

## ***Human Rights Without Frontiers Int'l***

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### **U.N. Human Rights Council Side-Event**

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### **The Kashmir Conflict and the Human Rights Situation**

Since the Kashmir insurgency broke out in 1989, tens of thousands of people have been displaced and over 50,000 lives have been claimed. Thousands of persons have also disappeared. Statistics are quite diverging according to the sources: from around 4,000 according to the Jammu and Kashmir Government to approximately 8-10,000 from NGO sources. Human rights abuses and impunity have been a cause and fuel for the conflict.

#### ***Arbitrary Detention and Extrajudicial Killings***

Human rights organizations reported in 2006 that Indian Government forces continued arbitrary and unlawful deprivation of life of those in their custody. Police and prison officers also committed extrajudicial killings of suspected insurgents and suspected criminals by staging encounter killings. The Jammu and Kashmir Human Rights Commission reported that it had received 1,867 complaints of human rights violations since 2002.

Accountability remains a serious problem. Despite the Prime Minister's claim that there would be 'zero tolerance' for human rights violations, troops continued to be responsible for arbitrary detention, torture and extrajudicial executions. There is no widely accepted data on the magnitude of extrajudicial killings in Jammu and Kashmir, as estimates or reports depended on the political orientation of the source.

Abuses are continuing, despite talks between India, Pakistan and some separatist groups and the election of a state government in Jammu and Kashmir in 2002 with an avowed human rights agenda.

### ***Abuses by Armed Groups***

There were reports of abuses - including indiscriminate bombings and grenade attacks, targeted killings and torture – by armed groups. They claim they are fighting for Kashmiri independence and to defend Muslim Kashmiri from the Indian army while Indian security forces claim they are fighting to protect Kashmiris from armed militants and Islamic extremists.

Both sides have created a climate of fear and distress in the civilian population.

Pakistan officially – but unconvincingly – denies providing more than moral and diplomatic support to the militants but it is widely admitted that President Musharraf continues to support Pakistan-based jihadi organizations such as Lashkar-e-Tayyaba and Jaish-e-Mohammad, responsible for much of the violence in Jammu and Kashmir.

### ***Impunity***

For years, legal impunity has led to a vicious circle of escalating violence.

Laws such as the Public Safety Act (Jammu and Kashmir), the Armed Forces Special Powers Act and the Disturbed Area Act have spawned abuses in various parts of the country.

The Armed Forces Special Powers Act provides search and arrest powers without warrants and the Disturbed Areas Act gives police extraordinary powers of arrest and detention. Additionally, Section 197 of the Criminal Code of Procedure provides security forces virtual immunity for crimes committed in the course of duty.

A committee headed by Supreme Court Justice Reevan Reddy recommended that the Armed Forces Special Powers Act be scrapped because it is “too sketchy, too bald and quite inadequate in several particulars.” However, the act is still in force.

### ***Security Legislation***

Two years after the repeal of the Prevention of Terrorism Act (POTA), cases of all those under the Act had not been fully reviewed within the stipulated period. Moreover, human rights organizations continued to express concern over amendments made to the Unlawful Activities (Prevention Act) which granted special powers to the state, similar to those previously provided by the POTA.

### ***The Roles of Pakistan and India in the Kashmir Issue***

Violence will cease and human rights will only improve in Kashmir if Pakistan and India reach an agreement on the political future of the region.

Since Prime Minister Atal Bihari Vajpayee and President Musharraf resumed direct talks on 5 January 2004, a spate of high-level diplomatic exchanges have opened new avenues for bilateral relations. The composite dialogue has also helped to improve people-to-people contacts and expand communication links. However, the two sides are still far from a breakthrough on the contentious issues.

For most Kashmiris, the ceasefire on the Line of Control (LOC) is the most significant confidence building measure (CBM) but more concrete steps are needed in the framework of the CBM, such as the stabilization of the ceasefire through a gradual reduction troops, the reunification of divided Kashmiri families and an agreement about the Siachen Glacier.

At this stage, the two countries have stabilized their relationships, reducing the risk of war but this situation of Cold Peace can only make additional progress if the international community can help all the parties in overcoming mistrust by providing technical assistance for verification and compliance. The current Cold Peace is still fragile. A reduction of infiltration and violence in Kashmir would benefit all parties: India, Pakistan and the Kashmiris. If violence and terrorist attacks recede in Kashmir, India will be in a position to reduce its military presence in Kashmir and Kashmiris will be released from the cross-fire.

Constant engagement and encouragement are needed to ensure that both sides remain committed to the process and it is to be hoped that the U.N., the U.S. and the EU will contribute to it.

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