

INDIA

Sopore: a case study of extrajudicial killings in Jammu and Kashmir

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INTRODUCTION

This paper describes the extrajudicial killing of at least 53 men and women in the town of Sopore, Jammu and Kashmir, by members of the paramilitary Border Security Forces (BSF), who went on a rampage on 6 January 1993, setting fire to houses and looting shops. It contains the detailed account of an eye-witness to the killings, interviewed by Amnesty International outside India. In publishing this paper, Amnesty International wishes to draw attention to the pattern of grave human rights violations in Jammu and Kashmir. It involves persistent reports of thousands of arbitrary arrests and prolonged arbitrary detentions under special laws curbing important legal safeguards and thus facilitating human rights violations; notably "disappearances", routine torture of detainees so brutal that it frequently results in death, rape of women during search operations, and extrajudicial executions of unarmed civilians, often falsely labelled as having been the result of "encounters" or as having occurred in "cross-fire". Although Kashmir's Director General of Police, B.S. Bedi, has reacted to the recent killings in Sopore by saying they were "unfortunate" and by stating that "those who have committed excesses will be punished", the security forces have until now operated with virtual impunity in Kashmir.

The killings in Sopore are part of a consistent pattern of extrajudicial executions, often involving innocent civilians, which has developed since early 1990 in the state. The rate of such killings appears to be increasing. The incident in Sopore is believed to be the largest of its kind to have happened in Jammu and Kashmir since at least 47 people were arbitrarily killed in Srinagar on 21 May 1990 by members of the Central Reserve Police Force (CRPF) who opened fire to shoot to kill men and women participating in a funeral procession mourning the death of Srinagar's Islamic leader, Maulvi Mohammed Farooq. In Sopore itself, similar allegations of extrajudicial executions had been reported last year when, on 13 April 1992, 13 civilians were indiscriminately killed by BSF personnel who entered houses, dragged out inhabitants and shot them dead, some four hours after armed militants had fired at BSF personnel. This year, examples of such arbitrary killings of unarmed civilians include the shooting down of Dr Farooq Ahmad Ashai, an orthopaedic surgeon at the Bone and Joint Hospital in Srinagar, who had documented many cases of torture. Dr Ashai was shot dead a night when travelling in his car by a picket of the security forces, possibly the Central Reserve Police Force. Official reports that he died "in cross-fire" are not known to have been substantiated. In another incident, on 3 March, Hamida Mattoo, a 35-year-old woman from

Baramulla, was shot dead when she returned with her children to her house at Mohalla Jadeed by members of the security forces reportedly shooting indiscriminately. According to press reports this was in retaliation for an attack earlier that day by armed militants on the security forces, in Baramulla. Three days later, once more in Sopore, six people, including a child, a woman and two police constables, were shot dead on 6 March 1993 by the security forces when trying to cross the Jhelum river in a boat. The Director General of Police said their boat capsized and that those killed died in cross-fire between armed militants and soldiers. However, the local police and witnesses to the incident reported that the security forces shot deliberately upon boats ferrying passengers across the river, apparently in retaliation after six soldiers and an officer were injured in a grenade attack by militants. Among the victims were Mohammad Ramzan Najar, his wife Fatima Begum, Ghulam Ahmed Gazi, Reyaz Ahmad Sheikh, Peer Abdullah Ahmid Shah and Abdul Majeed Shah.

The Kashmir Times, in an editorial of 4 March 1993, commented: "During the past four years of violence in Jammu and Kashmir the majority of those killed were the innocent citizens who were neither involved in the acts of militancy nor in the retaliatory action of the security forces... The concern among the people having faith in human value, peace and civil liberties over the large scale violation of human rights in the State is understandable... Unfortunately, there has been increase in the killings of innocent persons in Kashmir during the past few months while both the Government and the militant outfits have been crying hoarse about the violation of human rights".

The Sopore killings indeed occurred at a time when the government has begun to publicly acknowledge that some human rights violations have been perpetrated in Jammu and Kashmir and has increasingly emphasized the duty of the security forces stationed there to protect human rights. On 5 January 1993 Lt. Gen. D.S.R. Sahini, Commander in Chief of the Northern Command, stated that human rights would be given top priority in all army operations against militants in Jammu and Kashmir. The newly appointed Kashmir Governor, General K.V. Krishna Rao, told police and paramilitary forces on 16 March that he did not want them to commit excesses and that complaints about them would be considered seriously.

Earlier, in November 1992, the then Kashmir Governor Girish Saxena told reporters that "the government seriously looks into all excesses that are reported. Currently, inquiries are being conducted in 50 such cases." Yet inquiries are often not completed, reports of inquiries are not published and those responsible, if identified, are virtually never brought to justice. At most they are suspended from service: all that has happened, for example, three years after the May 1990 killings in Srinagar was that three policemen and nine members of the CRPF have been suspended from duty for their part in those extrajudicial executions. In November 1992 the government told Amnesty International that action has been taken against 230 members of the security forces in Jammu and Kashmir, but has failed to respond to repeated requests to give details of the action it has taken, by which body and for what offences. According to a report of 16 January 1993, 34 members of the BSF have been punished for offences committed during the preceding three years. Among them were said to be 27 personnel sentenced to unspecified, but presumably short, terms of imprisonment for offences "of a minor nature", and two constables reported to have been dismissed from service by Security Forces courts for unspecified offences. In the few cases in which punitive action has been taken, trials have taken place before army courts martial or - in the case of the BSF - Security Forces courts, rather than before independent bodies such as the ordinary courts of law. Amnesty International knows of no more than two members of the security forces who were

sentenced to serve substantial terms of imprisonment for violating human rights (the rape of a Canadian tourist in October 1990).

On 13 January 1993 Governor Girish Saxena, however, assured the people of Sopore that those responsible for firing and arson in the city on 6 January would be brought to justice. The government has also ordered an inquiry by the Central Bureau of Investigation; it has announced that the commandant of the BSF and five of its members have been suspended; that a BSF Deputy Inspector General has been transferred; that the victims should be given necessary assistance; and that a judicial inquiry would be conducted by Justice Amarjit Singh Choudhary of the Punjab and Haryana High Court. This is a particularly welcome move and possibly the first judicial inquiry of its kind to be held into alleged excesses by the security forces in the context of the current conflict in Kashmir. However, official sources in Srinagar were reported to be sceptical about the prospects that individual members of the BSF would be held accountable for the Sopore killings, arguing that such action would "tell upon the morale of the security forces" fighting what was described as an "undeclared war with the militants in an extremely difficult situation" (Kashmir Times 13 January 1993). Indeed, the government's credibility regarding its stated commitment not to tolerate human rights violations in Jammu and Kashmir will depend on the determination it now shows in carrying out speedy and effective investigations into these allegations, identifying those responsible, holding them fully accountable in law and bringing the perpetrators to justice. To underline that message, the government should set a clear example.

Human rights abuses by armed opposition groups

Militant organizations who have taken up arms to achieve Kashmir's independence or its accession to Pakistan have been equally vocal in condemning human rights violations while themselves flouting criminal laws prohibiting murder, torture and rape as well as international humanitarian standards addressed to such groups which specifically prohibit arbitrary killing, torture and the taking of hostages. On 2 March 1993 an armed Kashmiri separatist group shot and killed Ghulam Nabi Baba, a former Assistant Commissioner, after entering his house in Sopore. The following day the Ikhwan-ul-Muslimeen, an armed Kashmiri opposition group which favours a referendum to determine the political status of Kashmir, claimed responsibility for killing him. His body was later found near the office of the Sub-divisional Police Officer, Sopore, at the same place where, 24 hours earlier, the body of Habibullah Mircha, a junior government official and the brother-in-law of a Pradesh Congress Party leader, had been found. He too had reportedly been kidnapped and murdered by armed Kashmiri separatists. Also on 2 March, Mohammed Amin Deva was shot at by suspected armed separatists: last year, when Additional Deputy Commissioner of Srinagar, he had been kidnapped by members of such a group but had been set free. These are only a few examples of dozens of cases of kidnapping and murder reported during the last 12 months by such groups.

Amnesty International unequivocally condemns such killings and hostage takings by armed opposition groups: they violate the basic norms of humanitarian behaviour which should be observed by all parties to a conflict. The organization renews its appeal to all armed groups operating in Jammu and Kashmir to halt such human rights abuses of civilians and live up to basic

standards of humanitarian law. However, despite the considerable difficulties faced by the security forces operating in the state, and the provocation caused by repeated attacks by militant groups on their personnel, members of the security forces can never be justified in resorting to human rights violations, let alone violations such as those now being widely perpetrated in Jammu and Kashmir. The International Covenant on Civil and Political Rights, which India is bound to uphold, is explicit in stipulating that torture and arbitrary killings can never be justified, even "in time of public emergency which threatens the life of the nation".

DETAILS OF THE EVENTS IN SOPORE ON 6 JANUARY 1993

Sopore is a town some 50 kilometres north of Srinagar. On 6 January 1993 members of the (BSF) are said to have indiscriminately shot or burned to death scores of civilians, setting fire to numerous houses and shops. This action was taken in retaliation for an attack earlier that day on a BSF patrol by Kashmiri militants - in this case, the Hezbul Mujahideen, which has a dominant presence in the area -in which at least one of their members was killed.

Initial reports from official sources said that those killed were militants or civilians shot in cross-fire and that an explosion of arms stored by militant separatists had caused the fire. However, these reports were shortly afterwards contradicted by officials themselves. On 7 January Senior Superintendent of Police S. Sahay reportedly said that all those killed were civilians and admitted that "the security forces went amok" and had opened fire in retaliation for an attack by militants on a bunker in which one of their men had been killed. Superintendent Sahay also reportedly said that BSF men had sprayed gunpowder to set fire to shops and houses, and that they had threatened to kill the head of a police station when he tried to intervene to stop the killings. (According to one subsequent official release from Jammu Superintendent Sahay denied having said this, claiming to have been misquoted by newsmen, although Amnesty International has spoken to a witness who was present when Superintendent Sahay criticized the BSF for failing to let officials intervene to stop the BSF abuses. The day after the incident the head of the Sopore police station confirmed that he had been threatened by the BSF not to intervene with the BSF action and had sent a report to the local police chief of Baramulla, holding the BSF responsible for the killings.

Witnesses told reporters that many dozens of BSF men fired indiscriminately around Iqbal Square, one of the main bazaars of the town, shooting some civilians at point blank range, sometimes after dragging them out of their houses, and burning others to death in their shops or

cars. This reportedly went on for more than five hours. Eye-witnesses say that while some BSF personnel went around indiscriminately killing civilians, others looted shops of clothes and electrical goods. They then allegedly sprayed petrol and gunpowder and set the whole area ablaze. Nazir Ahmed, who owned a cloth shop, told a correspondent of the Hindustan Times that a BSF man came to his shop, took some cloth, soaked it in petrol and threw it at the shops at the opposite side of the road to set them on fire. Those trapped in buildings had the choice of escaping only to risk being shot or being burnt alive. In many cases only charred bodies were recovered making identification difficult. Firemen, still hosing down burning buildings the next day, were reportedly kept away by BSF men, who threatened to shoot if they tried to tackle the blaze.

Seven shopkeepers were reported to be among those killed, as was a local press photographer and four people in his studio. "The soldiers were out of control. They were firing in every direction. People were running and falling down", Ghulam Mohammed Butt, a fruit merchant, was quoted as saying. Mohammed Ramzan, a 23-year-old man from Dangarpura, Sopore, and son of Ghulam Rasool Beg, said the BSF shot directly at civilians, sometimes after lining them up, ruling out the initial government version that civilians were killed in "crossfire":

Mohammed Ramzan, a 23 year-old man from Dangarpura recovering in hospital from gunshot injuries

"I am working as an employee with Ghulam Rasool War, a fruit merchant. There was no firing from militants. It is only BSF whom I saw becoming violent and firing indiscriminately in all directions. I along with other three persons entered a shop to save our lives. When the firing stopped for some time a BSF person entered our shop, took us out and asked us to line up on one side of the road... I saw BSF persons setting the nearby shops on fire. Meanwhile I started skipping away slowly to save my life but we were showered [with] a series of bullets from one side by BSF persons.) I got two bullets in my knee joint. The other three persons fell down. I...managed to enter a house ... wherefrom I was taken to Dr Sofi's clinic by some unknown persons and later shifted to Srinagar".

He was shot in the thigh and abdomen, but survived.

Amnesty International has been able to interview a man who witnessed dozens of killings, himself narrowly escaping death. He watched the BSF killing civilians from the window of Ghulam Rasool War's shop, where he had taken refuge; the victims, he said, included bus passengers:

"On 6 January I was at home and I wanted to go to the market. I heard there had been firing and that some army men had been killed. It was 8am, there was tension in the area. I was then near Chanakyapura in Sopore, and people had closed their shops. We went to BSF people and they said 'not to worry nothing will happen. You can open the shops'. It was 9am I heard one of them say: 'Let them open their shops, and we'll show them'. I then went to Shallapora, the main market area. A young boy had snatched a rifle from the army / BSF, it was 10 o'clock then and there was tension again, and we started running when we heard it. I also ran away.

I went to the shop of Ghulam Rasool War, a fruit merchant near Shallapora, whom I knew. I went to his shop to save myself. When people started running, I saw 15 people falling in front of my eyes. Then I went inside and watched from the windows on the first floor inside the shop.

I saw that a government bus came from Bandipora, it was at the other side of the road. I think there were some 30 people inside the bus. The bus was stopped near Shallapora by military people. Several of them went into the bus. Then they told passengers to come out of the bus and pick up the bodies of the wounded and dead lying on the road. Some of the wounded were crying. The military people abused them. Then they fired at the bus passengers who had come out of the bus. I could see it quite clearly. I also saw them killing people in the bus. All people except two were killed. I spoke to one of them afterwards, who told me that the BSF came into the bus but that they were saved by a miracle because, although wounded, they were hiding under a seat pretending to be dead. When the BSF left, they spilled gunpowder in the area between the state bank and the Sopore police station and set the houses on fire. The shop in which I was hiding was one of the few saved, although the servant hiding in the shop downstairs on the ground floor was shot dead. I do not know his name.

I also saw another man being shot by the security forces. He was Mohammed Syedullah Parray, a 25-year-old man, married with two children, who are now destitute since the family have no parents to support them. He was also in the market, near the truck. They [the BSF] told him: 'raise your hands' which he did. They then shot him. He fell on the ground and died. I saw it with my own eyes.

I then met another man in the market, Mohammed Ashraf Dar, a respected shopkeeper who runs a hardware shop. His face was burnt. He told me that he had closed his shop, but that the BSF had forced him to open it and give him his money. He said he had given them his keys and told them to take it. The BSF then said that they would burn him alive. They set his shop on fire, and first prevented him from coming out, but he managed to escape.

Noor-u-Din Sheikh, a 42-year-old man from Krankshuwab Colony recovering in hospital from gunshot injuries

After the BSF had set the whole market on fire, they left."

Other witnesses reported that four employees of the Bonlay Mercantile Bank were dragged out of their office and gunned down by members of the security forces. Mohammed Ashraf Mir, 22, who runs a medical shop in the main bazaar, was "called out from his shop and shot dead at point blank range," recalls an eye witness. Noor-u-Din Sheikh, a 42-year-old man from Krankshuwab Colony, Sopore, and son of Ghulam Mohammed Sheikh, told a press reporter how he and customers in his shop were also shot at by rampaging BSF men:

"Normally I open my shop at 10.30am but this day we heard that something had happened at Handwara road some two kilometres away from Sopore. When we found everything normal, I opened my shop at 11.30am. No sooner did I open my shop than I saw people running here and there. I had two customers at my shop. We were joined by three more. Meanwhile I heard some gunshots and six of us lied down on the floor. There was calm again. I [asked] some BSF persons if we can go but they resisted and told us to stay indoors and that we will not be harmed.

Meanwhile we saw some BSF vehicles moving around and firing indiscriminately in all directions. We moved towards the hind part of the shop and in the meantime I could feel something piercing my left ankle. When I looked to my left I found other three persons motionless, they were dead. Blood was vast flowing out of my ankle. Quite horrified I came out. I saw a vast area in fire.."

He was taken to hospital in Srinagar, still unaware that his father was one of those who was killed in his shop.

Another survivor, a young man of 16 years old, Javed Ahmad Lilloo of Shallapora, Sopore, and son of Ghulam Ahmed Lilloo, told reporters how BSF men deliberately shot civilians, after telling them to run away:

When the firing started, I entered the vegetable shop of Mushtaq Ahmed Mir at Supredenty Galli. Four of us including the shopkeeper assembled there. We saw BSF personnel firing in all directions and setting the houses and shops on fire. After some time BSF men told us to come out. The BSF persons asked us to run away. Hardly could we have covered some furlongs when we were fired [upon] from the back. I felt a bullet piercing my arm. We all fell down... I dragged myself through Muslim Pir Galli wherefrom I entered a house".

16-year-old, Javed Ahmad Lilloo of Shallapora recovering from gunshot injuries

A lecturer, who said he fled his college which had been set on fire, told reporters that he saw members of the BSF stopping a bus, number 1899, full of workers on their way to Bandipora, forcing them out and shooting them. The driver and at least 15 bus passengers were reportedly killed. Only one woman, named Mehra, wife of Ghulam Mohamad Ahmad, and resident of Doabagh, and Ghulam Mohammed Dar, 55, of Alosa village, Bandipur, survived. Mehra recalls the BSF men breaking the bus windows, boarding the bus, and after telling people to raise their hands, shooting. She was injured and, when ordered by the BSF to leave the bus and then pulled by her hair towards a shop, she pretended to be dead. She remembers the BSF member saying "Saali Margai" ("Bitch is dead"). As Mehra lay on the street, she reportedly witnessed a wounded old man asking his wife for forgiveness. A soldier standing nearby is said to have overheard them and to have shot them both dead. Another bus coming from Bandipora, number 1901, carried at least 12 people; many of its passengers were reportedly killed. The passengers of a car, registration number JKE 8485, said to be a woman and her two children, were reportedly burned alive in their car by the BSF. A truck, stranded in a bog, was being unloaded by several people who were all shot, with only one survivor. The truck was then burnt.

Sources estimate that between 55 and 85 people died, while the government figure stands at 41. Names of some of those known to have been killed are listed as an Appendix to this paper. At least 200 shops and houses were burnt down, reportedly resulting in the destitution of 500 families. The government is reported to have announced exgratia payments to relatives of "innocent persons killed", although many are reported to have refused to accept them.

BACKGROUND INFORMATION:

Kashmir has been the cause of a dispute between India and Pakistan since the end of British rule in 1947. Since early 1990 there has been an increasingly violent campaign in the state for independence or for joining Pakistan. Armed separatists have kidnapped and killed many officials, members of paramilitary forces and civilians. Many thousands of Hindus have had to flee the valley as a result of the mounting conflict. Kashmir was placed under President's Rule (direct rule from New Delhi) in 1990, and the Armed Forces Special Powers Act, which provides the security forces with broadly defined powers to shoot to kill while granting virtual immunity from prosecution, was imposed in six districts of the state. These provisions have been found to be incompatible with international human rights standards to which India is a party, notably with the right to life provided in Article 6 of the International Covenant on Civil and Political Rights.

Amnesty International's concerns

Amnesty International has repeatedly expressed concern to the Indian Government about a pattern of wide ranging grave human rights violations committed by members of the security forces - the Indian army, the paramilitary BSF and the CRPF - in the course of their operations in Jammu and Kashmir. While Amnesty International welcomes official assurances that all efforts would be made to ensure that incidents like those which have occurred in Sopore would not recur, the organization is concerned that the government now ensures that the positive steps it has announced to establish the truth about the grave allegations levelled against the BSF are effectively implemented in a prompt and fair manner.

Amnesty International also recommends:

- ◆ that the scope of the judicial inquiry which has been ordered should include a review of the wide powers currently available to the security forces to shoot people on sight;
- ◆ that the report of the inquiry should be published in its entirety and without delay;
- ◆ that all necessary steps be taken to protect witnesses from harassment and intimidation during the inquiry;
- ◆ that if there is prima facie evidence that the BSF were responsible for the alleged extrajudicial executions they be brought promptly to justice, preferably before the ordinary courts of law;
- ◆ and that concrete steps be taken to prevent further extrajudicial killings and other grave human rights abuses in Jammu and Kashmir.

Such measures to prevent human rights violations should include:

- ◆ a review of all special laws currently in force in Jammu and Kashmir which curb ordinary legal safeguards and facilitate human rights violations, such as the Armed Forces (Special Powers) Act, the Terrorist and Disruptive Activities (Prevention) Act and the

Jammu and Kashmir Public Safety Act, so as to bring its provisions and law enforcement practices in line with international human rights standards as the Human Rights Committee of the United Nations has urged the Indian Government to do;

- ◆ strict instructions to all members of the security forces operating in Jammu and Kashmir that human rights violations will not be tolerated under any circumstances and will invariably lead to prosecutions of those responsible;
- ◆ and a review of the training methods of the security forces stationed in Jammu and Kashmir to ensure that they are promptly given appropriate training in upholding and protecting human rights.
- ◆ In view of the mounting allegations of persistent human rights violations by government forces and of human rights abuses by armed Kashmiri separatist groups, the government should allow the International Committee of the Red Cross unhindered access to the area including to all places where detained persons are held.

Amnesty International also appeals to armed opposition groups operating in Jammu and Kashmir to stop the arbitrary killing of civilians, the prevention of torture them and the taking of hostages. They should observe the minimum standards of humanitarian law provided in Common Article 3 of the 1949 Geneva Conventions.