in Jammu & Kashmir;
6. Establish a judicial tribunal under the supervision of the Supreme Court to examine all cases of extra-judicial killings, including that of Burhan Wani;
7. Enter into an open and transparent dialogue, without pre-conditions, with all sections of the Kashmir peoples and their representatives in order to bring about a resolution of the Kashmir dispute that recognises the aspirations of people to determine their own destiny through demonstrably democratic means.

We also call upon all Indian citizens to recognise that the actions of the Indian state in the Kashmir valley are far removed from the values of a democratic republic and beyond the pale by any acceptable norms of a civilised society in the 21st century. We call upon all Indian peoples to ensure that the injustices against Kashmir's peoples are brought to an end and their democratic aspirations addressed.

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SECTION I: PURPOSE AND MANDATE

On July 8, 2016, the Indian Army and Jammu & Kashmir Police killed three Hizbul Mujahideen commanders Burhan Wani, Sartaj Sheikh and Pervaiz Lashkari in an ‘encounter’ in Kokernag. Following the killing, the valley broke out into mass protests, which sprang from rural villages in Kashmir and extended to its towns and cities. Mourners and protestors attempting to reach Burhan Wani's funeral in his hometown of Tral were met with fire fired upon by state forces, triggering a cycle of public protest demonstrations that was met by severe state repression. In the first three days alone, over 30 protestors lost their lives in firing by state forces. In four months, 102 unarmed civilians were killed by the Indian army, the J&K Police and central paramilitary forces. According to reports in the media, more than 15,000 people were injured by armed firing, and in pellet firing and shelling. Hundreds were blinded by the use of pellet guns, most of whom are young and many are minors. A regime of indiscriminate arrests and false charges was let loose.

Strict curfew was imposed in all 10 districts of the valley within hours of the killing and continued for 51 days until August 29, 2016, after which there were intermittent relaxations and re-imposition of curfew. Internet (both landline-based and mobile-based) and mobile telephone services were completely suspended within hours of the killing of Burhan Wani, and gradually reintroduced over the following months, with mobile internet services being the last to be restored, six months later on January 28, 2017. Further, gag orders and bans were issued on the press creating a serious lack of information.

As part of the mass protests peaceful processions were taken out, and songs of azadi (freedom) rang out, as Kashmiri people took to streets, walls and mosques in one of the most heavily militarized zones in the world to protest against the excesses of the Indian state and to renew, once again, their longstanding demand for freedom. The Joint Resistance leadership (all factions of the Hurriyat, as well as other pro-freedom groups) began issuing weekly protest calendars, announcing a non-violent programme for co-ordinated mass actions including general strikes (hartal), sit-ins, graffiti writing, demonstrations and marches, from July 8. This found wide support across all sections of Kashmir society; shops, schools and public transport remained closed in accordance with the calendar, something we were witness to ourselves during our visit to the valley. The attendance in government offices was also extremely thin. After six months of continuous hartal, in December 2016, the programme was reduced to two days of shut-down (Fridays and Saturdays) in a week. The protest calendar, ‘Protest Program for Right to Self-determination’ (from March 1 to March 15, 2017) prescribed weekly peaceful protests after Friday prayers, along with hour-long sit-ins by the Jammu & Kashmir Bar Association and traders’ associations on particular days.

In November 2016, 25 citizens of India visited Kashmir over a period of 10 days to understand first-hand the situation of the people of the Kashmir valley that emerged in the summer of 2016, look into human rights violations and injustice. These citizens represent various people's movements, human rights, women and youth organisations, trade unions, individuals who are journalists, writers and filmmakers from the states of Gujarat, Delhi, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Nagaland, Odisha, Tamil Nadu and Telangana, whose objective was to listen to the voices of the people of Kashmir.

Over 10 days, members of the team visited the districts of Anantnag, Bandipora, Baramulla, Budgam, Ganderbal, Kulgam, Kupwara, Pulwama, Shopian and Srinagar. The members met with families of those who have been killed by the Indian Army, the Border Security Force (BSF), the Central Reserve Police Force (CRPF), and the J&K Police (JKP), including the Special Operations Group (SOG) and Special Task Forces (STF). We met with families of those who have disappeared or have been jailed, including human rights defenders. We also met with victims grievously injured, including those blinded by pellet gunfire and PAVA (short for PELARGONIC Acid Vanillyl Amide, an organic compound found in natural chilli pepper) shell fire over these past four-and-a-half-months.

Members also met with lawyers, including the leadership of the J&K Bar Association (JKBA); trading and business communities, including the Kashmir Economic Alliance (KEA), Kashmir Fruit Growers & Dealers Association and district-level traders' federations; state government employees and their unions, including the Employees' Joint Action Committee (EJAC); students' unions; human rights defenders including the Jammu Kashmir Coalition of Civil Society (JKCCS) and the Association of Parents of Disappeared Persons; political organisations and parties including the Jammu Kashmir Liberation Front (JKLF), other member parties of the All Party Hurriyat Conference, Jammu & Kashmir Peoples Democratic Party (PDP), and the Muslim League; Kashmiri Pandit community, including the Kashmiri Pandit Sangharsh Samiti (KPSS); relief, voluntary and social welfare organisations including the Kashmir Centre for Social and Development Studies, Firdous Educational Trust for Orphans as well as scholars, academics, journalists, doctors and paramedics, artists, and theatre professionals.

The mission presents its findings in the form of a report that examines the various violations of human rights by the state government of Jammu & Kashmir and the central government, and Indian security forces in accordance with international covenants on economic, social, cultural, political and human rights. We find that the government actions amount to serious violations of the right to life, principles of natural justice, international covenants protecting women and children from

violence, the right to freedom of speech, the right to freedom of religion, the right to the freedom of press, the right to work and the right to freedom of association.

The mission concludes, without any reservation, that the state and central governments are engaged in actions that amount to a total violation of universally accepted human and democratic rights. We find government to be in violation of the very Indian Constitution they claim to want to impose in Kashmir. We conclude that the state and central governments have used every possible force available for breaking the peoples' resolve for a democratic settlement of the dispute over people's and the state's rights to achieve their aspirations.

SECTION II: POLITICAL ANALYSIS

This report does not seek to present an in-depth analysis of the character of the broader struggle for self-determination in Kashmir, it will attempt to present the idea of 'India' as it means to Kashmiri people in the context of the 2016 protests. This, we hope, will contribute to a substantive engagement with the political dispute and the Kashmiri peoples' struggle for self-determination.

With contested territorial borders and internationally disputed legal status between India and Pakistan, Indian armed forces have maintained a significant presence in Jammu and Kashmir since 1948. However, the numbers of Indian troops deployed in the region increased dramatically in the early 1990s, with the rise in popular protests against the Indian state. Present estimates put the total number of state forces permanently deployed in the region (including regular Army, counter-insurgency forces, paramilitary, police and state sponsored private militias) at 6,50,000-7,50,000 , with additional troops being deployed in times of civilian unrest, elections and natural disasters . This makes Jammu and Kashmir, the most intensively militarized conflict zone in the world, with one armed state operative for every 17 Kashmiris .

The intensive militarization of Kashmir has resulted in gross and continuing human rights violations that constitute 'Crimes against Humanity', and 'War Crimes under International Law'. Human rights organisations have documented the widespread use of lethal and excessive force, civilian massacres, torture, sexual violence,

1 Structures of Violence, IPTK-APDP: page 4

2 See for instance, Rajnath Singh's statement in Lok Sabha on March 17, 2017 that 10,000 additional security forces were deployed in Jammu and Kashmir during the 2016 uprising.

3 Census 2011: Population of J&K, 1.25 crore

arbitrary detentions, enforced disappearances, mass graves, extra judicial executions and other instances of the generalized use of state violence as a means of controlling and terrorizing the population. Besides this, civil liberties including the freedom of association, assembly, movement and expression are severely curtailed through the use of formal and informal means by the state.

Since 1989, the conflict in the Kashmir valley has resulted in the disappearance of more than 8000 persons, the killing of more than 70,000 Kashmiris, and the presence of 6000+ unmarked mass graves . Legal provisions under The Army Act, 1950, Code of Criminal Procedures Act, 1973 Code and The Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (AFPSA) bolstered by a context of moral, political and judicial impunity have ensured complete immunity from prosecution and even investigations of these crimes allowing them a free run in search, arrest and shooting of civilians entirely outside the due process as provided under law. In particular, government has persisted with AFPSA despite the fact that military courts have convicted, in more than one instance, army officers for staged killings, massacres and rapes passing them off as anti-militancy operations.

This context is critical in understanding how and why civilians have come out in such large numbers in the valley in open support for Burhan Wani and others. Ignoring this popular support is less likely to contribute to a solution to the Kashmir dispute. In June 2016, before the killing of Burhan Wani, Sartaj Sheikh and Pervaiz Lashkari, senior Army officials had pointed to the growing popular support for ‘armed militants’ and went even further to state that India was losing the battle in Kashmir due to this popular support . Violence unleashed on unarmed protests of 2008 and 2010 was noted repeatedly by several persons in their explanation for the possible rise of protests in the current context.

With growing mass upsurges, and in one sense saturation of military strategy, the Indian State has expanded the mechanism of oppression to use psychological warfare and the strategy of control of a people through exercising control over its women. This comes out clearly in incidents of mass rape as in the Kunan Poshpora case. Mass murders, torture, large-scale enforced disappearances, the constant

4 Use of pump action shot guns in 2016 as a crowd control measure resulted in the blinding of over 50 civilians.

5 Alleged Perpetrators, IPTK-APDP, 2012: page 1

6 <http://thediplomat.com/2016/06/kashmir-is-slipping-away-from-india/>
<http://www.kmsnews.org/news/2016/06/07/india-losing-war-in-kashmir-admit-indianarmypolice-crpf.html>
<http://www.kashmirmonitor.in/Details/105027/we-are-losing-the-narrative-in-kashmir-goc-16-corps>

threat of raids and crackdowns, the arbitrary destruction of property and key resources, each reproducing everyday a sustained atmosphere of fear and paranoia. The year 2016 also saw new forms of attack – an attack on livelihood of people and their most basic means of sustenance, which included the burning of crops and blowing up of electric transformers, thereby cutting off access to electricity.

Despite the crackdown, the state failed to create the fear it was meant to and weaken the struggle. In fact, this situation of extreme violence, both physical and mental, which was noted by a large section of Kashmiri people, explained their emotional support for Hizbul Mujahideen leader like Burhan Wani. In the Kashmir valley, both militarisation and resistance to it have a long history and over this period, the means of sustaining this militarisation as well as the resistance against it continue to take new forms. The provision of food acquires central importance in the sustenance of people and their resistance in times of protracted curfews and hartals. The rural hinterland had historically served the basic food requirements of cities during earlier protests, as was the case in 2008 and 2010. To sustain the protests, produces from community-and-kitchen gardens have been shared to take care of people's food requirements in this period of crisis. Kashmiri people are creatively finding ways to build broader structures of community support. These structures have also been targeted by the state: shutting down community mosques, schools.

Nearly every voice that we heard of the Kashmiri people spoke of the long-standing Kashmir dispute since India's independence and partition, the division of Kashmir between India and Pakistan in 1948, and the sustained efforts of the peoples of Kashmir to assert their right to determine their own destiny. We heard articulate accounts from all sections of Kashmiri peoples; what they have faced from the Indian state and, in particular, of the sustained attack on their democratic rights especially since 1989 onwards. The failure of the Indian state and every government since independence to address these political sentiments of Kashmir's peoples is a source of both hurt and enormous resentment.

The fact remains that the Indian government first dismissed an elected government in Jammu and Kashmir in 1953 on trumped-up charges, arrested the members of the government and systematically diluted the provisions of Article 370 of the Indian Constitution, which had been explicitly set out as special provisions to ensure Kashmir's continuity in the Union of India. Every undemocratic action of the India state, since then, has been met with sustained public action. All popular mass action in Kashmir has been dealt with not just further curtailing democratic rights, but most ferocious state repression than the last time. This sequence of curtailing democratic rights, public resistance and state repression in the four decades after independence culminated in the admittedly rigged Jammu and Kashmir state assembly election of

1987. The colossal public reaction to this was beyond the Indian states estimation as protest and civil disobedience became a part of everyday life even as a section of the youth, under the leadership of the Jammu and Kashmir Liberation Front, turned towards the armed struggle for an independent Jammu and Kashmir. The wrath of the Indian state turned its guns on the JKLF and by 1992 the JKLFs members had either been killed or been incarcerated. In 1994 the JKLF gave up its armed struggle in favour of peaceful resolution of the dispute. Yet, in a rapidly changing world, and in order to put down the JKLF, the Indian state had opened the pathway to virtual war between its forces and non-state militias through the decade of the 1990s. State forces under pressure to show that they were in-charge turned their anger against countless civilians engaging in the torture, mass rapes, fake encounters and extra-judicial killings, massacres and disappearances. The scars left by these wounds, that left no family untouched in Kashmir, are yet to heal.

The protests in 2016 were not merely a reaction to the killing of one Burhan Wani, but a spontaneous expression of the simmering discontent in the valley against these decades of violence. Unlike in 2008 and 2010, the protests in 2016 spread to rural areas. This spread of protests to areas, which had not seen protests in the past, is a reflection of the depth of resentment being transformed into sustained civil disobedience.

A mother, who lost her son in a targeted firing on July 9, 2016, spoke about the difference between this generation of those demanding self-determination and those in the 1990s; she narrated the humane nature of them; they sang songs, played cricket, met people in their homes and openly spent time with people. This was in sharp contrast to the 1990s, when people feared the ‘militants’ who “hid their faces” and “didn’t mix with locals”. On Burhan Wani she said he never used his gun; spoke for the rights of Kashmiri Pandits and for the Sikhs. This narrative is critical in understanding the reason behind peoples’ support for those demanding self determination.

The report below lays out details of the observations made by the delegation during the course of the 10-day visit to the Kashmir valley in November 2016. As a team of citizens representing various peoples’ movements, human rights, women and youth organisations, trade unions, and individuals who are journalists, writers and filmmakers, we believe it is important to record these voices from different sections of Kashmiri peoples as an important first step towards a meaningful understanding of the sentiments of peoples of Kashmir, such that it builds towards solidarity between peoples across the sub-continent.

SECTION III: HUMAN RIGHTS VIOLATIONS

1. Right to Life

Box 1: Universal Declaration on Human Rights (UDHR)

Article 3: Everyone has the right to life, liberty and security of person.

Article 9: No one shall be subjected to arbitrary arrest, detention or exile.

Article 13: (1) Everyone has the right to freedom of movement and residence within the borders of each State. (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 20: (1) Everyone has the right to freedom of peaceful assembly and association.

Article 21: (2) Everyone has the right of equal access to public service in his country.

Article 25: (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood & childhood are entitled to special care & assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Box 2: International Covenant on Civil and Political Rights (ICCPR)

Article 6: (1) Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 12: (1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

Article 21: The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Box 3: International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 12: (1) The States Parties to the present Covenant recognize the right of

everyone to the enjoyment of the highest attainable standard of physical and mental health.

(2) The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (...) (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 25: Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (...) (c) To have access, on general terms of equality, to public service in his country.

Box 4: Convention on the Rights of the Child (CRC)

Article 2: (2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 6: (1) States Parties recognize that every child has the inherent right to life. (2) States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 13: (1) The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. (2) The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 15: (1) States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly. (2) No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 24: (1) States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. (2) States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the

development of primary health care;

Article 25: States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 27: (1) States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. (2) The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. (3) States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

Box 5: Constitution of India: Part III: Fundamental Rights: Right to Freedom

Article 21: *Protection of life and personal liberty:* No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 19: *Protection of certain rights regarding freedom of speech etc:* (1) All citizens shall have the right (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (...) (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; and (g) to practise any profession, or to carry on any occupation, trade or business

Right to healthcare as enshrined in the Directive Principles of State Policy

Article 42: *Provision for just and humane conditions of work and maternity relief-* The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 47: *Duty of the State to raise the level of nutrition and the standard of living and to improve public health-* The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health.

Further, in *State of Punjab and Others vs. Mohinder Singh judgement* the Supreme Court of India says: “It is now a settled law that right to health is integral to right to life. Government has a constitutional obligation to provide health facilities.”

Case 1: On October 27, 2016, a day of relaxation of weekly protests as per the protest calendar issued by the Hurriyat, markets were open, transport was available, and businesses could open. At 11 am, 16-year-old Ashraf*, a resident of central Srinagar, left home to buy bread. He never returned.⁷ When his family went to the police station the next morning to register a first information report (FIR), the police threatened them. That evening, the family received a call informing them that Ashraf was in a hospital. At the hospital, Ashraf told his mother that he was picked up by police on October 27 and tortured. They had thrashed him brutally, used hot iron on his body, driven screws into his hand and forced ‘newa’, a germicide used on apple crops, down his throat. He was dumped at a garbage dump, where he was found by locals and taken to a hospital. Ashraf went into a coma soon after and was put on ventilator for eight days. He died on November 4. The J&K police registered an FIR claiming that Ashraf was depressed and had consumed poison.

“What did the boy do? Who did this to him? Why?” – These are questions that his mother asks. The government and the police have no answers for her.

Case 2: Fourteen-year-old Bahar* lost her eyesight on July 12, 2016, just four days after the killing of Burhan Wani⁸, She was sitting by the window in the kitchen of her house in Sedow village, Shopian, reading, when pellets were fired at her.

Case 3: On September 11, two months before the Class X board exams, Chirag* was shot at when he tried rescuing his mother from coming under attack by the Indian Army. He was blinded in the left eye.

Case 4: In November, 14-year-old Dilawar* lost his right eye to a power shell explosion in Choon village. Seventeen-year-old Eijaz*, belonging to the same village, lost 80 per cent vision in his right eye and still has 48 pellet wounds in his body from the explosion.

Case 5: Farooq* has undergone seven surgeries after a sound shell exploded in his eye. On October 7, a whole cartridge exploded in 12-year-old Gauhar’s* body as he stood at the gate of the house, waving goodbye to his mother.

Case 6: In September, when CRPF, STF and J&K police attacked a gathering of mourners in the courtyard of a civilian killed in a case of targeted firing in Nadihal village in Baramulla, 12-year-old Huma* and cousin of the deceased was fired at

7 ‘Protests return to Srinagar: Police poisoned teen, say kin’, Indian Express, November 6, 2016

8 ‘Tragic: Pellets blind 14-year-old Insha forever’, Greater Kashmir, July 14, 2016

with pellets and PAVA shells, wounding her left thigh. Huma recounts this tale; she has an easy familiarity with the forces, their weapons and the after-effects. Huma says she was standing in the garden when the CRPF broke in and fired upon them, a pellet hit her in her left thigh, causing her skin to burn. For the first few days, she had extreme difficulty in walking. Nearly two months later, the wound is healing, she can walk, but she finds difficulty in stretching out her leg or standing up for too long. Her aunt notes that Huma has gone quieter since the events of September, and has somewhat lost her appetite. She was slowly getting back to preparing for her exams when we met her.

Since July 8, more than 15,000 civilians have been injured, one-third of whom were shot at with pellets. More than 1000 people have lost their vision, partially or fully.⁹

The summer of 2016 in Kashmir will be remembered for many things: Hizbul Mujahideen Commander Burhan Wani's killing, the peoples' resistance that ensued, the killing of more than 100 civilians, the indiscriminate use of the Jammu and Kashmir Public Safety Act, 1978, the blatant state repression of human rights and freedoms of Kashmiri peoples, curfews, bans and protest calendars. But above all, it will be remembered for what is being called the world's first mass blinding. Since July 8, the Indian Army, the CRPF and the J&K Police have fired more than a million pellets at unarmed protestors that broke out all across the Kashmir valley to maim and blind a generation of Kashmiri people.

Some of the doctors we met with in Ganderbal district stated that the number of miscarriages went up in the first two months of the protests.

Case 7: The team recorded the statement of a pregnant woman from a village in Anantnag district who suffered a miscarriage when a PAVA shell was fired in the vicinity of her home.

Case 8: The team also documented the case of a six-month-old infant from Palhalan village, Baramulla district, who had regular bouts of vomiting on the days the village was being shelled (usually the day of jumma, i.e. Fridays). Since her birth, the infant has also lost consciousness on, at least, two occasions when PAVA shells went off in the village.

Over the last eight months, the public health system, including doctors, nurses and paramedics, bore witness to the government's wilful violation of the right to life,

9 Human Rights Review 2016, Jammu Kashmir Coalition of Civil Society

with thousands of young and able bodied injured in targeted firing, including infants, young children, and pregnant women being the most vulnerable sections, in violation of international covenants and India's commitment to United Nations treaties.

The government crackdown in Kashmir has grossly violated these rights.

1.1 Targeted killings

As members of the team travelled across the valley, we heard of several instances of targeted killing in every district that we visited. We met with families of persons who were victims of such targeted killing to document their testimonies. In almost every case that we were able to document, the killing took place at a time when there were no protest demonstrations or even in the absence of crowds. In more than one instance, the killing appeared to be a knee jerk reaction of the state armed forces to protests that had taken place in the area on a preceding date, in some cases the previous day.

Case 9: In Kupwara district, on July 18, a 16-year-old student of Class X was shot by the then Senior Superintendent of Police, Kupwara, Aijaz Ahmad Bhat. The student, a resident of Kawari village, had stepped out to buy a bar of soap. There were no protests in the village at the time. The team learnt that the SSP, travelling in a black Scorpio, took a gun from his subordinate and shot the student from the back.¹⁰ The family approached the police to file a case, but they refused to file an FIR initially. It was only a few days later that an FIR was registered which accepts that he was “killed by unknown security persons”. A magisterial enquiry (initiated by the government) is on in this case, initiated by the Additional Deputy Commissioner (ADC) of Handwara, Kupwara district. The family's statement was recorded at the ADC's office. The ADC was sent on leave to allow the recording of witnesses' statements. Eighteen statements were recorded in all. However, the contents of the ADC's report have not been made known. Further, an SIT (Special Investigation Team) was set up in August by the sub-judge in Kupwara (initiated by the court). Only three statements were recorded, even as the judge questioned the Deputy Superintendent of Police (DSP) as to why the statements of the witnesses were not being recorded. The family has also received phone calls and pressure to withdraw the case or to compromise.

At the time of the team's visit, the police informed the court that the body has to be exhumed and a post-mortem conducted on it. Exhuming the body is an attack on religious sentiments, and is also seen as a way of emotionally attacking the family. This has been a standard practice since the protests of 2008 and 2010.

10 '2016 Unrest: Not even one probe into killings completed', Greater Kashmir, December 6, 2016

Case 10: On September 3, a 19-year-old boy was shot with pellets and drowned in a 20-foot deep nullah in Vessu, Qazigund by members of the Special Task Force. Vessu is located off the Srinagar- Jammu National Highway. The entrance to the village is marked with a school and a chai shop. A narrow path on the right leads further into neighbourhoods, but the main road off the highway runs straight down before curving to the right. The street is lined with shops, all shut. To the street's left lies a thicket of trees and fields separated from the road by a deep concrete nullah. According to the family of the 19-year-old, especially his uncle who was an eyewitness to the incident, there was a protest on that road on September 3. "Some boys were protesting. There was shelling and the boys ran away. My nephew was crossing the road to come home." The uncle, meanwhile, had stopped to exchange a few words with a driver. At that point the STF, including the Station House Officer (SHO), fired pellets at the young boy, hurting his left thigh, then he was tear-gassed and he fainted. Then, the STF picked the boy up and dropped him into the 20-foot nullah. Ten minutes later, the police left. Later, the CRPF informed a few people that the STF had dropped a body into the sewer. The family says, "They could've arrested him, slapped the PSA on him. But why did they have to kill him?"

According to family members, the boy like most young people supported the resistance, but was not an active participant in the protests. He was studying at the Degree Boys College in Anantnag and had hoped to pursue hotel management in Delhi. At his funeral, thousands turned up to pay their respects. Barricades were put up on the street to curtail the swelling of the crowds. People say pellets were fired even on the day of the funeral, injuring a few people.

On the day of the incident, an FIR was filed by the police following an application for investigation into the case filed by the eye witness uncle of the 19-year-old boy. The FIR filed by the police states, in language that is consistent with other documented cases of counter-FIRs filed by state forces, "...at NH-W Vessu, a large gathering of violent mob who were carrying in their hands sticks stones and petrol bombs (sic) have attacked the deployed CRPF personnel with intention to cause death. CRPF & police used loudspeakers and tear gas shell...trying to disperse crowds, when the boy was critically injured." The family's application was disposed of on September 17.

Case 11: Between July 9 and 10, three people were killed in Hassanpora Tawela and its twin village, Arwani in Bijbehara, Anantnag district. We met with the family of a young man who was shot dead on July 9, the second killing in the village. He was 22 years old and ran a medical shop. The family told us that on July 8 the village received the news that Burhan Wani had been killed in an encounter.

"There was a spontaneous outburst of despair and grief. Burhan was a young,

educated boy...we had heard of things he would do for people, visit them, talk to them, listen to them. All the men in our village, our home wanted to attend Burhan's funeral...it was our religious duty. My son decided to go to Tral for the funeral, almost the whole village decided to walk to the funeral site, about 20-30 kms away. On the way back, my son was informed that another person from our village had also been killed. En route to the second funeral, the CRPF picked out my son and shot him dead." A subsequent FIR filed by the police uses familiar language seen in other counter-FIRs, including 'violent mobs that attacked the camp with petrol bombs', etc.

In the case of the first killing in Hassanpora Tawela and Arwani, the person was targeted and shot at by the J&K police as he sat down on the kerb to smoke a cigarette, before resuming the search for his son who had gone missing.

1.2 Injuries caused by pellets and bullets

In the summer of 2016, the state and central governments have waged a war against the 'seeing' in Kashmir, wilfully maiming and blinding civilians, most of whom are young, unmarried men aged 16-25 years.

According to a report in the Indian Express, as on October 9, 2016, one thousand people had sustained pellet injuries in the eye. The report further states, "As many as 820 of those 1,000 have undergone treatment at the Ophthalmology unit of Srinagar's Shri Maharaja Hari Singh Hospital (SMHS)...According to SMHS hospital records, of the 820 admitted with eye injuries, at least 80 per cent were aged 26 or less. More than 30 (of those injured) were aged 15 or less. According to records, 457 people had 'multiple structural damages' in the eyes and required a vitrectomy and more than two surgeries. Doctors said 14 eyes had to be 'eviscerated', while 44 patients suffered injuries to both eyes."¹¹

Besides the use of pellet guns and other arms as measures of crowd control during protests, we came across several instances of targeted intimidation and killings.

Case 12: In Palhalan village, Baramulla district, a contractor's family has been repeatedly targeted since 1995. The contractor's uncle was a militant who was 'martyred' in the 90s; his father, who was part of the Jamaat, was 'martyred' in the last decade. The contractor was just nine years old when he was first tortured, when security forces poured hot tea on his head. In 2016, his son, studying in Class IX, was

11 <http://indianexpress.com/article/india/india-news-india/jammu-kashmir-pellets-burhan-wani-3079819/>

shot by pellets in one eye and a young worker, whom he had adopted like a son, was shot with pellets, blinding him in one eye.

Case 13: On September 23, in the same village, 37-year-old Imrana* was target fired with pellets that struck her left eye and forehead while she was making tea in her kitchen. Imrana believes that she was particularly targeted because she had offered water the previous Friday to protesters and also because her family has been active participants in the protest rallies in the village. She told us that her brother was at the forefront of every protest in the village, until the army and the STF picked him up in 2011 and tortured him. After this incident, Imrana's brother picked up arms and he was soon killed in an encounter. In 2016, around the time that she was targeted, her nephew and cousin were also shot at with pellets and fired upon. Her nephew is nearly blind in one eye and the cousin has sustained injuries.

Members of the team travelled to various districts of Kashmir to also meet with pellet and bullet victims, and held interviews with doctors and paramedics to understand first-hand the public health crisis that unfolded in Kashmir. One of the doctors at the Shri Maharaja Hari Singh Hospital (SMHS), Srinagar, which is one of the few hospitals equipped to treat pellet and bullet victims, said that the visual disabilities caused by pellet injuries were meant to “wipe out a specific section of society – young, unmarried men who have yet to make their careers.” Srinagar doctors further added that, “A person's death can be forgotten but a person with serious injuries (such as partial or permanent blindness) is a permanent reminder of what can happen if people question the occupation (of Kashmir).”

Case 14: In another instance of targeted shooting, the purpose which appeared to be intimidation, a 20-year-old resident of Tikkar village, Kupwara, who had gone to buy milk, was shot at in the palm in which he was holding the milk can. The boy has undergone three surgeries, so far, and the family has spent Rs 2.5 lakhs on medical treatment. The family has not yet been able to file an FIR.

Interactions with doctors also shed light on the shifts in the pattern of injuries since 2008 in Kashmir. More pellets were used in the 2016 protests than ever before, injuring a significantly higher number of people. In one Indian Express report published in July, an ophthalmologist in Kashmir said that they were discovering differences in the kind of pellets used in the summer of 2016 – instead of rubber or plastic bullets, shaped like circular discoids, security forces had used a jagged variety of bullets, which inflict greater damage and are more difficult to remove.¹²

12 <http://indianexpress.com/article/india/india-news-india/kashmir-violence-what-are-pellet-guns-and-why-are-they-so-lethal-2913917/>

The huge number of casualties put a severe strain on the public health system of Kashmir. For instance, the SMHS hospital received 24 cases of pellet injuries to the eye on July 9, one day after Burhan Wani's killing. On July 10, the number of cases jumped to 130. "Ophthalmologists at the hospital (SMHS) have performed more surgeries in three days – July 10-12 – than they had in the past three years," an article in *The Guardian* observed in November 2016.¹³ The situation appeared to be worse in other districts. In the shelling and firing in Karimabad, Pulwama district, on September 11, 350 people were injured, of whom 75 were serious pellet injuries and 20 were serious eye injuries. Similarly, on one occasion in Beerwah village, Pulwama district, 300 people were hit by pellets, of which 20 were serious eye injuries. Among those targeted by pellet guns included a nine-year-old boy.

Case 15: On September 23, Javed*, resident of Nadihal village, Baramulla district was killed by security forces in a targeted firing.¹⁴ Four days after the killing, around 150 women had gathered in the lawns of the boy's home in mourning. Javed's 25-year-old sister told us that the CRPF, the STF and J&K police marched into the lawn and fired pellets and PAVA shells for more than 10 minutes at the gathering. Several infants experienced breathing problems, even as children and women were fired upon. On that day, at least three-four ambulances were required to ferry the injured to hospitals.

1.3 Obstruction of medical services

According to a report in the *Indian Express*, in one case a 65-year-old injured resident of Sopore took nearly 90 minutes to cover a distance of just three kilometres to reach a hospital for treatment.¹⁵ En route, the patient and his family were stopped six times by security and police forces. Over the course of the 10 days in Kashmir, the team recorded numerous such instances of obstruction of medical services. The team learned of cases where ambulances, carrying patients, were damaged; where patients at hospitals were beaten up; and cases where security forces prevented volunteers outside hospitals from doing relief work.

According to media reports, within the first week of the protests up to 70 ambulances carrying civilians injured in protests were attacked, mostly by state

13 'India' Crackdown in Kashmir: Is This The World's First Mass Blinding?', Mirza Waheed, *The Guardian*, 8 November 2016 <https://www.theguardian.com/world/2016/nov/08/india-crackdown-in-kashmir-is-this-worlds-first-mass-blinding>.

14 <https://kashmirobsrver.net/2016/local-news/day-77-teenager-killed-army-firing-10416>

15 <http://indianexpress.com/article/india/india-news-india/kashmir-unrest-in-valley-a-new-health-emergency-called-barricades-2998214/>

16 <http://indianexpress.com/article/india/india-news-india/kashmir-70-ambulances-damaged-during-protests-health-department-2912349/>

armed forces¹⁶. This number continued to grow as reports of attacks on ambulances, as well as ambulance drivers kept coming in. According to reports, several hospitals across Kashmir were attacked by government security forces, making it extremely difficult for the injured to seek medical care. In addition to filing false charges against injured protesters and civilians, security forces also forced hospitals to falsify death certificates of those who were killed in firing, just like in the case of a 12-year-old boy who was fired upon in October in Sadipora.

The summer of 2016 in Kashmir will be remembered for the valiant services of the medical community, despite obstructions from security forces. One of the doctors from Ganderbal district told us that the 2014 floods in Kashmir had taught them to be prepared for all sorts of emergencies.

Representatives of the Resident Doctors' Association, SMHS, told us that the medical community was working under extremely stressful conditions, made even more difficult by the interference of security forces. Doctors have been harassed, hospitals have been attacked, and operation theatres were forced to shut down.

Case 16: In one case, a young doctor was interrogated by the CRPF for helping pellet victims in Aripanthan village, Budgam district.

On July 10, they told us that the casualty ward of SMHS was tear-gassed by the J&K police and the CRPF, which led to four patients suffering from chronic lung diseases suffocating to death. According to the President of the doctors' association, security forces fired in the Intensive Care Unit (ICU) and outside the emergency theatre. We were told of the courageous efforts of one particular doctor who came up with the system of assigning numbers to patients, CT scans and tests instead of using names in hospital records. This strategy was used to protect identities of patients, so that their families were not targeted by security forces with further violence.

Doctors also told us that announcements for blood donations were sometimes made in mosques, when hospitals were running low on supplies. It is also important to note that blood donations were made by Hindus, Sikhs and people from Ladakh and Gurez due to the shortage.

Outside Srinagar, district hospitals also came under attack by security forces. In Bijbehara town, Anantnag district, the community health centre came under repeated attacks by the J&K Police.

Case 17: The team met with an eye-witness who told us of the case of an attack on a

student of Delhi University who had come home for holidays.¹⁷ On July 13, the student was shot at by J&K police, damaging his liver and kidneys. He was rushed to the community health centre, where he received first-aid, during which time the Bijbehara SHO walked in, breaking equipment at the hospital. The SHO proceeded to insert his baton into the bullet hole in the student's body. He died the next day at the Sher-I-Kashmir Institute of Medical Sciences (SKIMS) in Srinagar. The eyewitness told us that when the family was bringing their son's body back to Bijbehara in an ambulance, two policemen, dressed in civilian clothes, climbed into the ambulance on some pretext. The ambulance was forced to change direction towards the police station in Bijbehara, where the body was kept for the next few days. This incident has been well-documented by the local media.

Local news reports have documented¹⁸ several other instances of violence perpetrated by the Bijbehara police at the community health centre, including beating up patients, removing Intravenous (IV) tubes, breaking window panes, and damaging hospital equipment. The police have on numerous occasions, refused to let ambulances, ferrying the injured and the critical, leave the town of Bijbehara.

Case 18: In Baramulla district, two women were injured by bullets on August 14. The vehicle, carrying one of the injured women, was not allowed to pass through the main road to the nearby hospital. Family members and neighbours sought an alternate route, for which they had to carry the injured woman in their arms for some distance. While the injured woman was treated at the hospital, security forces barged into her home in Delina village to vandalize property. Her four daughters, who were witness to the raid, were physically abused.

In almost every village visited by the team across the valley, people told us that they faced difficulty in taking the injured from villages to hospitals for medical care. For instance, in Choon village, we were told that families were scared to take the wounded to hospitals as the police were making rounds to pick up people. In Karimabad, residents told us that they preferred to wait for a day or two before taking the injured to hospitals. In Baramulla district, villagers avoided using arterial roads to transport pellet and bullet victims and often travelled during night time to avoid being detected.

1.4 Mental health emergency

In Anantnag district, residents told us that more and more people have been seeking

17 <http://kashmirreader.com/2016/07/31/a-martyr-and-a-ruler-the-tale-of-two-neighbours/>

18 <https://thewire.in/52403/kashmir-ambulance-police-crpf/>

psychiatric help, especially since July 8. We were told that more women, than men, have sought medical help from mental distress since the protests began, pointing to a culture of patriarchy where men are taught to hold their feelings in as women are seen to be more expressive in this matter. In our interaction with young persons, many of them said that Kashmiris are “not normal”.

These anecdotal evidences tie up with the findings of *Médecins sans Frontière*’s first comprehensive mental health survey, which was released just a month before July. According to the report, one out of two adults in Kashmir is mentally disturbed.¹⁹ The report reveals that 1.8 million or 45 per cent of Kashmir’s adult population suffer from mental stress; one in five adults is living with Post Traumatic Stress Disorder (PTSD); and that the prevalence of mental distress is significantly higher among women than men.

In a memorandum to the World Health Organisation, doctors from the Government Medical College in Kashmir have said that, “Nobody can tell the tale of this horror better than a doctor who receives and treats the victims in the hospital and witnesses the agony of the patient and the suffering of his family members. The doctor community has been exposed to the worst kind of mental trauma, be it disclosing the news of a young victim’s death to his parents or the news of permanent blindness or handicap to the victim himself.”

2. Access to Justice

Box 6: UDHR

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

19 <http://www.hindustantimes.com/india/45-of-kashmir-s-adults-suffer-from-mental-distress-survey/story-30nQTBVHZUyCxoJx5cIHfM.html>

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11: 1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. 2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Box 7: ICCPR

Article 2: (1) Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (2) Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant. (3) Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 14: (1) All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. (...) (2) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. (3) In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) Not to be compelled to testify against himself or to confess guilt. (4) In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. (5) Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. (6) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him. (7) No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15: (1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby. (2) Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16: Everyone shall have the right to recognition everywhere as a person before the law.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Box 8: CRC

Article 16: 1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. 2. The child has the right to the protection of the law against such interference or attacks.

Article 37: States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 39: States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40: 1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's

reintegration and the child's assuming a constructive role in society. 2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that: (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed; (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality; (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law; (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used; (vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular: (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law; (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Box 9: Constitution of India: Part III: Fundamental Rights: Right to Freedom

Article 14: *Equality before law:* The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India

Article 15: *Prohibition of discrimination on grounds of religion, race, caste, sex or*

place of birth: (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

Article 22: *Protection against arrest and detention in certain cases:* (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice. (2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate. (3) Nothing in clauses (1) and (2) shall apply— (a) to any person who for the time being is an enemy alien; or (b) to any person who is arrested or detained under any law providing for preventive detention. (4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless— (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention: Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament

Right to Constitutional Remedies

Article 32: *Remedies for enforcement of rights conferred by this Part:* (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part. (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2). (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

Article 39A: *Equal justice and free legal aid:* The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and

shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

** In D.K. Basu vs. State of West Bengal, the Supreme Court of India held that the reservation made by India to Article 9(5) of the ICCPR clause while acceding to the Convention does not come in the way of the Court's awarding compensation in cases of illegal arrest or detention. The High Courts in India have also been awarding compensation.*

Case 19: Twenty-five-year-old Liaquat*, resident of Shopian town, has spent more time in incarceration than at home. He was 13 years old when he was picked up by the army for the first time in 2004. In 2008, during the Amarnath land row, he was picked up again, this time charged with spreading hatred, inciting youth and organising public meetings for the Tehreek-e-Hurriyat. A year later, during the agitation against the alleged rape and murder of two young women in Shopian, he was arrested again for inciting people to pelt stones. He was arrested again in 2010, 2012 and 2013. The district magistrate, in his 2013 order, called him a ‘chronic stone-pelter’ and observed that he is a ‘threat for security, integrity, sovereignty, peace and tranquillity in the state’, and that his detention under the Public Safety Act (1978) was ‘imperative’.

Since 2013, Liaquat has remained confined to a prison cell. Yet, he has been repeatedly booked in cases for instigating protests in Shopian in 2014 and 2015. In November 2015, the district magistrate stated that ‘normal law may not be sufficient to curb the activities of the subject’ and recommended detention of maximum period under the PSA. Liaquat continues to remain in jail, where he has been since 2013.

In the summer of 2016, since the killing of Burhan Wani, more than 16,000 people have been arrested in Kashmir, many of them under preventive detention. More than 100 civilians have been killed, in what appear to be targeted killings by security forces. More than 600 people have been charged under the ‘draconian’ Public Safety Act (1978), including minors, government and security personnel, human rights activists, lawyers and the physically disabled.

Successive reports by human rights organisations such as Amnesty International and Human Rights Watch have called for the repeal of ‘lawless’ laws like the PSA and the Armed Forces Special Powers Act (AFSPA), which have been brazenly misused to keep ‘people out of circulation’.

The 2011 Amnesty International report, Lawless Law, revealed that “given the

political context in J&K, the PSA was used to detain, among others, political leaders, lawyers, and individuals who challenged the state through political action or peaceful dissent...the PSA provides for arbitrary detention, which violates the right to liberty under human rights law binding on India.” The 2011 report also found that state authorities used the PSA to facilitate other human rights violations, including “Incommunicado detentions, torture and other cruel punishment in custody.” The PSA, the report further stated, was used as an informal justice system, to “secure the long-term detention of individuals instead of prosecuting them in a court of law.”

Following this report, five amendments were made to the Public Safety Act, which came into force in April 2012, including Section 8 to provide that no person under the age of 18 may be detained under the PSA, Section 13 to add that grounds of detention be communicated to the detainee within 10 days of the arrest and in a language that he/she understands, and Section 18 to reduce the maximum period of detention under the PSA. Amnesty International’s subsequent report on the PSA found that little had changed.

Numerous reports in the media and we observed that the PSA continues to be indiscriminately used. The law has been used in the present Kashmir protests of 2016 to illegally detain minors, for ‘revolving door detentions’ to detain people for more than the maximum period allowed under the PSA, and in failing to provide grounds for detention to detainees in many cases. The law also continues to be used for ‘incommunicado detentions’ and custodial torture. These actions by state authorities amount to a total violation of universally accepted human rights and principles of natural justice. The team has observed that people have found it increasingly difficult to register FIRs at police stations in the fear of intimidation, torture and further arrests; access justice through legal representation in the court of law; and to exercise their right to a fair trial.

In this section of the report, we examine the lack of access to justice in Kashmir by documenting firstly, the indiscriminate use of the PSA; secondly, cases of criminal intimidation; and lastly, illegal detentions, counter-FIRs.

2.1 Indiscriminate use of the PSA

Case 20: On August 14, the army marched into Delina village, Baramulla district and picked up two boys. Protests broke out in the village; about a dozen women came out of their houses to prevent the army from taking away the two boys. Firing ensued and two women were hit by bullets, one of whom was Maha*. A month later, on September 15, Mir*, who belonged to the same family, was shot at with pellets by the J&K police and Sashastra Seema Bal (SSB) and charged under the PSA. Mir is 17 years old and, therefore, cannot be detained under the PSA. After his birth

certificate was produced in the court, orders were issued on October 15 for him to be moved from the Baramulla jail to a juvenile home. Yet, before the J&K Police could comply with the order, the police picked up his father, who was lodged in the Baramulla jail at the time of the team's visit.

A lawyer from Delina told us that Mir's family has been repeatedly targeted over the years, as the family battles for justice in the case of another family member's enforced disappearance in 2003. This case is an instance where the PSA was used illegally to detain a minor, for criminal intimidation and repeated targeting of the family.

Case 21: In old town, Baramulla, we were told of the case of 27-year-old mechanic Nasir*, who is physically and visually disabled, and his hearing impaired. The family showed us Nasir's disability certificate, which reveals that he is unable to walk without using crutches for both legs, one of which is fitted with a rod and a plate. Yet, on October 21, in one of the biggest crackdowns in Baramulla in 2016, he was arrested and slapped under the PSA, charged under sections 307, 148, 149, 332, 336, 353 of the Jammu and Kashmir State Ranbir Penal Code (RPe)(the criminal code applicable in Kashmir). He was first arrested on July 10, two days after Burhan Wani's killing and subjected to custodial torture, in which cigarettes were stubbed on his body and he was beaten on his legs. In the October 21 crackdown, which took place at 3 am, Nasir's wife and mother told us the whole house was turned upside down, rooms were ransacked, and household items such as the refrigerator were broken.

Case 22: In Khanpora, Baramulla, a stone mason was hit by pellet guns and slapped under the PSA. He was earlier charged under the PSA in 2008, 2010 and in 2012. Due to his record, he was even denied medical treatment for the pellet injury this time when he was arrested, despite a court order directing the police to provide him with medical attention.

Since protests broke out across all districts of Kashmir in July, nearly 16,000 people have been arrested in local FIRs, many of which are cases of preventive detention. More than 650 cases of PSA have been admitted in the J&K High Court in Srinagar. In the team's interaction with members of the J&K Bar Association, lawyers and advocates were extremely critical of judicial processes in Kashmir. Members told us that the Public Safety Act has been indiscriminately used to detain several minors and that most of the cases have no legal grounds to stand upon. They cite in many cases the 'non-application of mind' by district magistrates, who have cleared detention orders that are constitutionally illegal. They also told us of several delay tactics employed by government authorities to prolong periods of detention,

including charging civilians under multiple ‘open’ FIRs, in which people can be implicated in cases even after years of filing the FIR, and delays in filing responses on PSA cases in courts.

International covenants have been systematically violated; denying Kashmiri civilian’s access to justice.

“People are being picked up by the J&K Police, the Border Security Force, the CRPF and the army. If the army picks up a person, he/she is usually held for a month, during which they are tortured, and then handed over to the police. If the police decide not to release the person, the PSA is slapped,” members of the bar association told us.

The association also told us that the police have kept a record of people who participated in protests in 2010, which has been used for detentions in 2016 as well. Bar members have also conducted jail visits to find that, in some cases, families have not even been informed of detentions, and in some others, detainees have not been provided with the grounds for detention. The association submitted a report of their jail visit that revealed over-crowding and lack of medical treatment for detainees who have been injured. According to them, even police stations such as the Koti Bagh police station in Srinagar have been operating like sub-jails.

The J&K Bar Association, which is 1000-members strong, has expressed their solidarity with the political aspirations of the people of Kashmir. By obeying the strike call issued by the Hurriyat, lawyers of the association did not appear in courts until December, which meant that family members were appearing on behalf of detainees and pleading their cases in the High Court. However, a few lawyers of the association have filed hundreds of petitions in PSA cases on pro-bono basis. Members also told us that in cases where the PSA is quashed, detainees have often been picked up by the Counter Intelligence Cell for further interrogation. One of the lawyers spoke about a nexus between the SSP, SHO and MLA in cases of PSA, where families have been forced to pay bribes or intimidated with further arrests and torture.

In the team’s visits to various districts, every village that was visited reported cases of PSA, including minors; criminal intimidation; and illegal detentions.

2.2 Criminal intimidation

Case 23: In Kupwara district, the team learnt of the case of 18-year-old Omar* who was injured by a tear-gas shell on September 5, 2016, after which the family filed a

complaint. Nearly two months later, Omar was arrested by the police and forced to confess that he had taken the tear-gas shell in his own hands. To further intimidate the family from seeking justice or approaching media, his father was also arrested.

Case 24: In the same district, on July 12, a class X student was killed by security forces. The boy's funeral procession also came under attack by security forces. When the family tried to file an FIR, the police threatened them with a counter-FIR against the student. The family was further harassed by the police when they were fraudulently taken to Kupwara to receive compensation from J&K Chief Minister, Mehbooba Mufti. The police forced the family to meet with her, threatening to spread rumours that they received money from Inter State Intelligence (ISI), Pakistan. However, the family declined the compensation. The police then spread rumours that the family had taken the government compensation, which led to their social boycott.

In Kupwara, there has been an increase in the number of PSA cases as well as in cordon-and-search operations in villages. Residents said that "Nothing is normal. Every boy is being harassed. We see the police, we are scared and we run away." There also appears to be a change from 2010 when people were not afraid to file FIRs. In 2016, more people are unwilling to file complaints.

Case 25: On July 10, Pervez*, a 24-year-old shop owner from Tengpora, Srinagar, went to purchase eggs and other items for his shop. He returned home to drop off the purchases and went out again to buy fruits and vegetables in Bemina, Srinagar. After a few hours, Pervez's wife received a phone call informing her that he had met with an accident and was at the hospital. At SKIMS, the family was informed that it was not an accident and that Pervez had been beaten. Five days later, he went into a coma and died.

It was only much later, when a few people from Bemina enquired after the boy from Tengpora who was beaten by armed forces, that Pervez's family came to know what had transpired. When they tried to lodge an FIR, the police claimed it was an accident.

In Kulgam district, residents told members of the team that police regularly demanded ransom amounts up to Rs 50,000 in cases of arrests of youth. This, they say, has become a common practice of the police to harass youth and their families.

2.3 Illegal detentions and counter-FIRs

Case 26: At Tral, the team met with slain Hizbul commander Burhan Wani's father who told us that, "Our sons are forced by circumstance to take up stones and guns as

a way of resistance, when there is no space for other forms of resistance.” He told us that since the custodial killing of his eldest son in 2011, members of the family have been repeatedly arrested without any specific charge. “We were arrested and held for two days when Obama visited Delhi, when Modi visited Srinagar, on August 15...they (the police) told us they had to do this to be able to submit a ‘done report’. On one occasion, I told them to not arrest my son, as he had an exam. But they did anyway, and my son was an hour late for the exam and failed.”

Case 27: In Nadihal village, Baramulla, the team was able to examine a counter-FIR filed in the case of the killing of an 18-year-old student Qasim*. Qasim, who was on his way to the Sopore fruit market to look for his younger brother, was shot dead by the army, STF and BSF forces hiding in the nearby paddy fields. Qasim was in Class XII and was just about to give his board exams. The family tried to file an FIR at the police station, but the army had already filed a counter-FIR of the incident. The FIR, dated August 31, 2016 (the day of the killing), reads, “the situation in Nadihal and Ladoora villages that day was of adverse internal security...threatening lives, property and security of army violent and unruly mob (sic).” The FIR continues, “1. On 31 August 2016 from 0500 hrs onwards a strength of one officer and a junior commissioned officer and 10 jawans were deployed at Nadihal chowk and a strength of one officer and 12 jawans (including eight personnel of border security force) were deployed at Ladura chowk to ensure safe movement (sic) of security forces convoys moving along the national highway 701. 2. At approximately 0900 hrs 60-80 youth/civilians gathered at Gulshan colony-village Nadihal started raising anti-national slogans and indulged in heavy stone pelting on the security forces personnel deployed along the national highway. There nos (sic) gradually increased to 250-300 (sic) and there stone pelting became life threatening. 3. At approximately 0925 hrs heavy stone pelting also started at security forces personnel deployed at Ladura Chowk and also on security forces vehicles (sic) moving on the national highway by a violent mob of 350-400 youth/civilians.”

The FIR goes on to name four security personnel who sustained injuries and that the security forces and J&K police had to fire blank rounds in the air to disperse the ‘violent mobs’. The army also registered a case against the ‘culprits’ who caused injury to security forces’ personnel and who disrupted the movement of the security forces’ vehicles. Nowhere does the FIR mention about civilian deaths and injuries in Nadihal and Ladoora villages. According to the locals of Nadihal, five people were arrested after this ‘incident’, all of whom were picked up late at night.

This ‘counter-FIR’ was brought to our attention particularly as the same format was found in other cases where innocent civilians were killed or injured by security forces with pellets and bullets. The language employed is similar, if not exact, in nearly all other ‘counter-FIRs’.

3. Work, Livelihood, Infrastructure and Economy

Box 10: UDHR

Article 23: (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Box 11: ICCPR

Article 6: (1) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. (2) The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 22: (1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. (...) (3) Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Box 12: ICESCR

Article 6: (1) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 7: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: (a) Remuneration which provides all workers, as a minimum, with: (i) Fair wages and equal remuneration for work of equal value without distinction of

any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; (b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8: (1) The States Parties to the present Covenant undertake to ensure: (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (...) (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country. (...) (3) Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Box 13: International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work

The International Labour Conference, (2) Declares that all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (...) and (d) the elimination of discrimination in respect of employment and occupation.

Box 14: Constitution of India

Article 39: Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing (a) that the citizens, men and women equally, have the right to an adequate means to livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

Article 41: Right to work, to education and to public assistance in certain cases: The State shall, within the limits of its economic capacity and development, make

effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want

3.1 Destruction of local economies and livelihoods

The huge and significant impact of state repression in 2016 in the Kashmir valley has been on the local economy and livelihood of people. Besides a disruption in regular economic activities due to the curfew imposed by the State, we came across a large number of instances of direct attacks by state armed forces on economic activities of local people and the destruction of public as well as private property. Workers engaged in economic activities were attacked, creating unsafe working conditions. Amongst the most brutal attack on the local economy, and a new means of repression used by the Army and CRPF for the first time during this phase of conflict, was the burning of standing paddy crops. This was noted in several districts including Kulgam, Baramulla, Budgam and Anantnag, where fields as well as orchards of resistance leaders were particularly attacked and destroyed. The targeting of food crops appears to be strategic, to hit not only the local economy but also food sustenance that is crucial to survival during months of curfews and strikes, when mobility is also severely restricted.

The apple industry accounts for an integral part of the Kashmir valley's economy. The valley's apple produce is well-known and is sold across India and exported to other countries as well. In a meeting with the Sopore Trade Federation that has a membership of anywhere between 4000-6,000 shopkeepers, including garment shop owners, footwear shop owners, tailors, medical shop owners, and electronics and fruit merchants, the fruit merchants estimated their economic losses at approximately Rs. 6,000 crores. Speaking to the Kashmir Valley Fruit Growers and Dealers' Association in Srinagar, comprising of fruit growers, transporters and traders, we were told that together they have suffered an economic loss of approximately Rs. 2,500 crore.

Among other reasons, owing to curfew and restriction on mobility, fruit growers were unable to tend to their orchards and spray pesticides at the right time, because of which the apples grew pale and fetched far lower prices in the market. Further, the restriction on mobility has meant that apples have not been able to be transported very far away from local markets, causing them to rot and decay. Several producers who survive on loans are now unable to pay off their debts. Members of the association clarified, however, that the economic losses incurred by them were secondary to the loss of lives of young children and others in the valley in 2016. While incomes could be recovered, these lives could not. They reaffirmed their support for the ongoing strike or hartal, being led by the Hurriyat leadership.

Besides affecting yields and sales, we were told of several instances where fruit markets and producers were directly attacked by state armed forces.

Case 27: In Qasim's case, referred to in the Access to Justice section earlier, he was shot at by the Army while on his way to the Sopore fruit market to look for his younger brother. Qasim's family sold fruit in the Sopore mandi, which was kept open for business in the early hours of the morning even on the days of hartal. On August 31, the Army decided to shut down the market for the day, a decision in direct conflict with Hurriyat's strike call that allowed for 'dheel' or relaxation during the morning hours for businesses to function. Qasim's family received news that the Army and the STF had broken things in the market and had upturned cartons of apples. Qasim's younger brother had left for the market and it was in search of him that Qasim, along with several locals from his village, marched towards the mandi when they were fired at by forces hiding in nearby paddy fields. Most of those who were moving towards the mandi were fruit growers, and had relatives in the market. The attack on them can be seen as a direct attempt to disrupt one of the main local economic activities of Kashmir. This is made all the more obvious in the forces' attempt to prevent the market from functioning in the few hours of relaxation, a phenomenon that, as we shall see, has been a significant element in the survival of the strike over a long period of time.

Case 28: In yet another instance of a direct attack on local livelihood and economies, we were told that the army allegedly looted boxes of apples in late September in Pulwama district. The armed forces are said to have driven their vehicles over 650 boxes of apples worth Rs. 3 lakhs. In a similar instance in the same district, although on a smaller scale, we were told of two families who were attempting to load their apple stock onto a truck for transporting them to the market. As the apple cartons were left on the side of the road in preparation for loading, an army truck that was passing by deliberately rammed into the cartons and destroyed the produce.²⁰

An auxiliary industry related to the fruit market, and the apply industry in particular, is the crate-making industry. We visited a village in Anantnag district that is home to about 300 saw mills that build crates to transport fruit. Each mill employs about 10 persons. Employees in these mills earn approximately Rs. 18,000-20,000 for the entire period of nine months, working 12 hours every day. Producers usually take up to 80 per cent of the payment in advance from fruit merchants. There is pressure in the month of October to deliver the crates, which coincides with the harvest period. This year, however, since the production of fruit has been severely affected, this auxiliary industry has also suffered. Since the demand for crates has dipped greatly, workers have earned little money.

20 <http://kashmirreader.com/2016/09/29/people-protest-after-army-destroys-apple-boxes/>

Tourism was another big industry that was badly hit by the volatile conditions in the valley. We do not have an estimate of loss incurred by this industry, but the continuous shutdown of markets, transport, and hotels led to a complete halt in tourism to the valley, known for its beauty and popularity among tourists.

Despite facing staggering economic losses to the tune of a few thousand crore, workers and traders have voluntarily supported the call for the strike and shutdown for over six months for the Kashmiri aspiration for freedom.

3.2 Right to work

As already indicated above, the right to work in a free and safe environment to provide for a life of dignity that is free of discrimination has been blatantly violated.

Case 29: In Baramulla district, a young agricultural worker and the sole breadwinner for his family was shot dead just as he was taking a tea break from work in the fields. Piecing together the family's version and local news reports, it appears that on September 23, Rasool* was in the paddy fields with a few other workers. Three to four army vehicles pulled up and a few army personnel got out of the car. Local reports say one of the army men tripped on his feet, causing the workers to break into laughter. Rasool was one of them; he stood up laughing, which enraged the army officer who picked up the gun and fired for half a minute. A bullet hit Rasool in his chest, pierced through his heart and killed him.²¹

In more than one instance, daily wage workers, petty businessmen including small shopkeepers, employees in private firms as well as government employees shared their frustration over not being able to pursue their jobs, all the more so where the source of livelihood only precariously held together their and their families' lives.

In Budgam district, a local trader expressed this frustration when stating, "I haven't been able to open my restaurant in four and a half months now. How can I feed my family, repay our loans?"

Case 30: In Baramulla district, another man who lost his son told us, "We are all agricultural labourers, small shopkeepers and employees in private firms. We have eaten up all our savings and are finding it difficult to get by. If I am standing on one foot, how long can I survive?"

21 <http://kashmirreader.com/2016/09/28/nadihal-martyr-had-wanted-geelani-to-know-of-his-sacrifice/>

Case 31: A government employee and resident of Old City in Baramulla describes the constant pressure put on them by the state government to be present at work every day through the issuance of almost daily threats of ‘no work no pay’, and even dismissal. This needs to be read in the light of the fact that in the five months since the protests began in 2016, more than a dozen government employees have been suspended and a list of over a hundred more has been drawn up who may face suspension on the suspicion of being involved in the resistance. Lists such as these serve as a means of producing a constant sense of intimidation and fear, where the possibility of suspension hangs low over their necks, creating a stifling atmosphere at work. With the tourism industry also heavily impacted, tourist guides, one of whom we met in Baramulla, have been out of work for months together.

Humiliation constitutes another continuous thread that emerges in each and every aspect of life under militarisation, and the sphere of work and pursuing a livelihood is no exception to this.

Case 32: In Budgam district, a young man narrated an everyday experience when he and his friend, both painters by profession, were on their way to work. They were stopped en route by some CRPF soldiers and at one point a soldier slapped his friend. Upon reacting strongly to this, they were fired at with tear gas shells. The nature of experiences endured by the working population of the valley reflects the manner in which the dignity of workers is constantly attacked, and a culture of fear and humiliation is reproduced through militarisation. Needless to say, each time an adult is killed, besides the emotional trauma and loss, one working member of their family is lost.

3.3 Extortion

A significant offshoot of the militarisation, arbitrary arrests and detentions, facilitated by arbitrary laws like the PSA, is the extortion racket.

In more than one instance, locals narrated the common practice of young boys being picked up, arrested or detained and released only on the payment of large sums of money. The main perpetrator in this context is the state police.

Case 33: In Kulgam district, we were told youth regularly get picked up by the police who make a demand of Rs. 50,000 to finally settle for a sum of anywhere between Rs. 20,000 to 30,000 for their release. This, we were told, has become a common practice of the police to harass Kashmiri youth and their families, and make money out of this condition of violence and militarisation.

We were further told by senior lawyers of a nexus between state police and local political representatives in several PSA cases, such that it served to re-centre the importance of government forces. In cases of detention under PSA, the family of the 'accused' often approach the local MLA to settle the matter in the police station itself and outside of court. In many of these instances, the 'accused' is then released on payment of some amount as bribe.

Case 34: Similarly, in Budgam district in one village that saw a high degree of violence, with over 300 people injured by pellets and about 40 boys arrested, the local SHO is known to have released several of the arrested for payments between Rs. 40,000-60,000.

3.4 Hartal and mechanisms of self-sustenance

The strike, shutdown or hartal being led by the combined leadership of the two factions of All Parties Hurriyat Conference and Jammu & Kashmir Liberation Front (JKLF) was called immediately following the killing of Burhan Wani. This combined leadership has issued a weekly protest calendar that is followed throughout the valley.

We were witness to the shutdown when we arrived in Srinagar and across the districts locals were aware of and expressed support for the hartal. A complete shutdown or strike for over five to six months is certain to have a massive impact on the local economy. Throughout our visits to different parts of the valley we engaged in conversations with people over how they managed to survive such a long strike and how the strike has sustained for such a long period.

A discussion with a few local youth in Tral in Pulwama district gave us an insight into the sustainability of this continued strike. “It is difficult to sustain a bandh (shutdown) and the struggle hits people's livelihoods. Yet, people don't want to give it up. The Hurriyat did not order people to go for the movement. It was spontaneous and a non-violent resistance. The Hurriyat only manages it by announcing the calendar and the time for dheel (relaxation), etc.”

Given past experiences of curfews that often lasted for months at a stretch, we were told that the people of the valley have learnt from these experiences and developed mechanisms of sustenance through periods when mobility is restricted, shops are shut and access to basic rations is limited. A key new feature of the resistance in 2016 was its spread to rural areas. During the earlier protests, the protestors were supported by peasants and farmers in the rural hinterland, who sent over food grains and vegetables to the cities during the period of curfew. Such a form of support has been crucial to the sustainability of the resistance.

This time it was difficult, as rural areas were equally, if not more, involved in the resistance. Added to this was the state's strategy to burn crops and harvests. However, despite these difficulties, we were told that food stocks began to arrive in cities from surrounding villages within a week's time, and even distributed for free in many parts.

Besides this, there is a longer tradition of Kashmiris of stocking up on basic grains like rice, partly due to the experience of curfews and blockades, and partly due to the harsh winter. The importance of these food stocks in the sustainability of the strike is made obvious by the manner in which these stocks were often particularly targeted in the raids and crackdowns by the state armed forces. In urban areas where the shortage of food was felt more acutely, as compared to rural hinterlands, new practices of kitchen gardens were adopted to meet the needs of the household. Double cropping is increasingly being practised in order to ensure larger produce. Further, this time the Dal area was instrumental to providing much of the food to Srinagar.

The third important mechanism of supporting those in need of basic requirements such as food and other essentials in times of curfew and strike is the system of Baitul Maal. Baitul Maal is an Islamic financial institution based out of mosques that collects donations and disburses it to those who are most in need of financial as well as other material support. During the protests, well-off families are said to have donated generously to their local Baitul Maal, who then help poorer households by paying them both in cash and kind. This has been an important means of weathering the economic consequences of the protests. The organised system of Baitul Maal has been a significant part of the broader culture of self-organisation amongst people in the valley (something that was activated during the time of the floods in 2014 as well), a culture that can be seen to have been cultivated in many ways as a response to militarisation and conditions of volatility.

3.5 Local business interests

A key section of people we spoke to represented local business interests.

In this context, among other organisations and associations, we met with members of the Kashmir Economic Alliance, Shopian Traders' Association and Sopore Trade Federation. It is worth noting here that among members of these associations we spoke to were Hindus, Sikhs and Muslims. While the financial losses suffered by this section have already been mentioned earlier, they also spoke of their broader relationship with the resistance.

Even regarding the matter of the economy, the practice of calling for dheel or

relaxation in the strike every now and then, either for a few hours on a particular day or at times for one or two days at a stretch, as part of the protest calendar issued under the leadership of the Hurriyat, has been important in the sustenance of the strike. This is yet another new practice that has evolved through the experience of past resistances and protests that has contributed to blunting the economic impact of a shutdown. Incidents as one noted above where the Army attempted to shut down a fruit market at precisely the time of dheel demonstrates the concerted effort of the state at attacking those mechanisms that have been evolved by people to cope with sustained and long periods of resistance. The state also attempted to break the strike by offering payments to drivers of three-and-four-wheelers to ply the roads during the strike. It is important to note that the transport sector was among the worst-hit in the strike.

Further, even as losses incurred have been massive, groups that have worked closely with the government officials in the past, have lent their support to the resistance and to the strike. Members of the Shopian Traders' Association, including shopkeepers, retailers and wholesalers, noted such a change in their own association. Having worked closely with the district administration in the past, they said all meetings with them have ceased since August when they were fired upon by the CRPF and the J&K police while taking out a peaceful demonstration. They went on to note that things were different this time with the resistance and the strike, and that they had come to the conclusion that interim solutions would only harm their interest further. For this reason, they supported the strike and hoped for a permanent resolution to the conflict in Kashmir.

Similarly, the Sopore Trade Federation decided to join the strike along with other such district and state-level federations. Viewing the loss of human lives as incomparable to the economic losses suffered by them, they stated that most of their economic losses were incurred during the first two months of the protests when the government had placed the valley under curfew. The protest calendar, on the other hand, allows businesses to flourish for a few hours in the morning and in the evening every now and then and this has helped them in just about coping with the economic consequences of the several months-long resistance.

Further, a testament of the support of this section to the resistance may be seen in relief measures undertaken by groups such as the Kashmir Economic Alliance. In response, its co-chairman was arrested and put in jail for a fortnight. A medical camp set up by the KEA in July, to which members had contributed Rs. 8.5 lakhs was allegedly destroyed by the police.

Given the controversies and claims around the relationship between demonetisation

and violence in the valley, it is further worth stating that as we arrived in the valley on November 11 (three days after the decision was announced by the government), we saw little of the chaos and disruption caused by demonetisation that large parts of India was witness to – ATMs were functioning smoothly, rendering cash in Rs.100 notes and there were no long queues anywhere.

4. Education, Children, Youth and Consciousness

Box 15: UDHR

Article 26: Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Parents have a prior right to choose the kind of education that shall be given to their children.

Box 16: ICESCR

Article 13: 1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Box 17: CRC

Article 12: 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 28: 1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity (...) 2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

Article 29: 1. States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment.

Box 18: Constitution of India

Article 21-A : The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 45: The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Article 51A: Fundamental duties It shall be the duty of every citizen of India (...) (k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Right to Education Act, 2009: The RTE Act provides for the: (i) Right of children to free and compulsory education till completion of elementary education in a neighbourhood school. (ii) It clarifies that 'compulsory education' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. (iii) It specifies the duties and responsibilities of appropriate Governments, local authority and parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments. (iv) It lays down the norms and standards relating inter alia to Student Teacher Ratios, buildings and infrastructure, school-working days, teacher-working hours. (v) It provides for rational deployment of teachers by ensuring that the specified student teacher ratio is maintained for each school, thus ensuring that there is no urban-rural imbalance in teacher postings.

4.1 Arrests and killings of students

Violations to the Right to Education in the Kashmir valley take on multiple forms, beginning first and foremost with the direct attack on children and youth, as well as teachers, seen to play an active role in the resistance.

The arrest of teachers and young students, even juveniles, under PSA was noted in several instances, in the districts of Kupwara, Pulwama and Shopian. As mentioned earlier, in the section on Access to Justice, Liaqat was arrested for the first time in 2004 at the age of 13, which eventually resulted in him dropping out of school. The army picked him up from his home and brought him back the following morning. He returned with broken bones and had suffered severe internal injuries. He was accused of possessing a radio set, two grenades and two Chinese grenades. Following this, between 2008 and 2013 he was arrested seven times. Each time he was arrested during popular agitations – during the eruption of the Amarnath land row²², during protests following the rape and murder of two women in Shopian in 2009, in the 2010 protests, and during the outcry that broke out over Afzal Guru's hanging in 2013. Since then, he has remained in jail.

According to cases documented by the JKCCS, the total number of students killed in the valley since 2008 is 122, 31 of whom were killed in the 2016 protests alone. In 2010 a shockingly high number of 43 students were killed. The 31 students killed in 2016 range from ages 12 to 23, killed between July 8 and November 4, a span of just four months. Amongst the cases we documented was one in Srinagar district of a 12 year old boy (studying in class 7) brutally beaten, with a large number of pellet wounds, killed by the CRPF as he attempted to run away from them in fear. As mentioned earlier, Qasim was a Class XII student, who was about to sit for his exams, when he was shot by armed forces as he left for the Sopore fruit market in search of his younger brother. In another instance, a young prospective student of M.Com., who was to start his classes in Delhi University, was shot dead by the CRPF in Anantnag district. In the same district, as documented in the 'Right to Life' section, a 19-year-old first year student of the Government Degree Boys College at Anantnag, who planned to go to Delhi to pursue a course in hotel management, was shot at by the CRPF and J&K Police with pellet guns and later thrown over a bridge down a 20-feet nullah. Each of their pursuits to obtain a decent education was abruptly cut short by their untimely death.

4.2 Obstacles to education

Besides the brutal cutting short of the lives of young students and putting them

22 A 61-day agitation that erupted in Jammu & Kashmir in 2008 over the transfer of forest land located in the Kashmir valley to the Amarnathji Shrine Board

behind bars, the everyday experience of attaining an education is one that is fraught with violations. Blinding due to pellet injuries prevented 10 students from giving their exams in Pulwama district. In the same district, a father recounted sustained harassment by the police after having lost one son to a custodial killing.

In Baramulla district, as documented earlier in the ‘Right to Life’ section, a contractor from Palhalan recounted the incident when his son, studying in Class IX, was targeted by pellet guns as he was going for his tuition. Frisking of students before the Class X and XII examinations was mentioned more than once, likening the process of attending an educational institution to entering a prison, forcing students to sit for exams under the shadow of the gun.

In two different instances in Pulwama district, indirect consequences of studying under militarisation were highlighted.

Case 35: Due to the government-led internet clampdown, a prospective M.Sc. student lost his admission to Barkatullah University in Bhopal, Madhya Pradesh, since he did not receive the information of his admission in time.

Case 36: On the other hand, a postgraduate student of commerce from the University of Kashmir was unable to fill out job applications owing to the delay by the University in declaring exam results, brought about by the situation in Kashmir valley in 2016.

The burning of government schools found mention across the valley, even as those responsible for it remain unclear. While some hinted at the government and state armed forces having a role in it, others indicated murkier nexuses and local ‘miscreants’ as having a hand in it. According to official figures, 24 schools were burnt across the valley in 2016.

4.3 Curfew schools/ Community schools

Given the shutdown and burning of schools during the period of curfew last year, communities and mohallas came together to set up what have been called ‘curfew schools’. These have been housed either in open grounds, halls near mosques, private homes or in other mutually identified spaces. This idea was mooted by the resistance leadership and community leaders in order to combat the disruption in education due to the curfew imposed by the government. We were told that up to 800 students were taught in Srinagar for three months in these schools. Government teachers also taught in these schools and have been targeted for doing so in the form of arrests and threats by government forces, prohibiting them from participating in

such schools. Several hundred students managed to give their annual examinations because of these community schools. Even as the percentage of students that sat for the centralised Class X and XII examinations is regularly used by the Indian state to display the degree of ‘normalcy’ in the valley, much like the voter turnout in elections. Such a figure does not capture the range of issues that plague the experience of attaining an education in Kashmir, and completely ignores the mechanisms evolved by local communities to ensure proper education for their children.

4.4 Political consciousness among children

Looking at the nature of experiences of young children and adolescents, and the duress under which they study and learn, the question of education cannot be seen as separate from the broader context of conflict and militarisation. Another aspect of education in Kashmir is the experience of young children as they live through systemic and state-sponsored violence and repression, such that it forms an integral part of the way in which they understand the world around them. Given the spread of the protests to rural areas as well, we heard a set of young voices from these parts that throw light on the aspect of an early consciousness among the youth, not only in organised, educated, articulate urban civil society groups, but in many other parts of the valley. Interactions with young children are telling in this regard.

Case 37: In an interaction in Pulwama with a Class V student told us, “Army wale Eid ke din hamari behanon ke baal pakad kar ghaseet kar le gaye. Ek mahila behosh ho gayi. Army wale hans rahe the, hame laga ki woh hamari izzat loot lenge isliye ham bhag gaye.” (On the day of Eid Army people came and dragged our sisters by the hair. One woman fainted. The Army guys were laughing. We thought they will rape us, so we ran away.) We asked her whether she had ever participated in protests. She said yes and added, “Hum Modi se kehte hain Kashmir se nikal jao. Hum azadi chahte hain. Hum Mehbooba Mufti se kehte hain gaddi chhor do.” (We tell Modi to get out of Kashmir. We want freedom. And we tell Mehbooba she must quit her chair.)

Case 38: In Srinagar district, a father of a 15-year-old described the day Burhan Wani was killed, “I was watching the news when I heard of Burhan’s death. My son, who is 15 years old, came down when he heard about it and reacted with shock and anger. I told him that I have seen many Burhans come and go. He told me that I don’t understand the current situation. Burhan was very popular among the younger generation.” His son went on to explain, “I heard of Burhan a year ago for the first time. I hear of so many deaths and it used to hurt me. That’s when I came across Burhan on Facebook. He told us that since we could not get freedom through peaceful means, we were forced to take the gun. He left home when he was 15 years

old. I could relate to that.” The 15-year-old’s elder brother told us of another experience that allows young boys in the valley to relate to one another, “The CRPF stopped my friends and me on the street one day and asked us for an identity. I asked him why he wanted to check our identity and he hit me. When I walk on the street, the police and other forces always look at me suspiciously.”

Experiences such as these are central in shaping the consciousness of the youth, who have seen an extremely high degree of violence in their everyday lives, who have seen their brothers being shot dead in front of their eyes, who exit their home to see off their mother and are showered with pellets, who have only just been able to start walking after two months, recovering gradually from pellet injuries in the thigh, to begin studying for exams, many of whom simply can't attend school any longer. In Kupwara district a young boy, studying in class VI narrated an incident when he was randomly roughed up and threatened by the J&K police right outside his home. As he opened the small kirana store his family runs from their home, the police dragged him out and warned him if he appeared on the streets again he would be booked under the PSA. We asked him if he knew what the PSA was and he nodded in the affirmative. On asking what it was, he said PSA implied two-three years in jail. The awareness at a tender age of 12-13 years of such laws and their implications, regularly and indiscriminately used to put youth behind bars, tells volumes about growing up in a militarised territory. We were told of a Class VIII student from the same district who refused to give his exams till his brother was released from prison.

Experiences that shape the youth growing up in the valley include involvement in activities such as forming volunteer groups to patrol their village in order to protect against night raids by government armed forces. Children walk in empty grounds collecting remains of tear gas shells, PAVA shells, hand-held shells and other such remnants left behind from attacks by government forces. In such a context it may be safely said that every student in the valley has been deprived of his and her educational right to be able to study and learn in a free and safe environment, essential conditions for education to be meaningful.

4.5 Higher education and student politics

Similarly, at the level of higher education we met with university students studying in Kashmir, as well as those from Kashmir who have studied in different parts of India. Time and again instances of attacks on Kashmiri students across the country were pointed out to indicate the way in which they are treated across India, subjected to prejudice, discrimination as well as actual physical violence. There have been multiple instances of Kashmiri students being beaten up, particularly for not supporting the Indian cricket team during cricket matches. This has taken place in Meerut, Lucknow, Bhopal, Rohtak, Rajasthan, Mohali, Delhi, and even at the

National Institute of Technology in Srinagar. The status of NIT Srinagar (formerly a regional engineering college) was changed from a state institution to a national institution, bringing it under the ambit of the Indian government (as was the case with all the regional engineering colleges). This move has altered the demographic character of the institute, reducing Kashmiri students to a minority.

Students of the University of Kashmir pointed to the state of student politics on campus. The Jammu & Kashmir Students' Union was banned in the 90s and from then to the mid-2000s there was little activism on campus due to this ban. In 2007, the Kashmiri Thinkers' Guild was formed, later to be renamed Kashmir University Students' Union (KUSU). KUSU has also been banned, and student activists associated with the union are consistently harassed and targeted by university authorities. Delay in awarding doctoral degrees is one such tactic adopted by the authorities.

One of the earliest resistances offered by KUSU was in 2007, when they protested the felling of chinar trees in the historic Naseem Bagh, located in Srinagar, for the construction of a university guest house. During this resistance, students associated with KUSU were labelled as Lashkar-e-Taiba agents. In 2010, when the union was banned their office was razed to the ground and the union was derecognised by university authorities, alleging that "no student politics will be allowed on the campus and it's banned."²³

A Hindustan Times report dated May 17, 2010 further quotes university authorities as stating, "We are not going to allow any students' union on the campus. Besides academic and amenities issue, no politics will be allowed."²⁴ Such statements reflect the attitude of university authorities towards student politics and a vibrant political culture on campus, violating the right to associate as well as attempting to stifle free and informed debate and discussion on campus, preventing students from raising concerns and asking difficult questions in the university. During the time of the floods in Kashmir in 2014, when students associated with KUSU attempted to set up a stall for the collection of relief materials, they were denied permission. Through such means any work taken up by KUSU is targeted or hindered. Students associated with KUSU have also been arrested in the past.

An important means of control and repression in university spaces relates to the nature of research carried out by students and courses taught by teachers. This has

23 <http://www.hindustantimes.com/india/kashmir-varsity-bans-students-politics-demolish-union-office/story-YRaD69uk8ULbZod4IqYV6M.html>

24 <http://www.hindustantimes.com/india/kashmir-varsity-bans-students-politics-demolish-union-office/story-YRaD69uk8ULbZod4IqYV6M.html>

been an important site of struggle. Research degrees and doctorates on Kashmir and issues of self-determination are actively discouraged. We were told of a student who wanted to work on the Hurriyat, but after a year into his work, he was asked to change his topic to a thesis on China. Similarly, one student who expressed an interest in working on the women's movement in Kashmir has had to shift her research area to compare the women's movement in India and Pakistan. In another instance a student who wanted to study torture was forced to look at the rehabilitation of torture victims. The site of knowledge production – what can be studied and read – is a critical one, and constitutes yet another battleground for students in the Kashmir valley. This is further manifested in the broader struggle over knowledge production – in other words the struggle over who writes, articulates and theorises the issues that confront the valley. Students expressed the emergence of a sentiment of writing and speaking for themselves, as opposed to having been spoken for years now.

5. Destruction of Public Infrastructure and Private Property

5.1 Destruction of public infrastructure

Another new element in measures of repression used by the state armed forces in 2016 was the burning of electricity transformers.

This was observed in several districts across the valley, including Anantnag, Baramulla, Srinagar and Budgam. In some villages we visited, locals continued to live without electricity. In other places, two to four transformers were blown up in the middle of the night. Among the forces identified in such activity were the Army and STF.

Responding to a question on the number of transformers damaged during the protests, the Jammu and Kashmir Assembly was informed this number stood at 368. Given the repeated use of the same strategy on a large-scale in different villages across the valley, it appears to have been a consistent strategy of the state armed forces to pointedly attack essential public services such as electricity, amounting to a violation of the right to life. This was further done in areas where protests were taking place, in order to plunge these parts into darkness. Besides transformers, other public infrastructure such as water pipes was also broken, restricting people's access to water.

5.2 Destruction of private property

Intimidation of locals has taken the form of attack on private homes, particularly by pelting stones at windows to damage them. Broken window panes were a common feature observed by several members of our delegation in different instances.

Repeatedly, we noted entire mohallas or parts of towns and villages where not a single home could be seen whose windows were not damaged. This is a direct attack on people's private property.

During raids or 'crackdowns' conducted by the state armed forces, we were told of houses attacked in Pulwama district, where properties were vandalised, cash was looted and even a dog shot dead. Similarly, in Budgam, the CRPF and police entered people's homes, and destroyed household furniture and food rations. The old city area of Baramulla that is very familiar with the cordon-and-search routine saw at least two massive crackdowns in the first five months of the protests, one on October 15 and another on October 21. On the night of October 21, the whole of the old town was sealed off and the Army and police barged into people's homes, broke household items like refrigerators and ransacked rooms. Similarly, 'search raids' are also a regular feature, when state armed forces forcibly enter people's homes, destroy household property, pour chilli powder into sacks of food grain and take embers from their kangris and pour them over the stored rice used by families to last through winter.

In a similar raid in Kulgam district, the state armed forces razed houses to the ground, burned stacks of hay, and broke into and looted pharmacies and other stores. In a village in Bandipora district, where stone quarrying and the production of hamam slabs traditionally used in Kashmiri architecture, an attack by the Army saw the destruction of these slabs. According to local news reports, these slabs were smashed with sledge hammers and crowbars²⁵. The attacks on the local economy, whether on workers' produce, workers themselves, or on public infrastructure and private property has been immensely serious and one that needs to be taken note of immediately.

6. Media and Freedom of Press

Box 19: UDHR

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

25 <http://www.fastkashmir.com/2016/08/19/soldiers-desecrate-mosque-cut-water-supply-and-break-hamam-slabs-in-bandipora-village/>

Box 20: ICCPR

Article 19: 1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Box 21: Constitution of India

Article 19: (1) All citizens shall have the right: (a) to freedom of speech and expression; (...) (2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

In our discussions with journalists and observers, two issues were raised regarding the role of the media. One set of issues concerns the attack on the freedom of press and the gagging of media, particularly in Kashmir. While several cases of harassment and direct physical assault of journalists covering the conflict have been documented by several organisations, including the Centre for Policy Analysis²⁶, media offices and printing presses of newspapers, including that of Greater Kashmir, have been attacked, and individual journalists and cartoonists have been fired from their jobs.

Between July 16 and 20, no newspapers were printed in Kashmir due to the atmosphere of fear and violence perpetrated by the armed forces. Such a total media gag for five consecutive days enforced through coercive means is in complete violation of the freedom of press, disallowing free flow of information and thereby creating an atmosphere of uncertainty and war-like conditions.

Further, another Kashmiri newspaper, *Kashmir Reader*, was banned on October 2, 2016 and during our visit to the valley, remained banned. This ban lasted for almost three months and was lifted only on December 27. On speaking to the editor of the banned newspaper, we were told Kashmir Reader was specifically targeted because

²⁶ Kashmir: A Paradise Lost? Report on the Current Situation in Kashmir, Centre for Policy Analysis, December 2016

of the language used by the paper. Refusing to use words such as ‘jawans’ or ‘security forces’, or ‘separatists’, the Reader has instead employed words such as ‘soldiers’ and ‘government forces’, and ‘pro-freedom’. The paper is said to have been targeted because of the straightforwardness and unapologetic reporting it presented. Several people we interacted with asked us repeatedly to think about why Kashmir Reader specifically was banned. There is a sense that there has been a longer discontentment with the paper and the period of unrest was used by the government to enforce such a ban. In the dossier presented by the police to the courts the paper was accused of publishing content "that could incite violence and disturb public tranquillity." The editor, Mir Hilal, in an article on *Firstpost*²⁷ writes about the ban, “What were you publishing that other newspapers were not? This was the most asked question. Any attempt to answer this question runs the risk of judging other newspapers...During the past one month, various players, at the behest of the state, have gone into a desperate huddle and initiated a dialogue with the most vocal and open advocates of Kashmir's freedom. But when our newspaper provides space to people who engage, through ideas, with questions on the right to self-determination, powerlessness and duplicity of 'elected' governments in Jammu and Kashmir, we are charged with 'inciting violence'." Amongst editorials, articles and headlines cited in the police dossier demanding the ban were several articles by Palestinian columnist Ramzy Baroud, who has not written a single word on Kashmir.”

A second set of issues regarding the media and reporting of the 2016 protests that emerged from discussions with several people was the role of the Indian national media in amplifying war crimes, militarism and nationalistic jingoism across India. A senior journalist spoke of the particularly partisan view adopted by the Indian national media this time, “The problem is that the Indian media has accepted the position of the Indian Parliament, which is that Kashmir is an integral part of India. This is the first time that the Indian State’s stance is so clear. It was actually like this all along. No dialogue earlier was successful. Now even the farce of dialogue has been dropped.” Others spoke of increasing alignment of the Indian national media with militarisation, creating a growing hostility among the people of the valley towards these media houses. Younger journalists spoke of how the media was itself increasingly becoming militarised or dictatorial media. There was a broader discontentment among people across the board towards the way in which the protests and people's resistance in Kashmir, along with the issue of self-determination and people's struggle for freedom, is consistently shown in negative light by these media houses.

27 <http://www.firstpost.com/india/kashmir-reader-ban-india-new-zeal-to-tame-media-reflects-ruthlessness-of-british-era-3088700.html>

7. Violation of the Right to Freedom of Religion and Peaceful Assembly

Box 22: Universal Declaration of Human Rights

Article 18: Everyone has the right to freedom of thought, conscience and religion; the right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 20: 1. Everyone has the right to freedom of peaceful assembly and association. 2. No one may be compelled to belong to an association.

Box 23: International Covenant on Civil and Political Rights

Article 18: 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Box 24: Constitution of India

Article 25: *Freedom of conscience and free profession, practice and propagation of religion:* (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Article 26: *Freedom to manage religious affairs:* Subject to public order, morality and health, every religious denomination or any section thereof shall have the right: (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.

On Friday, September 16 last year, at around 4pm, Salman*, an 11-year-old class 7 student, went to the local mosque in New Theed village to offer prayers. When he

didn't return, the family made a frantic search, issuing announcements from the mosque. A few people told the family that there was stone pelting by protesters and shelling by security forces outside the mosque. Seeing the commotion, Salman tried to run. According to bystanders, the CRPF chased him.

In the late evening, as the whole village looked for him, Salman was found dead near a waterhole for animals. He was beaten all over; his right arm was broken and his head was injured. He was fired upon with pellets. There were foot prints on his body, as though he had been trampled upon. Blood had trickled down from his nose and out of his mouth.

Salman's family told the team that they rang the SHO, who informed them that their 11-year-old had been attacked by a bear. No post-mortem was done. Since September 16, Friday protests were stopped in New Theed.

In the summer of 2016, mosques have been a primary site of protest and mobilisation. Across Kashmir pro-azadi paeans and speeches have rung out of loudspeakers, arrangements for Baitul Maal, an Islamic cooperative to provide financial and material support to the community, have been carried out, and the Kashmiri quom has gathered strength and numbers for peaceful protests. The Hurriyat protest calendar has, often, called upon the people to march to their local mosques on Fridays, the day of jumma. Yet, government forces have repeatedly attacked these religious sites, fired pellets and bullets on protesters and innocent civilians like 11-year-old Salman and countless others, in blatant violation of the right to freedom of religion and the right to organising peaceful assembly.

The 2016 Human Rights Review report, released by the Jammu Kashmir Coalition of Civil Society quotes Kashmir's chief cleric saying, "the government has declared war on religious places in Kashmir," which was seen as part of the state's crackdown on the popular, mass protests of 2016. In January this year, Kashmir Reader accessed internal government reports to reveal that 9000 mosques in Kashmir have been identified by the state government across all districts as active sites for fomenting anti-India protests. The highest number of mosques identified are in Anantnag (2300), followed by Baramulla (1400) and Srinagar (1100). According to the report cited by the newspaper, 156 mosques had regularly played pro-freedom songs and "provided space to protesters who shouted 'anti-national slogans'". First Information Reports (FIRs), whose nature remains unknown, have been registered against these mosques, 17 mosque committees have been served notices and one person has been arrested.

In an unprecedented move, the state government also closed down major shrines and mosques in Kashmir on Eid last year to prevent congregations from turning into mass movements for azadi. The historic Jamia Masjid in Srinagar remained shut for 19 weeks after Burhan Wani's killing, before congregational prayers were finally allowed on November 25 last year. The last time Srinagar's Jamia Masjid was shut down was nearly two centuries ago, in 1821. Similarly, Shopian's Jamia Masjid also remained shut for 18 weeks, before prayers were allowed on November 18, 2016.

While the state government has attempted to curtail the role of mosques and shrines during the summer of 2016, security forces have repeatedly and wilfully targeted innocent civilians at local masjids and martyrs' graveyards across Kashmir, especially on Fridays. In Kulgam district, the team met with an elderly person who was fired upon by army personnel while offering prayers at the local mosque. Residents also told us that SOG and STF forces of the J&K Police fired upon crowds every Friday after prayers. In Budgam district, residents of Beerwah village told us that Fridays were marked as days for attacks by security forces, as people congregated for prayers and peaceful processions (puraman julus). Eye-witnesses told us that the police often barged into these religious places with their shoes on to provoke people. In Choon village, on August 5, people took out a peaceful procession to Budgam district headquarters after offering prayers at the local mosque. J&K police fired pellets at the procession, in which 80 people were injured, a dozen of whom sustained severe eye injuries. On October 7, in the same village, one person was hit by bullet after the Friday prayers.

In Shopian town, one person was shot at by the CRPF after he had offered prayers for his family members at the local cemetery. Young men from Karimabad, Pulwama district also told us of attacks by the security forces, especially on Fridays, and the destruction of their local martyrs' graveyard. Gag orders were issued to local media outlets from reporting on such events of vandalism by security forces. Residents of Nadihal village, Baramulla district reported that the local mosque has been vandalized on numerous occasions. On one Friday, security forces even snatched the loudspeaker, through which azaan calls are issued. On September 23, in the same village, 150 people were injured in firing and shelling outside the local mosque. In old town, Baramulla district, shutting down of mosques is a familiar procedure. Since July 8, young residents of the neighbourhood told us that prayers have been disallowed at the local mosque.

8. Right to Self-determination

Box 25: International Covenant on Civil and Political Rights

Article 1: (1) All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Box 26: International Covenant on Economic, Cultural and Social Rights

Article 1: (1) All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. (2) All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence. 3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

The team met with a representative of the ruling party, PDP, Nizamuddin Bhat. In the interview with him, he spoke of a condition of normalcy in the valley. He attributed the agitation to the work of “militants’ propaganda”. Below are some of his responses to the team’s questions:

On the issue of arrest of 13,000 people and scores of bullet and pellet injuries and casualties: "If people break the law, what do you expect?"

On the issue of the high degree of militarisation: “Kahaan militarisation? (Where is the militarisation?)...For the first time there is no dialogue, no appeasement from the Government of India. This is the right approach”.

On ‘Azaadi’ (independence): “This is a fantasy. A solution can be sought only by confronting reality. I am not in favour of any talk or appeasement. If AFSPA were to be revoked people would feel a sense of victory and achievement...If innocents are released, if amnesty is announced, does that yield benefit to the system and society?”

On popular support for Azaadi: “these people are liars.”

On solution to the Kashmir crisis: “First create an orientation, even if dialogue is delayed, even if the protests continue for another 3-4 months, first let there be a local compulsive understanding and get to a bottom line, even if it is compelled to do so.”

Bhat clarified these were his views as an individual. However, while recounting his speech to the all-party delegation, it was clear that in essence his position was also the stated position of the PDP – one that pushed for ‘self-realisation’ as the solution, not “force, fear, or fake management” – where fake management was Orwellian newspeak for dialogue. This, while maintaining that fear and force are not being used, ignoring the large scale evidence to the contrary, a glimpse of which we have presented above.

The team also met with Hurriyat leader Mirwaiz Umar Farooq and JLKF leader Yasin Malik.

Presenting a diametrically opposite view, Mirwaiz Umar Farooq expressed concern over the current political situation stating, “It is a matter of concern to think about the message being sent to people when leaders are placed under arrest or house arrest. While the youth are currently involved in an essentially democratic mass movement, if the Indian state does not make a serious attempt to find a political solution, they will turn to militancy.”

On the repression and its impact on the resistance, Yasin Malik noted, “We have no real hopes of a dialogue or solution from the fascist government that now rules India. The ongoing brutal repression is to break our spirit – and the ongoing resistance is to show that they cannot succeed in breaking our will.”

An alternate view on the situation was taken by a member of the Resident Doctors' Association when he said, “the cold hearted attitude of Indian civil society troubles me. I take strong exception to your reducing the whole problem to the BJP. What have other parties done for Kashmir?”

This theme of rooting the political conflict in Kashmir in longer historical perspective was a recurring one, noted by almost all sections across the spectrum. However, at the same time, notable not only in the words of Yasin Malik but also PDP representative Nizamuddin Bhat, this government has shed even the inclination for any kind of dialogue with people participating in the resistance, even as earlier governments maintained it as something of a farce.

Almost all meetings with any group often began with the narration of the political

history of Kashmir. In response to the solidarity team's introduction as the context of the post-July 8 protests, people emphatically stated that this was not an isolated protest. In the discussions with people, even as there were differences in the specifics of the history, depending on the school of thought or ideological dispensation of the individuals or groups we interacted with, an element that came out time and time again was a belief that Kashmir was never a part of India, and had been and continues to be colonised by different forces in the past, be they the Mughals, British rulers or India after 1947. Following from this, the demand for their right to self-determination came out as the strongest central issue across the board.

Over the 10 days, we were met by repeated expressions of a deep sense of betrayal, of having faced a string of broken promises or deception, as several termed it.

First, the betrayal of the manner of the signing of the letter of accession, but most importantly, the turnaround that India made vis-a-vis the United Nations Resolution of 1948²⁸, where it promised plebiscite to the people of Kashmir, in acknowledgement of their right to choose their nationality. Part of the process of plebiscite was de-militarisation of the valley to a minimum number for the support of civil power to maintain law and order. On both these accounts, it is witnessed that India has failed to enact the Resolution. Surely, there are other terms and conditions within the Resolution, which have not been met, and that the situation on the ground has changed a great deal since 1948, but the two aspects – plebiscite and de-militarisation continue to be relevant. As a group of young students in Ganderbal put it, “all we want is for the UN Resolution made in 1948 to be upheld.” In the context of Nizamuddin Bhat's comment on calling all those who spoke of self-determination and freedom in Kashmir as liars, the comment by Muzaffar Wani, Burhan Wani's father, is worth noting (also a comment made by many people in Kashmir), “If India is so sure that 70 per cent of the people want to be with India then why does it not conduct the plebiscite and settle the question once and for all?”

Apart from historical processes, senior journalists in Srinagar shared that as recently as in 1996 the autonomy resolution taken in the valley was ignored in Delhi. In 2010, the interlocutors report was never tabled in the Parliament. People also shared that their resistance was not only to the excesses caused by the Indian armed forces, but to India's occupation of Kashmir; that even if the violence stopped, the struggle for independence would continue. In Karimabad in Pulwama district, on being asked for a show of hands over a referendum, all those gathered in the village raised both

28 47 (1948). Resolution of 21st April 1948. [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/47\(1948\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/47(1948)) (accessed in January 2017).

hands. While the resistance of Kashmiris is for freedom, human rights violations cannot also be ignored. The presence of AFSPA and non-presence of a Chairperson for the State Human Rights Commission for several years is telling in the mechanisms of controlling this region.

The impunity of the Indian state and its armed forces has cornered Kashmiris in terms of their forms of resistance. Several people across the districts said that those who picked up arms to struggle for independence did not do so willingly. They had been forced to do so due to circumstances created by the Indian state, where even peaceful resistances were responded with bullets, pellets and PAVA shells. Peaceful protests like those of the APDP have fallen on deaf ears. As a student poignantly put it, "From the womb of my mother I heard the gunshot... state terrorism is from our birth itself". From the discussions it also appeared that while in the 90s people were cautious about being seen and identified, the present younger generation knows almost no fear. On the matter of the armed struggle, one person responded that, "for us war makes little difference, since anyway we are killed daily, war or no war". Another person said, "rather than sitting in our house and dying like sitting ducks, we'd rather fight back and die."

An important theme that emerged as part of discussions was the conscious and targeted attempt of state forces at breaking the spirit of Kashmiri people. A journalist echoed this sentiment when he said that, "The basic objective of the Indian state is to humiliate Kashmiris". Civil society organisations also narrated ways in which humiliation is a central strategy of the Indian armed forces. At the same time, there were youth who expressed that they gain strength from the militarisation. One young woman in Ganderbal said, "Occupation is what breaks you but also makes you. Every cell in my body is consciously aware of it. Every individual here is owning the resistance". This comes across clearly, across every district of the valley, which arose with single-minded determination in rural and urban areas, with women, men, youth, children all involved.

Along with overt confrontation, some people have also used the arts to express themselves – through songs, theatre and cartoons. A theatre and filmmaker adapted the play 'Waiting for Godot' by Samuel Beckett to represent the two main characters standing under a chinar tree, where a mine blast has just taken place and where hope is deferred. He has also adapted J. M. Synge's play 'Riders to the Sea', Shakespeare's 'Hamlet' to depict present day situations in Kashmir. He says, "Memory is a responsibility. It has to be kept sacred, kept alive."

While on the one hand, Kashmiris have fought a battle against the Indian state, the same state has been operating through the state government to quell the resistance.

Often Kashmiri participation in elections is presented as an outcome of plebiscite. However several people challenged this reading to state that participation in the election is for the purpose of local governance and for basic facilities like electricity, water etc. and that these parties cannot decide the fate of Kashmir. People of Tral called Mehbooba Mufti's famous healing touch to be a "hating touch."

A young journalist expressed that, "The method of occupation today is that of corruption and coercion. The government encourages transfer of agricultural land to concrete jungles. They do not arrest timber smugglers. State is an important agency in timber smuggling. Everything gets connected to the occupation. Due to this man-animal conflict is increasing. Bears are coming into densely populated areas. The forests are occupied by the army. Animals come into the village and destroy crops. People do not have the right to protest against the developmental paradigm".

To break the unified resistance, the Indian state is atomising communities. Over the past few years, people have discovered the community themselves. This is evident in the community response of the floods in 2012. But bunkers strategically placed have caused a disconnect between people. Bunkers are used to draw boundaries and disconnect people and areas from one another. According to some senior journalists, this time the bunker concentration is so much that it takes the army not more than 15 minutes to get to any place in the Valley. Clearly people are seeing the state machinery operating to break the people and therefore the high levels of anger.

In our discussions with various groups, organised, unorganised and individuals of Kashmir, it seemed clear enough that there is a consensus that the conflict in Kashmir is a political issue that needs resolution through discussions across the table and not by the force of the gun. People also believed that discussions only with the Hurriyat and others in Kashmir was not enough and that Pakistan had necessarily to be a part of the discussions and that their stake in the matter be acknowledged. Having said that, the majority of the people met said that they would prefer independence rather than going with one or the other country. Kashmiris we spoke to feel that they have been caught in the midst of a battle between India and Pakistan and have had to pay the price with their freedom. One artist felt that, "Kashmiris are not treated as citizens but as subjects" and pleaded that they (Kashmiris) be left alone.

Box 27: On Minorities

The solidarity team was able to meet a few members of the minority communities – Kashmiri Pandits and Sikhs. According to Anil Kumar, Vice President, Kashmir Fruit Growers Association and a Pandit, the valley was the safest for minorities. He said that, “Muslims come to our homes, weddings, festivals and funerals. We are not sectarian. We mingle with each other”.

Charan Singh Raina from Tral is a Sikh who participated in the protests against Burhan Wani’s killing. He said, “We Sikhs as well as Pandits and other minorities weren’t in any danger as long as he was alive because he was very committed to our safety.”

We met with a theatre professional who briefly spoke of the exodus of Kashmir Pandits in 1990. "I used to live in a neighbourhood dominated by Pandits. We had good relations with each other. When the Pandits were leaving, 17 keys were deposited in our house to be kept safely for a time when they would return. I remember how we youngsters would volunteer to buy vegetables for our Pandit neighbours, and drop them at their homes."

A member of the Kashmiri Pandit Sangharsh Samiti, who continues to live in Srinagar, stated that the exodus of Kashmiri Pandits in the nineties “was not stopped by the Indian state so that they could administer the iron hand to the Kashmiri Muslims”. He also expressed that the Indian state had not dealt with the current situation as it should have. He said that the Indian state first made a poster boy out of Burhan Wani and then killed him, without sparing a thought to what the repercussions of such a thing would be for the people. He said that after witnessing 26 years of human rights violations, he does not believe that there is any solution in sight. He attributed this to the confusion in the Hurriyat mainstream and political parties.

SECTION IV: CONCLUSION

Based on the above reporting, we conclude that the BJP government at the centre and the PDP-BJP government in J&K are engaged in actions that amount to a complete violation of universally accepted human and democratic rights and of the very Indian Constitution they claim to want to impose in the Kashmir valley. With use of government force and the rest of the machinery at their disposal, the government has acted and continues to act in grievous violation of the right to life, the right to free speech, the right to freedom of association, the right to freedom of religion, the right to freedom of press and the principles of natural justice. We are also distressed by the fact that senior members of the BJP government have made, and continue to make, inflammatory and provocative statements against the peoples of Kashmir. Regrettably, the parliamentary opposition has lacked the political courage and will to call upon the accountability of government actions.

We also conclude that the actions of the BJP government at the centre and the PDP-BJP government in J&K are acts of vengeance aimed at forcing the peoples of Kashmir into subjugation by using every possible force available to the government for breaking the peoples' resolve for a democratic settlement to achieve their aspirations. As representatives of diverse peoples' movements, trade unions and other organisations in India, and as India's citizens, we can say without reservation that the actions of the Indian state in Kashmir amount to profound violation of democratic and human rights. Hence, we call upon the Government of India to forthwith:

1. Recognise the Kashmir dispute and accept that its resolution can only come through a political solution, not through military intervention and a suppression of all human and democratic rights;
2. Withdraw the army and other paramilitary forces including the Central Reserve Police Force, Border Security Force and Indo Tibetan Border Police from civilian areas of Jammu and Kashmir;
3. Repeal the Jammu and Kashmir Public Safety Act, 1978 and the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990;
4. Release all political prisoners and, in particular, all prisoners arrested under the Jammu and Kashmir Public Safety Act, 1978;
5. Grant access to the UN High Commissioner for Human Rights for a UN fact-

finding mission in Jammu & Kashmir;

6. Establish a judicial tribunal under the supervision of the Supreme Court to examine all cases of extra-judicial killings, including that of Burhan Wani;
7. Enter into an open and transparent dialogue, without pre-conditions, with all sections of the Kashmir peoples and their representatives in order to bring about a resolution of the Kashmir dispute that recognises the aspirations of people to determine their own destiny through demonstrably democratic means.

We also call upon all Indian citizens to recognise that the actions of the Indian state in the Kashmir valley are far removed from the values of a democratic republic and beyond the pale by any acceptable norms of a civilised society in the 21st century. We call upon all Indian peoples to ensure that the injustices against Kashmir's peoples are brought to an end and their democratic aspirations addressed.

** All names have been changed to protect identities, except for spokespersons of political parties.*

Annexure 1

Solidarity with the Peoples of Kashmir | New Delhi, 22 November 2016

We, twenty five citizens of India, representing people's movements, women's organisations, trade unions, human rights organisations, youth organisations and individuals who are journalists, writers and filmmakers, from the states of Andhra Pradesh, Gujarat, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Nagaland, Odisha and Tamil Nadu, visited Kashmir from 11 to 20 November 2016 with the objective of understanding first-hand, from ordinary people and civil society, the situation of the peoples of the Kashmir Valley that has emerged over the past four-and-half months since the killing of three Hizbul Mujahideen commanders, Burhan Wani, Sartaj Sheikh and Pervaiz Lashkari by the Indian Army and J&K Police on 8 July 2016.

In the last 135 days, over 102 unarmed civilians have been killed by the Indian Army, the J&K Police and central paramilitary forces. More than 15,000 people have been injured by armed firing and in pellet firing and shelling, of which around 7,000 are cases of severe injury. A majority of those who have been killed are young and many are minors. This information has been documented by the media.

Over the nine days, we visited the districts of Anantnag, Bandipora, Baramulla, Budgam, Ganderbal, Kulgam, Kupwara, Pulwama, Shopian and Srinagar.

We met with families of those who have been killed by the Indian Army, the Border Security Force (BSF), the Central Reserve Police Force (CRPF), and the J&K Police (JKP) including the Special Operations Group (SOG) and Special Task Forces (STF). We met with families of those who have disappeared or have been jailed, including human rights defenders. We also met with victims grievously injured, including being blinded by pellet gunfire and PAVA shell fire over these past four-and-a-half-months.

Apart from ordinary people of the 10 districts mentioned above, we met with lawyers including the leadership of the J&K Bar Association (JKBA); trading and business communities including the Kashmir Economic Alliance (KEA), Kashmir Fruit Growers & Dealers Association, and district-level traders federations; state government employees and their unions including the Employees' Joint Action Committee (EJAC); students' unions; human rights defenders including the Jammu Kashmir Coalition of Civil Society and the Association of Parents of Disappeared Persons; political organisations and parties including the Jammu Kashmir Liberation Front (JKLF), other member parties of the All Party Hurriyat

Conference, Jammu & Kashmir Peoples Democratic Party (PDP), and the Muslim League; Kashmiri Pandit community including the Kashmiri Pandit Sangharsh Samiti (KPSS); relief, voluntary and social welfare organisations including Kashmir Centre for Social and Development Studies, Firdous Educational Trust for Orphans as well as scholars, academics, journalists, doctors and other medical practitioners, artists, and theatre professionals.

Following the, alleged extrajudicial, killing of 8 July there have been large, unprecedented protests across the Kashmir valley starting on 9 July, the day of Burhan Wani's funeral. These unarmed protests have been met with sustained attack by the Indian Army, J&K police and paramilitary, including with the use of pellet guns, PAVA shells and firearms. We learnt of several deaths caused by targeted killings of unarmed civilians by armed forces in the absence of protests or demonstrations. Most deaths we came across have been caused by injuries waist-above, without any warning fire. Deaths and injuries caused by pellet guns too are all above the waist and preponderantly at eye level causing blinding or long-term ophthalmic damage. In the case of deaths, we learnt that the J&K Police has lodged 'cross' FIRs using similar and repetitive, if not identical, charges of the victim being 'anti-national'. These government actions amount to a violation of the right to life.

Families that have pursued the legal remedy to identify the representatives of the Indian Army, J&K police and paramilitary, including those granted immunity under the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, who engaged in acts of killing innocent people, have become targets of repeated arrests, torture and raids. These government actions amount to criminal intimidation and have served as a deterrent to many families from pursuing the course of justice.

Of the papers of those who have been arrested, especially under the Jammu and Kashmir Public Safety Act, 1978 (PSA), that we were able to look at, the charges lack prima facie substance and employ similar, if not identical, language. We spent a morning attending proceedings at the J&K High Court. In all the cases involving arrests under the PSA, including the case of PSA filed against human rights defender Khurram Pervez, the Government Counsel merely sought to delay cases by seeking more time to file documents when in fact the FIR/case dossier forms the basis of the arrest. We came across several cases of those who won their release through the courts, being promptly rearrested on the basis of new FIRs filed against them by the government. Cases of arrests of minors, including under the PSA, were also brought to our notice. These government actions amount to a violation of the principles of natural justice.

Families of detained and arrested persons also brought to our attention instances of

grievous custodial torture by government interrogators in police stations and jails, indicating the levels of impunity enjoyed by the Indian Army, under the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, and the state police, under the Jammu and Kashmir Public Safety Act, 1978. People also reported that multiple wings of the intelligence were in operation, causing fear, mistrust and suspicion among people.

In the towns and villages where there were killings by the Indian Army, J&K police and paramilitary, we met with ordinary people who narrated a cycle of search and seizure raids following killings, and of indiscriminate firing, including at funerals and memorial gatherings. In several of these instances the Indian Army, J&K police and paramilitary broke windows and destroyed household goods, livestock, and food rations in peoples' homes. In several of the villages and towns we visited, the armed forces, during their search and seizure operations, routinely destroy the local electricity transformer or sub-station, denying the entire village or locality access to electricity. These government actions amount to handing out collective punishment. Women spoke of being subjected to violence and molestation by the Indian Army, J&K police and paramilitary, and reported several instances of verbal and physical abuse during the search and seizure operations. Paramedics working in the government health system reported that during this period they witnessed a significant increase in the number of miscarriages, which were caused by physical violence. These government actions amount to a violation of every law and the international covenant that is aimed at protecting women from sexual and other forms of violence.

We were very moved by the extraordinary efforts of the doctors, nurses and paramedics of the state's public health system in responding to the huge number of cases of those injured by the Indian Army, J&K police and paramilitary. Most of them, at various points in the last four-and-a-half-months, have worked twenty-four hours a day, two to three days at a stretch. We, however, found that many doctors were harassed by government intelligence to reveal the identity of their patients. The J&K police and paramilitary have also raided hospitals, including in one instance a women's ward. We met with ambulance drivers who were intimidated and threatened by the armed forces for ferrying the injured. We learnt that pharmacies and kitchens set up by relief and social welfare organisations and the business community, who stepped in to assist the government hospitals in meeting the extraordinary challenge of saving lives, were disbanded by the armed forces. In at least one case, a key leader of this 'critical assistance', as described by a senior government doctor, was arrested and jailed for over a fortnight. These government actions against emergency relief workers and health professionals are in violation of international covenants and India's own commitment to UN treaties.

We were witness to the closure of local town and village mosques by government authorities, across the Kashmir valley, including the Jamia Masjid in Srinagar and Jamia Masjid in Shopian. These government actions amount to violation of the right to freedom of religion.

We were witness to the ban on internet on mobile telephone services. We also noted from media reports of raids at newspaper offices, the shutting down of all newspapers in Kashmir for three days in July, and the blanket ban on the publishing of the newspaper Kashmir Reader. These government actions amount to a violation of the right to freedom of speech and internationally accepted norms of freedom of the press.

We noted the targeting of J&K state government employees, including the summary dismissal of 12 employees and the denial of salaries, issuing of show cause notices, and the suspension of several others. Office bearers of government employees' unions who have protested these government actions of unfair labour practice have been detained or arrested. These government actions amount to a violation of the right to freedom of association.

We witnessed the people's affirmative response to the strike call issued by the All Party Hurriyat Conference through the nine days that we were in Kashmir. We see this as the resilience and resoluteness of the resistance of the peoples of Kashmir against the actions of the Indian state.

Nearly every voice that we heard of the Kashmir peoples talked of the long-standing Kashmir dispute from the days of India's independence and partition, the division of Kashmir between India and Pakistan in 1948, and the sustained efforts of the peoples of Kashmir to assert their right to self-determination. From common people we heard articulate accounts of what they have faced from the Indian state and, in particular, of the sustained attack on their democratic rights from 1989 onwards. The failure of the Indian state and every government since independence to address the political sentiments of Kashmir's peoples is a source of both hurt and enormous resentment.

We heard from every quarter we spoke to that, in this present phase, the BJP government at the centre and the PDP-BJP government in J&K has refused to address the strongly felt sentiments of the peoples of Kashmir. The stubbornness of the BJP government at the centre and the PDP-BJP government in J&K to dialogue with the people of the Kashmir valley and their representatives is well documented in the media. The PDP, in our meeting with them, confirmed Delhi's policy of non-dialogue and non-compromise and set out their support for this policy.

We also noted that, over these four-and-a-half-months, the BJP government at the centre has sought to create a war-like situation with Pakistan along the border of J&K, employing the alleged Uri attack to build a Hindu majoritarian sentiment against Kashmir, Pakistan and those of the Islamic faith.

We conclude that the BJP government at the centre and the PDP-BJP government in J&K are engaged in actions that amount to a complete violation of universally accepted human and democratic rights and of the very Indian Constitution they claim to want to impose in the Kashmir valley. With use of government force and the rest of the machinery at their disposal, the government has acted and continues to act in grievous violation of the right to life, the right to free speech, the right to freedom of association, the right to freedom of religion, the right to freedom of press and the principles of natural justice. We are also distressed by the fact that senior members of the BJP government have made, and continue to make, inflammatory and provocative statements against the peoples of Kashmir. Regrettably, the parliamentary opposition has lacked the political courage and will to call upon the accountability of government actions.

We also conclude that the actions of the BJP government at the centre and the PDP-BJP government in J&K are acts of vengeance aimed at forcing the peoples of Kashmir into subjugation by using every possible force available to government for breaking the peoples' resolve for a democratic settlement to achieve their aspirations. As representatives of diverse peoples' movements, trade unions and other organisations in India, and as India's citizens, we can say without reservation that the actions of the Indian state in Kashmir amount to profound violation of democratic and human rights. Hence, we call upon the Government of India to forthwith:

1. Recognise the Kashmir dispute and accept that its resolution can only come through a political solution, not through military intervention and a suppression of all human and democratic rights;
2. Withdraw the army and other paramilitary forces including the Central Reserve Police Force, Border Security Force and Indo Tibetan Border Police from civilian areas of Jammu and Kashmir;
3. Repeal the Jammu and Kashmir Public Safety Act, 1978 and the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990;
4. Release all political prisoners and, in particular, all prisoners arrested under

the Jammu and Kashmir Public Safety Act, 1978;

5. Grant access to the UN High Commissioner for Human Rights for a UN fact-finding mission in Jammu & Kashmir;
6. Establish a judicial tribunal under the supervision of the Supreme Court to examine all cases of extra-judicial killings, including that of Burhan Wani;
7. Enter into an open and transparent dialogue, without pre-conditions, with all sections of the Kashmir peoples and their representatives in order to bring about a resolution of the Kashmir dispute that recognises the aspirations of people to determine their own destiny through demonstrably democratic means.

We also call upon all Indian citizens to recognise that the actions of the Indian state in the Kashmir valley are far removed from the values of a democratic republic and beyond the pale by any acceptable norms of a civilised society in the 21st century. We call upon all Indian peoples to ensure that the injustices against Kashmir's peoples are brought to an end and their democratic aspirations addressed.

ADDENDUM

By the end of 2016, public attention shifted away from Jammu and Kashmir, as death tolls and pellet injury numbers decreased, the general strike was eased off by the Joint Leadership, and state policy shifted from overt violence, to less dramatic forms of repression such as mass preventive detentions. The familiar cyclical narrative of Kashmir 'limping back to normalcy' dominated the press in India, and the summer of 2016, like other previous summers of unrest was seen as having ended with the 'restoration' of an uneasy 'calm'.

However, the reality is that far from abating, the year 2017 has seen an escalation in violence. In comparison to the first three months of 2016, January-March 2017 saw a rise in the numbers of deaths of civilians, militants and armed forces personnel. Militants killed have been largely Kashmiris rather than foreign nationals as in the past, showing a trend of growing indigenous militancy. Another extremely alarming trend was the killing of as many as 8 civilians, at 'encounter sites' when locals held stone pelting protests against the paramilitary/police cordons around ongoing encounters with militants.

By-polls to the Srinagar Parliamentary seat held on 9 April 2017 also witnessed an escalation in militarization and state violence, with widespread protests, an almost total boycott, curfews, internet shutdowns and the killings of 9 civilians (with one person succumbing to injuries on 19 April 2017) in state forces firing at protestors. A fresh internet curfew was imposed in this scenario on 8 April, which ended on 12 April. Following the lifting of the curfew, several graphic videos of shoot to kill use of force, torture, use of human shields and other violence began to emerge. The week also saw a wave of mass detentions in nocturnal raids across the valley. On 15 April a BSF convoy entered Batmaloo, and shot dead a 15 year old civilian, Sajad Hussain Sheikh, in what appeared to be a targeted killing.

On the same day Pulwama Degree College was raided by police and CRPF and dozens of students were seriously injured in pellet gun fire, beatings and tear gas shelling. The Kashmir University Students Union called for a pen down strike on Monday, 17 April 2017 and thousands of college and high school students held sit-ins and peaceful protest marches across the valley. These were attacked by state forces, with many suffering serious injuries. As images of these events began to circulate, 3G and 4G mobile internet services were shut down yet again. As this report is being finalized for release, colleges and universities continue to remain shut and students' protests rage across the valley. This current situation makes the demands we make in this report all the more urgent to address.