

## Locating Torture in Jammu and Kashmir<sup>1</sup>

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Armed with a smile and an 'Operation *Sadbhavana* (Harmony)' brochure, sitting across the desk from us was the 'human face' of the Indian Army in Kashmir. The glossy pages of the brochure, bordered with imprints of *chinar* leaves, revealed among other things one-sided historical facts about the genesis of the militancy and ethnic conflict, padded with accounts of the various developmental initiatives of the army in the region. Obviously, the widespread torture and human rights abuses being committed by the security forces in the region did not find any mention here.

We had arranged to meet with the Public Relations Officer of the army at the Badami Bagh Camp in Srinagar. After undergoing a thorough search at the entrance, we were driven in a Gypsy to his office. Driving through the enormous campus was a stark reminder of the magnitude of army operations in the state.

Recently published descriptions of human rights violations in Kashmir, including the report by Human Rights Watch,<sup>2</sup> have concluded yet again that there were widespread and drastic infringements by both state and non-state actors; and further, that the impunity with which these were committed was deeply entrenched. Strands of discussion in the current

debate on human rights violations have focused primarily on enforced disappearances, custodial killings and massacres. The silence around the issue of torture is disturbing. Post-9/11, the regime of torture unleashed by the US coalition forces in the Abu Ghraib prison in Iraq, Guantanamo Bay in Cuba and the US bases in Afghanistan steered the world's attention to torture, as well as to 'renditions', i.e., the US government's practice of 'outsourcing' torture and third-degree interrogation methods to other 'third country' allies such as Jordan, Egypt and Pakistan, by using transit facilities granted by willing 'second countries' such as Poland. Surprisingly, very little focus was directed towards the practice of torture in South Asia, where it is steadily practiced in prisons against individuals accused of everyday criminal offences. It would be naïve to doubt its extensive use in civil or ethnic conflicts or against terrorism suspects.

This essay explores the violence propounded under the guise of counterinsurgency operations in the state of Jammu & Kashmir. It extrapolates from first-hand testimonies of survivors of torture, and underscores their exclusion from the human rights and peace discourses in the state, as well as the continued lack of effective legal and compensatory redress for the victims.

### **The Prohibition against Torture**

Article 1(1) of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that came into effect in 1987, defines torture as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Absolute prohibition on torture is enshrined in Article 2 of the Convention Against Torture (CAT):

No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.<sup>3</sup>

Principles enshrined in various national and international instruments render the legal and moral justifications of torture indefensible. Prohibition on torture is not merely another rule in the book, but a legal archetype that represents unwavering commitment to non-brutality in our legal systems.<sup>4</sup>

Norm-setting and related legislation in itself has done little to combat torture. Why has an absolute prohibition failed to counter the torture endemic to regimes and political conflicts in South Asia?

Locating torture in the South Asian context is a prerequisite to understanding its applications in the specific situation of an armed conflict, such as prevails in Jammu and Kashmir. The use of torture is illegal under most domestic laws in the region. The majority of South Asian states have ratified the Convention against Torture, though it has not been ratified by India, and has neither been ratified nor signed by Pakistan. It is no secret, however, that across the region the police and armed forces routinely indulge in the torture and brutalisation of detainees. Similarly, non-state actors have mercilessly crushed ideological dissent by resorting to torture and inhuman treatment of civilians.

Latin America provides a useful comparison. In this region, the Inter American Court of Human Rights was instrumental in consolidating norms against torture in the last two decades. Expanding the ambit of human rights jurisprudence from the prescriptive understanding of what constituted torture to instances of inhuman, cruel and degrading punishment, the court ruled on detention incommunicado, lack of medical attention and mental torture.<sup>5</sup>

However, South Asia is devoid of a comprehensive regional human rights mechanism. It is primarily dependant on domestic judicial systems, and to a lesser extent on each country's National Human Rights Commission or equivalent agencies. These bodies have failed to either meaningfully challenge the acceptability of torture in our societies or prescribe punitive and compensatory redress for torture victims. Processes and legal guidelines that provide access to independent groups to inspect prisons and interrogation centres have not been institutionalised. The criminal justice systems have only peripherally engaged with the issue of torture. Criminal justice<sup>6</sup> and police commission reports have identified problems of torture and custodial killings, but have not succeeded in introducing and implementing reforms.

### **Torture in South Asia**

South Asian populations accept as a fact that coercive methods to obtain information are routinely employed in police stations and interrogation centres. These include incessant beating, isolation, electric shocks, detention incommunicado, waterboarding, stripping and sleep deprivation. Examining the use of these brutal practices in different countries demonstrates the nature of torture in the region.<sup>7</sup>

In Bangladesh, torture is routinely used by the army and police personnel, especially against the population of the Chittagong Hill Tracts. The Rapid Action Battalion (RAB) is synonymous with arbitrary arrests and torture.

Under the existing Torture Compensation Act in Nepal, torture is not defined as a crime. Subsequent to the takeover by the king, the security forces tortured detainees for

extracting information. They were forcibly made to confess to crimes they had not committed. The Peace Agreement signed on 8 November 2006 between the Maoists and the SPA-led government paved the way for drafting the interim constitution and conducting elections for a Constituent Assembly. Given the history of human rights violations in Nepal and the evolution of international jurisprudence against torture, it is significant that Article 26 of the Interim Constitution establishes a right against torture.<sup>8</sup>

Pakistan bans torture under its criminal and Sharia laws. However, it has made minimal effort to rein the armed and police forces' arbitrary use of excessive force. In a particularly gruesome case, the lips of an undertrial were sewn together by the jail authorities to prevent his speaking out against the torture he was put through.<sup>9</sup> Torture is widely prevalent against suspects detained in the ongoing 'war against terror' by the Pakistani authorities.

Torture against ethnic Tamils and others suspected of affiliation with the separatist LTTE has continued unabated in Sri Lanka. In addition to noting atrocities by the Sri Lankan army and police, human rights groups have blamed the Sri Lankan navy for torturing Tamil fishermen who accidentally cross into Sri Lankan waters.<sup>10</sup>

### **Rulings against Torture in India**

Patterns of torture in India are similar to those in other parts of South Asia. In India, the jurisprudence on torture has developed gradually through enunciations of the Supreme Court. Giving its judgement in the case *Nilabati Behera v. State*, MANU/SC/0307/1993, the Supreme Court held that the defence of sovereign immunity was *not* available to the state for established violations of fundamental rights granted under Article 21 of the Constitution of India. In *D. K. Basu v. State of West Bengal* (AIR 1997, SC 610), the Supreme Court ruled on the liability of the state in instances of deprivation of liberty and life of individuals. A letter by the executive director of Legal Aid Services, West Bengal, alleging widespread custodial violence in police lock-ups, was treated by the Supreme Court as a writ petition under public interest litigation. It prescribed procedural safeguards for arrest and detention that would protect detainees from abuse and coercion by the police and other agencies during interrogation. This judgment initiated protocols for providing compensation under the public law jurisdiction, over and above the civic damages:

Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise... Section 330, therefore directly makes torture during interrogation and investigation punishable under the Indian Penal Code. These statutory provisions are however inadequate to repair the wrong done to the citizen. Prosecution of the offender is an obligation of the State in case of every crime but the victim of crime needs to be compensated monetarily also.<sup>11</sup>

Even though the judgment mentioned compensation for victims of torture, there were two inadequacies. First, the thrust of providing compensation was for victims of torture who were eventually killed in custody. There was no provision for the survivors of torture.

Second, it failed to expound on the criminal liability of the officers involved in torture. The discussion on torture in Jammu and Kashmir must be located in this context.

### **The Continued Use of Torture in Jammu and Kashmir**

*What is that case...? Yes, yes, that D.K. Basu one... Do you think that it is practical for the police, army or the Special Operations Group to follow the guidelines of that case? It cannot happen. Next they will tell us to offer cups of tea to the accused during interrogation.*

Police officer, Special Operations Group, Jammu & Kashmir

As discussed earlier, the prohibition against torture is a legal archetype, but has been deviated from time and again. When the central purpose of interrogation is to collect intelligence and extract information about the structure of militant organisations, it is inevitable that innocent civilians and others will suffer torture and abuse. The harvest of information through these means is usually referred to as 'Human Intelligence'. From available legal definitions of torture, this is an act committed by a public official or persons acting in an official capacity. In situations of conflict, non-state actors also indulge in similar atrocities, with the intention of information gathering or crushing dissent. The scope of the discussion in this essay is mostly restricted to acts that constitute violations under the convention against torture by the state.

Much has been written about the special laws promulgated for India's northeast and Jammu and Kashmir. Various legislations such as the Armed Forces Special Powers Act, Public Safety Act, etc., bestow the armed forces, state paramilitaries and police with extraordinary powers of arrest, detention and legal immunities. In Jammu and Kashmir, Joint Interrogation Centres (JICs), controlled collaboratively by the police, intelligence services and armed forces, have institutionalised torture. Interrogation centres such as PAPA I and II became symbols of extreme brutalisation by the custodians of the law. In order to collect evidence of torture within these spaces, activists have to rely either on the testimony of those who have experienced torture and might be afraid to speak out for fear of further reprisals, or on 'official' archival records of 'investigations', which in all probability are next to impossible to access.

A 1992 report jointly issued by Human Rights Watch and Physicians for Human Rights, documented widespread use of techniques such as severe beatings, electric shock, suspending detainees by feet or hands, stretching the legs apart, burning with heated objects, sexual violence, and the use of wooden rollers.<sup>12</sup> Systematically crushing the leg muscles with a heavy roller releases toxins from the damaged tissue, which may result in acute kidney failure.<sup>13</sup>

As stated by an inspector of the Jammu & Kashmir police, who formerly served with the Special Operations Group:

We use various interrogation techniques, sometimes even third degree, but we ensure that the person *does not die*. If they don't talk, we use rollers on them. While

using rollers we take care that their legs don't fracture. So we make the torture extremely painful. Another method we use is that of passing current. We don't use electricity but batteries. Sometimes we have to use current in their private parts. What can we do? These persons are highly motivated terrorists!<sup>14</sup> The army personnel are unaware of the rules of interrogation. They just know how to kill. They torture people, and then bring them to us. Sometimes even civilians get tortured because they do not know who is a militant and who is not.<sup>15</sup>

### Accounts of Survivors of Torture

To probe these questions further, we conducted a series of interviews with the survivors of torture and their families. With the assistance of local Kashmiri human rights groups and journalists, we identified torture victims in different districts of the region, earmarking areas that had reported multiple incidents of human rights violations over the past few years. Since there were widespread allegations of torture and inhuman treatment from nearly all districts, selecting representative cases for this essay was a difficult task. We finally settled on Sopore/Baramullah, where the highest incidence of torture had been reported. Additionally, over a three-month period we collected testimonies on human rights violations (ranging from disappearances to extra-judicial killings of victims and their families) in eight other districts.

Victim accounts of torture were consistent with the police versions. Common threads ran through the victims' narratives. Most survivors stated that the authorities tortured them severely but ensured that they didn't die. The torture stopped short of killing them. Certain torture techniques would not leave permanent marks on the body, but were extremely painful. One technique used was the 'rat method', in which the detainee's trousers were tightly tied near the ankles and rats were then introduced. Seeking to escape but finding no outlet, they savaged the detainee from hip to foot. Another technique was sleep deprivation. As stated by one interrogator, "We have four officers who rotate shifts and keep the detainee awake. Sometimes we don't let them sleep for almost 10 days"<sup>16</sup>.

Fear was pervasive amongst the torture victims. During the interview process, it was crucial to repeatedly assure them that their personal information would be kept strictly confidential. In 2005, Aamir<sup>17</sup>, a shopkeeper of Sopore town in north Kashmir, was arbitrarily picked up by Rashtriya Rifle (RR) personnel and taken to the nearby Singhpora army camp for interrogation. He was stripped naked and tortured for four days. In his words, "I kept telling them that I didn't possess grenades or Kalashnikovs, but they removed the skin from my right leg with a *plas* (pliers). I was given *roti* (food) after three days. I still have marks of torture on my body"<sup>18</sup>. Ironically, Aamir's name was provided to the army by his neighbour Salim<sup>19</sup>, also taken into army custody. When Aamir confronted Salim in the camp, the latter stated that he was well aware of Aamir's innocence. However, he was himself tortured so brutally that he wanted it to stop at any cost. The first name that came to his mind at the time of his 'interrogation' was that of Aamir.

Empirical studies from different countries (Israel, Turkey, etc.) illustrate that there is no correlation between the use of torture and the reliability of evidence gained from it.<sup>20</sup> Torture does not produce the 'truth'; it produces what the perpetrator *wants to hear*. Sometimes when the pain becomes too excruciating, innocent detainees have no choice but to falsely confess so that their ordeal can come to an end. As victims frequently explain, when the torture becomes unbearable and the mind and body have no sense left, one wants to just say anything to stop it, even the lie that one is not innocent.

The exclusionary rule, which prohibits the use of evidence extracted under torture, has been codified in CAT's Article 15:

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.<sup>21</sup>

In Jammu and Kashmir, torture has been used to extract confessions that have led to the discovery of arms and ammunition. However, in the words of a police officer: "These discoveries are often fabricated"<sup>22</sup>. The detainee is taken to the site where he has allegedly hidden weapons. In most cases, the detainee does not return to the interrogation centre. The police claim that during the discovery the detainee tried to escape custody, and that he was therefore shot dead. Aamir was fortunate because his arrest resulted in widespread protests and the local police (JKP) supported his release. Within a few days of his arrest he was released from the army camp. The other detainees were not.

Asif<sup>23</sup> joined the militancy in Kashmir when he was just 16 years old. He was apprehended during a search operation. He was shifted from one interrogation centre to another for months, with no legal recourse or access to family members. Visible scars do not allow the camouflage of years of deep humiliation and sexual torture. Reflecting on that phase of his life, he says, "I joined militancy in Class 10. I literally wrote my chemistry exam in the morning, and in the evening left home to join the militancy. We were not hardcore trained militants, we were young boys"<sup>24</sup>. He adds, "In detention, we were often kept naked in our cells. Occasionally the authorities would sweep and place lights in some of the cells, so that if human rights groups came to inspect the prisons it would appear that we lived in clean conditions. We know the truth of what happened behind those closed doors, because we suffered"<sup>25</sup>. Even after his release, Asif and other ex-militants are required to report to the local army camp every Sunday. They are prohibited from leaving the town premises without prior permission from the army.

Broken windows, confused graffiti and sketches of guns on the wall mark the room of Adil,<sup>26</sup> who was tortured in 1992 by the army and has since lost his mental balance. In Jammu and Kashmir in the early 1990s, most young men with beards were suspected to be militants. One day when there was a search operation in his locality, Adil decided to shave his beard to avoid unnecessary suspicion. He was not linked to any militant group. The personnel conducting the operation dragged him out of the house and rounded him up with

the other suspects. They were then moved to a civilian house in the area and brutally beaten up. One officer held Adil by his hair and banged his head hard against the wall. The officer continued to kick him with his boots even after Adil lost consciousness. This changed Adil's life forever. For the last 15 years he has been wandering in the town, unable to work due to his unstable mental condition. He was twice admitted to a mental health asylum, but escaped. His father sombrely points to the patch of land that his 35-year-old son digs up every morning, claiming it to be a trench from which he would attack the army.

Ghulam Nabi Rishu, an erstwhile education officer from Jammu, lost an eye and suffered grave injuries when he was tortured by army personnel in the winter of 1995. The army killed Rishu's young neighbour Bilal, and then asked him to identify the body. Rishu had known the boy since childhood. Horrified at the state of the corpse, he grimaced. This annoyed the army officer, who beat him up brutally. A family member who witnessed the violence stated, "When I saw the *buzurg's* (elder's) blood on the snow, I wanted to go across the border and become a militant to avenge him"<sup>27</sup>.

A recent report published in 2006 by Médecins Sans Frontières (MSF) deduced that sustained violence or threat of violence has had extremely adverse effects on the mental health of Kashmiris. Given the silence around torture and lack of credible data, it is difficult to trace the contours of torture in Jammu and Kashmir. In the survey conducted by MSF, most interviewees reiterated that they had been legally and illegally detained by the security forces and militant groups since the start of the conflict in 1989. Approximately 20% of the total number interviewed indicated that they had been personally tortured during detention. Almost 66.9% stated that they had witnessed torture.<sup>28</sup>

Militants employed arbitrary use of torture to crush dissent, and for purposes of extortion and to ensure adherence of civilians to the insurgents'moral and religious codes of conduct. In one such instance of militant brutality:

A person from Kupwara came to our district, Sopore. The army persons stopped him en route and asked him to fetch for them chicken from the market. The militants thought that he was an informer and picked him up. They tortured him brutally, cut off an earlobe and drew a nail through his nose to make an example of him. He was completely innocent. If the army person with a gun asks you to do something for him you can't refuse.<sup>29</sup>

In another incident of militant abuse in the Jammu region, neighbours painfully narrated the grisly details:

The militants took out both his eyes, and left the dead body on the road. They killed his uncle, burnt his house and then burnt everything. All they said was that this was his punishment for working for the security forces. Even the Deputy Inspector General of police told us not to report such incidents.<sup>30</sup>

With the denial that torture is practiced in police stations, prisons and interrogation centres, there are few realistic legal remedies available to the victims. In many cases the suspects were in police custody for 10 or more days before they were charged under the

Public Safety Act. If the dossiers for arrest and detention under the Public Safety Act were submitted immediately after arrest, the medical examination report would show that the detainees were tortured. This strategy of deferring charges indicates how easily procedural safeguards are circumvented by the authorities. Article 14 of CAT requires states to ensure that victims of torture are able to obtain redress and fair and adequate compensation, including the means for as full rehabilitation as possible. If the victim should die, his or her heirs have a right to compensation. Article 14 rights provide not only for civil remedies for torture victims, but, according to this case, a right to “restitution, compensation, and rehabilitation of the victim”, as well as a guarantee of non-repetition of the relevant violations, and punishment of perpetrators found guilty.

The courts have also failed in preventing the routine use of torture. The Jammu & Kashmir Bar Association conducts visits to prisons in the state. Their reports are submitted to the High Court and include cases of torture. No action has been taken on the findings of these reports.

### Epilogue

These testimonies underscore the complete abdication of responsibility by the state towards torture victims. The state provides survivors of torture with little or no psychosocial support. Coping mechanisms for most individuals entails the support provided by their families. *No* compensation has been granted to *any* torture victim in the state. Justice is even more evasive. The inquiries have focused on killings and disappearances, and the issue of torture has been neglected. Torture victims and their families have resigned themselves to the fact that since the killers of innocent people have gone unpunished so far, it is unlikely that the perpetrators of torture will ever be brought to justice. Police refuse to file First Information Reports (FIRs) for torture victims. In addition, families often choose not to pursue torture cases, and feel they are very lucky to have got their kin back alive.

In 1995, the then UN Special Rapporteur on Extrajudicial Killings and Arbitrary Executions was denied an official request to visit India. After assuming office in 2003, the current Rapporteur, Philip Alston, submitted a fresh request to the Indian government. His request is still pending. As per the Memorandum of Understanding with the Indian government, the ICRC (International Committee of the Red Cross) is allowed to visit pre-identified prisons and detention centres. However, their mandate is very limited in the region.

The peace talks between the Indian state and political groups have failed to incorporate the varying needs of victims of human rights violations in Jammu and Kashmir. The dialogue is bereft of issues of accountability, and of the rehabilitation of victims of torture and their families. Consensus between state and non-state actors on the unacceptability of torture, as well as the state's responsibility with regard to reparation efforts, is imperative in order to achieve sustainable peace.

## Editors' Note

The Armed Forces Special Powers Act (1958) is a legislation enacted by the Indian parliament into law after the President of India signed his assent to it on 11 September 1958. The law was based on a similar British law used in the region. It remains in force (in a much more extensive form) today. The AFSPA, first implemented in Assam and Manipur in the northeast of India, has in the course of the last 49 years been deployed in Punjab in the 1980s and in Jammu & Kashmir since the early 1990s.

The AFSPA allows the "use of armed forces" defined as "military forces, the air forces operating as land forces" and "any other forces" of the Union (Section 3) within the nation, in domestic space. For the AFSPA to come into force, all that is required is that a territory (a state of the Indian Union, a centrally administered territory or any part of) be described as "disturbed". Once an area is thus declared, the personnel of the armed forces simultaneously acquire powers to use "force as may be necessary", based on their "opinion" and "suspicion", to effect "arrest without warrant, or "fire upon or otherwise use force, even to causing death..." These powers can also be exercised for acts that are "likely to be made", or even "about to [be] commit[ted]" (Section 4). Unlike the assumption of innocence of an 'accused' or a 'suspect' (until he/she is proven guilty) in normal criminal law, a significant measure that protects a citizen, it is taken for granted that that intention of the inhabitants of the space that is rendered 'disturbed' by the simple fact of the declaration of the AFSPA, is hostile towards military personnel.

In all other Indian laws, including various preventive detention and anti-terrorist legislations (National Security Act, Terrorist and Disturbed Areas Act, Prevention of Terrorism Act, etc.), the forces of law and order can (or could) at the most detain without trial, for varying lengths of time. However, the AFSPA gives the armed forces personnel additional power to shoot to kill, or destroy property, on the basis of a mere suspicion. The Act empowers the armed forces to do away with the legal fiction of the 'encounter' killing, and to act as judge, prosecutor and executioner all at once, and often in the course of an instant.

Hence, attacks by 'insurgents' are 'retaliated' with indiscriminate firing and killing of civilians, including women and children, by the security forces. These noncombatant casualties can then be seen as 'collateral damage'. Therefore, the numerous cases of massacres in the so-called 'crossfire' or 'exercises' of the army are not examples of the 'abuse' of, but the 'use' of, the AFSPA.

Acts committed under the ambit of the AFSPA cannot be challenged by those who bear the brunt of its implementation. "No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, in respect of anything done or purported to be done in exercise of the powers conferred by this Act" (Section 6). In effect, Section 6 brings to bear one legal regime for the people in the states and territories affected by the AFSPA, and another for the rest of India.

See A. Bimol Akojiam, "Another 9/11, Another Act of Terror: The 'Embedded Disorder' of the AFSPA", in *Sarai Reader 05: Bare Acts* (CSDS, 2005, Delhi), pp. 481-91. For Reader 05 online text, see [http://www.sarai.net/reader/reader\\_05.html](http://www.sarai.net/reader/reader_05.html)

See also the CIA torture and interrogation manuals used in training at the infamous US Army 'School of the Americas', currently known as the Western Hemisphere Institute for Security Cooperation. The declassified manuals, obtained as a result of a 'Freedom of Information' request made by the newspaper *The Baltimore Sun* in 1997, can be accessed as pdf files at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB122/index.htm>.

## Notes

1. I am deeply indebted to the survivors of torture and their families in Jammu and Kashmir who shared their stories with me. I am also indebted to Basharat Masood, Majid Jahangir, Muzamil Jaleel and Rashid Maqbool in Srinagar; and to Peter Rosenblum and Vasuman Khandelwal.
2. Human Rights Watch. "Impunity Fuels Conflict in Jammu and Kashmir" (September 2006). Online text at <http://hrw.org/reports/2006/india0906/>.
3. "Concluding Observations on the US", UN doc. CAT/C/USA/CO/2, § 14, (2006). The US had argued that in times of armed conflict CAT did not apply, as the situation was exclusively covered by international humanitarian law. In recent "Concluding Observations on the US", the CAT Committee confirmed that CAT "applies at all times, whether in peace, war or armed conflict... without prejudice to any other international instrument".
4. Jeremy Waldron. "Torture and Positive Law: Jurisprudence for the White House". In *Columbia Law Review* 105, pp. 1681 (2005).
5. See cases of Godinez Cruz, Suarez Rosero, Loayza Tamayo and Cantoral Benavides:  
 Godinez Cruz: Judgement of 20 January 1989, Inter American Ct. H.R. (Ser. C) No. 5 (1989). [http://www.corteidh.or.cr/seriec\\_ing/index.html](http://www.corteidh.or.cr/seriec_ing/index.html)  
 Suarez Rosero: Judgement of 12 November 1997, Inter American Ct. H.R. (Ser C) No. 35 (1997). [http://www.corteidh.or.cr/seriec\\_ing/index.html](http://www.corteidh.or.cr/seriec_ing/index.html)  
 Loayza Tamayo: Judgement of 17 September 1997, Inter American Ct. H.R. (Ser C) No. 33 (1997). [http://www.corteidh.or.cr/seriec\\_ing/index.html](http://www.corteidh.or.cr/seriec_ing/index.html)  
 Cantoral Benavides: Judgment of 18 August 2000, Inter American Ct. H.R. (Ser C) No. 69 (2000). [http://www.corteidh.or.cr/seriec\\_ing/index.html](http://www.corteidh.or.cr/seriec_ing/index.html)
6. Amnesty International India. "Malimath Committee on Reforms of Criminal Justice System: Premises, Politics and Implications for Human Rights" (September 2003).
7. For this section, see Asia Centre for Human Rights, SAARC Human Rights Report (2006).
8. Ibid.
9. Ibid.
10. Ibid.
11. The court further stated: "The Court, where the infringement of the fundamental right is established, therefore, cannot stop by giving a mere declaration. It must proceed further and give compensatory relief, not by way of damages as in a civil action but by way of compensation under the public law jurisdiction for the wrong done, due to breach of public duty by the State of not protecting the fundamental right to life of the citizen".
12. Human Rights Watch and Physicians for Human Rights. "Human Rights Crisis in Kashmir: A Pattern of Impunity" (March 1993). Online text at <http://physiciansforhumanrights.org/library/report-1993-kashmirimpunity.html>
13. Ibid. See also Human Rights Watch and Physicians for Human Rights, "The Crackdown in Kashmir: Torture of Detainees and Assaults on the Medical Community" (1993).

14. Interview, senior police officer, Jammu & Kashmir Police, Sopore, 5 December 2006.
15. Ibid.
16. Ibid.
17. Name changed.
18. Interview, torture victim #1, Sopore, Baramullah, 10 December 2006.
19. Name changed.
20. See (eds.) Kenneth Roth and Minky Worden, *Torture* (The New Press, 2005, New York).
21. Article 15, Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (1987). <http://www.ohchr.org/english/law/cat.htm>.
22. Interview, police officer, Special Operations Group, Srinagar, 15 December 2006.
23. Name changed.
24. Interview, torture victim #2, Sopore, Baramullah, 10 December 2006.
25. Ibid.
26. Name changed.
27. Interview, family member, Jammu, 10 November 2005.
28. Médecins Sans Frontières. "Kashmir Violence and Health: A Quantitative Assessment on Violence, the Psychological and General Health Status of the Indian Kashmiri Population" (November 2006).
29. Interview, torture victim #3, Sopore, Baramullah, 10 December 2006.
30. Interview, headman, Khabber village, Kalakot, Rajouri, 13 November 2005.