

STATEMENT: FOR IMMEDIATE RELEASE

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**INTERNATIONAL PEOPLE'S TRIBUNAL ON
HUMAN RIGHTS AND JUSTICE IN INDIAN-ADMINISTERED KASHMIR (IPTK)**www.kashmirprocess.org**From:**

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Military Governance in Indian-administered Kashmir

The People's Tribunal feels morally obligated to make this statement today. Sustained alliances between local communities and IPTK have enabled us to bear witness to the escalating conditions induced by militarized governance, and the severity of psychosocial dimensions of oppression in Indian-administered Kashmir. From our work since being instituted in April 2008, from the reports and briefs we have authored, investigations we have undertaken and are in the process of completing, we find it ethically imperative to comment on the direction in which the Governments of India and Jammu and Kashmir, and the Indian Armed Forces, appear to be headed, and the consequences they will likely effect.

Conflict Resolution?

The Government of India has recently called for "creative solutions" to resolve the "Kashmir problem." If we map the events of the past six months *inside* Indian-administered Kashmir, the approach of the Indian state is aggressively militaristic. While commitments to political diplomacy frame relations between New Delhi and Islamabad, in Indian-administered Kashmir, there are no such engagements with civil society or with the pro-freedom leadership. There is no acknowledgement of civil society's insistent demand for the right to self-determination.

Indian-administered Kashmir is not a "problem" but a conflict zone. India's militarization is aimed at territorial control of Kashmir, and control over key economic and environmental resources in the region, including those of the Siachen glacier. The Government of Kashmir is unable to prevail politically or exercise control over the Indian Armed Forces. India's political dominance hinges on its ability to possess Kashmir. Institutions of democracy -- the judiciary, educational institutions, media -- are neutralized by the Government of Jammu and Kashmir and the Indian Armed Forces as they function in tandem, continuing "military governance." State violence seeks to undermine people's capacity to resist and solicits collaborators.

The predominant reality in Kashmir is that of militarized governance. The pervasive presence is that of the military and paramilitary, whose xenophobic and forceful infiltration into every aspect of economic and civic life is palpable. Armed forces are present at educational institutions, hospitals, shopping complexes, cafes and hotels, sporting events, playgrounds, and bazaars. They monitor people as

they enter mosques and shrines. They also collaborate with Hindu nationalists in instituting “self-defence” campaigns and militias, such as forming the 100 Village Defence Committees announced in May 2010, promoting militarized Hindu nationalism.

Zero Tolerance?

Human rights violations in Kashmir are a means of maintaining military governance. The Omar Abdullah Government has repeatedly promised “zero tolerance” for human rights violations. Zero tolerance? What we have witnessed is “zero tolerance” for nonviolent civil society dissent, as security forces brutalize people on the streets chanting “Go India, Go back,” chanting “India, Quit Kashmir.” On June 24, 2010, Chief Minister Abdullah stated that separatist/pro-freedom leaders were instigating youth to violence, following which security forces ensued repression on political leaders calling for peaceful protests. Crowds marching to Sopore on June 28 to protest and mourn the death of three youth killed by the paramilitary were met with force. Police used tear gas and opened fire on the protesters and journalists, killing one person. In Delina, a nine-year boy was killed by security forces. Condoning and rationalizing the deplorable actions of the CRPF and police, the Home Secretary of India, G. K. Pillai, characterized civilians fired upon by security personnel as people who were culpable as they violated curfew and attacked police posts. This further evidences the patronage that the security forces enjoy from highly placed government officials, and emphasizes the state’s view that civil society resistance to militaristic governance is criminal behaviour.

From the actions and statements of security forces and politicians in power, it appears that all civil disobedience is being defined as anti-national, as equivalent to “terrorism.” Peaceable protests are fired upon, as security personnel repress women and men participating in them. Stone pelting, a means of dissent in Kashmir, is termed violent. Stone pelting, Kashmir youth state, is an expression of rage by a subjugated people whose political means of expression and demands are systematically limited. Stone pelting, Kashmir youth say, cannot be compared to the brutish techniques of domination used by the state.

Pro-freedom leaders have been placed under innumerable house arrests. Even elected officials are prevented from staging public protests, such as an MLA and his with approximately 100 co-workers, who were stopped from protesting during Indian Prime Minister Manmohan Singh’s visit to Srinagar. In 2008, the Prime Minister had stated that elections in Kashmir would render separatist leaders irrelevant, as elected officials would speak for the people. Ironic.

There appears to be no governmental interest in acknowledging and responding to the actions of the military and paramilitary. People, including minors, and political leaders that participate in resistance are booked under the Public Safety Act (PSA). Undeclared curfews permit security forces to operate without noting cause or prior warning. In November 2009, Lt General, B.S. Jaswal, characterized civil disobedience in response to calls given by dissenting political leaders as “agitational terrorism” prompted by “terrorists.” During the pacific resistance of 2008 and 2009, protests had also turned lethal as security personnel fired into crowds. Cyber resistance then was termed “cyber terrorism,” and monitored.

Real violence in the present -- bullets, torture, landmines, injuries, arrests, human shields, molestations, sexualized violence, forced labour, detentions, disappearances, murder -- is virtually monopolized by the military and paramilitary in Kashmir. The list of perpetrators is long.

Killings Without Accountability?

Between January-June 2010, reportedly 40 civilians have been killed (25 of whom were killed by security forces), 107 persons identified as militants have been killed, and 57 soldiers have been killed (of the 57, 28 soldiers were killed by militants, 14 committed suicide, 2 died in fratricidal killings, 7 died in grenade/mine explosions, and 6 were killed by unidentified gunmen). Those killed by the Central Reserve Police Force and police were all young men, all Muslim.

Over 20 persons have been killed in “encounters” in just April and May 2010; each reported as

“infiltrating” militants. Only four deaths have been investigated, all found to be fake encounter killings. Reportedly, 335 militants were killed in 2008 and 236 militants were killed in 2009. There are no systematic investigations into alleged “encounter” killings. Promises made about inquiries and commissions are not honoured, as, for example, in Machil, where, after the three fake encounter killings, a Divisional Inquiry was promised but not authorized. In 2008, 367 Habeas Corpus Petitions were filed in the High Court at Srinagar, 272 petitions filed in 2009, and 159 petitions filed between January and mid-May 2010. International human rights law argues that a state must respect the right to life. The Indian Armed Forces repeatedly break this covenant in Kashmir.

Some fake encounter and other killings have taken place around high-profile talks. Military and state discourse use these killings to hype fear of armed militancy and infiltration, stating that militants, scattered all over, seek to target Hindus, requiring hyper-vigilance on the part of security forces. The actions of the state and the military and paramilitary are calculated to provoke and inflame. The armed struggle in Kashmir of the 1990s abated, again becoming nonviolent resistance between 2004-2007; even as cross-Line of Control (between India and Pakistan) movements, infiltrations, and insurgency into Indian-administered Kashmir are significant issues. The Indian state, however, exaggerates these realities by linking Kashmiri civilian resistance to “foreign terror,” to enable Indian’s administration of Kashmir to proceed with impunity.

The Government of India has stated that Pakistan does not want peace, and might encourage militant attacks. Does India want peace in Kashmir? Is India willing to recognize what “peace” will require, and take those steps?

Military Governance?

The Indian state does not define the present as a time of conflict inside Kashmir. Yet, the Armed Forces have become increasingly more powerful and entrenched in Indian-administered Kashmir. Both New Delhi and the Omar Abdullah Government appear unwilling, or unable, to control the military and paramilitary. Is the military more powerful in Kashmir than the civil administration?

Military-talk and dominant political speech state that the Indian Armed Forces are in Kashmir to protect citizens, and justify civilian suffering and killings as collateral damage in a war on terror. Akin to the George W. Bush era in the United States, this war of “good” against “evil” makes critique or dissent impossible without disagreement becoming affiliated with what is “evil,” “dangerous,” and “anti-national.” There is no way out of the contradiction that India’s military is the protector of Kashmiris who are also potential enemies, as long as military suppression of Kashmiris is understood as crucial to defending India.

Questions regarding the Indian armed forces in Kashmir, with fifty-six soldiers committing suicide in Kashmir in 2008-2009, and fifteen instances of fratricidal killing, are muffled.

The PSA, the Disturbed Areas Act, the Armed Forces Special Powers Act (AFSPA) are security related legislation in contravention of international humanitarian laws that guarantee immunity to army and paramilitary forces. On February 26, 2009, soon after assuming office, Chief Minister Abdullah stated that AFSPA should be revoked. The armed forces challenged his authority, declaring such intent as “regressive,” stating “any move to revoke AFSPA in Jammu and Kashmir would be detrimental to the security of the Valley and would provide a boost to the terrorists.” Dialogue with the Indian state and Kashmiri pro-freedom leaders regarding autonomy and the revocation of AFSPA were electoral promises made by the current Chief Minister. To revoke AFSPA would be to interrupt not only legal, but political, impunity. Kashmiris are now being told that it is better for their security to amend, not revoke, AFSPA.

International Community

Kashmir is a laboratory of violent experiments conducted by Indian military and state institutions. The sustained militarization in Kashmir is not called “military rule” by the Indian state and international

community. Civil society in Indian-administered Kashmir remains “under the authority of the hostile army,” whose reach and power “has been established and can be exercised,” (Hague Convention, Laws and Customs of War on Land [Hague IV] Article 42, 1907).

India’s militarization is portrayed as an “internal” matter, refusing transparency, international scrutiny, and adherence to international humanitarian law of conflict and war. In the face of the Indian state’s violations of international humanitarian law, of protocols and conventions, and perpetration of crimes against humanity, there is a deafening silence on the part of the international community. The Kashmir conflict, like other international conflicts, requires urgent attention and resolution. There is, at present, no monitoring, no sustained visibility, no engagement that can produce ethical and viable results.

That Kashmiris must be an integral part of any resolution repeatedly escapes the international community, and India and Pakistan. If the current situation continues, and nonviolent dissent is systemically brutalized, might the Government of India force Kashmiri civilians to perhaps take up armed militancy once again, continuing the cycle of violence? Is the international community not accountable for averting this?

The United States, the European Union, and other nations must recognize that the resolution of the Kashmir issue is directly significant to peace and security in South Asia. Institutions and states participating in military collaborations and exercises on Kashmir must yield to transparent dialogue, and address the difficult questions of conflict resolution.

Recently, the Government of India took issue with the Canadian Government’s scrutiny of Indian visa applicants with military backgrounds. In the past, among such applicants, some, for example, have been perpetrators in Kashmir that have sought residency aboard. A scrutiny of certain categories of military personnel travelling aboard is perhaps necessitated by India’s apathy in prosecuting perpetrators. The Global North’s desire to benefit from India as a vast/potential economic market must not continuously sideline egregious human rights violations.

Concerns

We wish to enter into public record that following the Majils-e-Mashawarat of Shopian’s request that IPTK inquire into the death of Ms. Asiya Jan and Mrs. Neelofar Jan in May 2009, to deliver an accurate understanding of the matter and define a mechanism for justice, we wrote Chief Minister Abdullah in January 2010, requesting cooperation and access, which have been denied us to date.

As well, we wish to enter into public record that the Government of Jammu and Kashmir and the Government of India have not undertaken investigations into the findings of *BURIED EVIDENCE*, IPTK’s report on unknown, unmarked, and mass graves in Indian-administered Kashmir, or acted on its recommendations. Such action may have generated constructive interventions into the continuing chain of extrajudicial executions by the Indian military and paramilitary.