

8. Maiming to Silence: Continuing to use Pellet Guns Against Protesters in Kashmir

27th Sept. 2019

1. Introduction

A day after Jammu & Kashmir (J&K) state was, on 5th August 2019, put under lockdown and information blackout along with abolition of its autonomous status, Asrar Ahmad Dar, a 16 year old youth, was hit by metal pellets fired by security forces in capital Srinagar. Multiple pellets were lodged in his skull and eyes, X-Ray scans showed. Asrar succumbed to his injuries on 4th September 2019.²³³ Pellet-firing shotguns, as security forces' weapon of choice to contain protests, have in the time since the clampdown in Kashmir, it would seem, returned with a vengeance. Huffington Post reported at least 40 persons with pellet injuries brought in to the Shri Maharaja Hari Singh (SMHS) hospital in Srinagar in the first 4 days of lockdown.²³⁴ Al-Jazeera claimed as many as 152 persons were being treated for pellets and tear gas injuries at the state's other large hospital – Sher e Kashmir Institute of Medical Sciences (SKIMS).²³⁵ The two hospitals treat the bulk of all serious injuries in the state. The Telegraph reported how, teenagers were themselves removing pellets with forceps and avoiding going to hospitals, for fear of being arrested.²³⁶ Our own research shows that between 5th August and 11th September 2019, 55 persons with pellet gun shot injuries registered in ophthalmology ward of SMHS.²³⁷ This was, according to SMHS sources, only a sub-set of the total likely injuries, mostly those living in the vicinity of the hospital able to access it despite the lockdown. There was no way to know how many had been injured in the rest of Srinagar and the state, outside the capital, given the lockdown and a general targeting by police of anyone remotely seen as potential protester. Widespread use of pellet shotguns is now beginning to be reported

233 'Can a Stone Do This?': Family of Srinagar Youth Who Died Refutes Police Version', The Wire. 5th Sept. 2019. <https://thewire.in/rights/srinagar-kashmir-pellet-gun-death>

234 'Kashmir: Government Using Pellet Guns To Suppress Protests' Huffington Post, 9th August 2019 https://www.huffingtonpost.in/entry/article-370-kashmir-protests-pellet-guns_in_5d4d6a11e4b09e7297450516

235 'Over 150 treated for tear gas, pellet gun injuries in Kashmir'. Aljazeera, 23rd August 2019. <https://www.aljazeera.com/news/2019/08/150-treated-tear-gas-pellet-gun-injuries-kashmir-190823052847698.html>

236 'Fearing Arrest, Youth in Srinagar Avoid Hospitals, Treat Pellet Injuries Themselves'. The Wire. 2nd Sept. 2019. <https://thewire.in/rights/fearing-arrest-youth-in-srinagar-avoid-hospitals-treat-pellet-injuries-themselves>

237 Interview, anonymised. SMSH hospital, Srinagar, 12th September 2019.

from outlying areas of the state too, 50 days into the shutdown.²³⁸ And for the first time in recent years, Government has confirmed the use of pellet guns in Kashmir. The state administrator, Governor Satyapal Malik, admitted at a press meet, that there were some pellet injuries caused in police action against protesters.²³⁹

2. A history of arbitrary and excessive use of force

Since at least 2010, Jammu & Kashmir state police and Central Reserve Police Force (CRPF), have used pellet-firing shotguns (correct name: '12-gauge shotguns', using 'No 9 shot' made of lead-alloy) to quell street protests in Kashmir. This, supposedly as 'non-lethal' alternative to use of live bullets, after the killing of over 120 civilians in police action using live ammunition against protestors in 2010 led to media attention and outcry.²⁴⁰ Pellet guns are hardly 'non-lethal', each pellet (containing typically some 600 small iron/lead balls) disintegrates on being fired and is the cause of the mass injuries reported especially in the latter part of 2016 and since²⁴¹, most notably to the eyes, in a very large number of cases causing permanent blinding, besides other physical injuries.

Data is patchy, but pieced together, it presents a picture of widespread and long-lasting physical and mental harm. Information accessed using Right to Information Act 2005, shows that the overwhelming majority of injuries caused to civilians by state forces from mid-2016 to early 2017, were by pellet-firing shotguns.²⁴² According to state government, between 8th July 2016 and 27th February 2017, 6,221 persons were injured by pellets; among the victims, 728 had eye injuries. Of these, 54 persons ended up suffering some form of visual impairment.²⁴³ Information tabled in the Parliament also admitted that between July 2016 and August 2017, 17 persons died of pellet injuries.²⁴⁴ So widespread were pellet shot

238 'Hours after a late-night knock, entire neighbourhood reduced to pellet injuries'. The Wire. 24th Sept. 2019 <https://thewire.in/rights/kashmir-forces-pellet-injuries>

239 '36 suffered pellet injuries since August 5: official'. The Hindu. 28th August 2019. <https://www.thehindu.com/news/national/36-suffered-pellet-injuries-since-august-5-official/article29280622.ece>

240 'Why the Kashmir protest in 2010 and 2016 are different?' Hindustan Times. 18th August 2016. <https://www.hindustantimes.com/india-news/kashmir-s-summers-of-discontent-why-the-protests-in-2010-and-2016-are-different/story-xy9w5KiPO7VGSehQcwJ2bM.html>

241 In largescale protests across Kashmir following the killing of militant commander, Burhan Wani.

242 Association of Parents of Disappeared Persons (APDP) pellet gunshot RTI files.

243 J & K Legislative Assembly, Unstarred Assembly Question No.330, 12 January 2018, Annexure-A. Available from <http://www.jklegislativeassembly.nic.in/replies2018/12jan/UN330.pdf>.

244 Parliament of India, Rajya Sabha, Unstarred Question no. 511. Available from <http://rajyasabha.nic.in/>.

injuries in 2016, especially to eyes, that New York Times called it “an epidemic of dead eyes”²⁴⁵, and The Guardian labelled it “the world’s first mass blinding”.²⁴⁶ In November 2018 a 19-month old girl became the youngest victim of pellet injury, losing vision in one eye.²⁴⁷ According to the latest UN report on the situation of human rights in Kashmir, between mid 2016 to end 2018, 1253 civilians were blinded by metal pellets used by security forces.²⁴⁸

3. Injuries to body and mind

Injuries caused by pellet shots are severe, and long-lasting. Besides facial deformity, since they normally stay lodged with victims, there are several delayed presentations of these injuries: breathlessness, perspiration, hearing impairment, and neuralgic pain, among others, all affecting patient wellbeing.²⁴⁹ But it is injuries to the eyes that are the most damaging. These include secondary infections, inability to concentrate for long, and in the more serious cases, blinding, including to both eyes.²⁵⁰ A study by Srinagar-based SKIMS hospital in 2014 found recovery for those hit in the eye, very low.²⁵¹ Victims also face serious mental health issues, including symptoms of psychological trauma.²⁵² These included, from our cohort of 30 survivors²⁵³, complaints of trauma, anxiety, moodswings and nightmares.

245 ‘An epidemic of dead eyes in Kashmir as India uses pellet guns on protestors’, New York Times. 28th Aug. 2016 <https://www.nytimes.com/2016/08/29/world/asia/pellet-guns-used-in-kashmir-protests-cause-dead-eyes-epidemic.html>

246 ‘India’s crackdown in Kashmir. Is this the world’s first mass blinding?’ The Guardian. 8th Nov. 2016. <https://www.theguardian.com/world/2016/nov/08/india-crackdown-in-kashmir-is-this-worlds-first-mass-blinding>

247 ‘Inequality of suffering: Why images of Kashmir’s pellet victims have failed to evoke India’s empathy?’ Scroll.in 19th Dec. 2018. <https://scroll.in/article/905247/inequality-of-suffering-why-images-of-kashmirs-pellet-victims-have-failed-to-evoke-indias-empathy>

248 Office of the High Commissioner for Human Rights. (OHCHR) Update of the Situation of Human Rights in Indian Administered Kashmir and Pakistan Administered Kashmir from May 2018 to April 2019. Geneva: United Nations. July 2019, P4. Also see Association of Parents of Disappeared Persons, Kashmir (APDP) and Jammu and Kashmir Coalition of Civil Society (JKCCS), ‘Torture: Indian state’s Instrument of Control in Indian Administered Jammu and Kashmir’. February 2019. P36. <http://jkccs.net/wp-content/uploads/2019/05/TORTURE-Indian-State%E2%80%99s-Instrument-of-Control-in-Indian-administered-Jammu-and-Kashmir.pdf>

249 Showkat SA, Yousuf A, Wazir IA, Bhaghat N (2017) Pellet Gunfire Injuries in Head- Neck and Maxillo-Facial Region-An Experience in Kashmir Valley. *Journal of Trauma & Treatment* 6:1. 13 Feb. 2017. (pp 3-4)

250 Wasim Rashid, Nusrat Shaheen, Imtiyaz A. Lone, Sheikh Sajjad. ‘Pellet Gun Fire Injuries in Kashmir Valley – Cause of Ocular Morbidity’. *Journal of Evolution of Medical and Dental Sciences* 2014; Vol. 3, Issue 29, July 21; Page: 8051-8058

251 Sher e Kashmir Institute of Medical Sciences (SKIMS). ‘Pellet gun fire injuries in Kashmir Valley – Cause of Ocular morbidity’. 2014.

252 Physicians for Human Rights (2016) and Mediciens Sans Frontieres (2015). ‘Muntazar: Kashmir Mental Health Survey Report.’

253 Research was conducted between May and September 2019, with a sample of 30 pellet gunshot survivors.

Most survivors of school going age, had dropped out of school, unable to carry on with their studies, due to loss of vision and complications as a result of the injuries. The economic impact on family too is severe, starting with the high cost of treatment, that often must go on for several years, each surgery to restore vision costing between INR 10,000 – 40,000, as well as loss or reduced family income where the survivor was a working adult. Many survivors we spoke with, had experienced reduced earnings as their ability to work had been affected, and had thus moved from hitherto skilled to semi-skilled and often unskilled employment.

A particular consequence of being a pellet shot survivor, is often also the survivor's criminalisation as a 'stone pelter' "subjected to repeated cycles of illegal and unrecorded arrests on the basis of suspicion and profiling, prolonged detentions, inhuman treatment, release and re-arrest at the slightest indication of political unrest."²⁵⁴ Among our cohort of subjects, especially juveniles had been detained by police on several occasions, sometime under the draconian Public Safety Act, 1978, often using a system of 'open FIRs'²⁵⁵ to hold them in continuous recurring preventive detentions. The indiscriminate harassment, illegal detentions and torture means especially young survivors are caught up in a vicious circle, from where escape is difficult.

4. Absence of relief

Government has done little to provide relief. State government was reported having announced, in 2016, a meagre financial assistance for a mere 54 victims with pellet injuries and government employment to 12 others.²⁵⁶ But it is the disregard for access to justice for victims that has been most notable. There is only one reported case of a special investigation having been ordered into death due to pellet guns.²⁵⁷ There is no information of the findings of this investigation or of any punitive action taken as a result.

mix of children and the elderly, most being young adults, from across Kashmir valley, to understand the circumstances of their injury; the health, social, educational and livelihoods consequences survivors face on a daily basis; and their struggle for justice and closure.

254 Association of Parents of Disappeared Persons, Kashmir (APDP) and Jammu and Kashmir Coalition of Civil Society (JKCCS), 'Torture: Indian state's Instrument of Control in Indian Administered Jammu and Kashmir'. February 2019. P36.

255 FIR: First Information Report registered with police, being the first step of a criminal proceedings.

256 Jammu and Kashmir Legislative Assembly. Unstarred A.Q. No.330, 12 January 2018, Annexure-B. Of the 54, 37 suffered permanent or partial visual impairment.

257 Jammu and Kashmir Legislative Assembly, Unstarred A.Q. No.123, 23 January 2018. P2-3.

Alongside, and in response to media attention, the central Ministry of Home Affairs set up in July 2016 a Committee of Experts (CoE) to look into alternatives to pellet guns. In August that year the CoE was reported to have submitted its findings. This was not made public, although CoE members were quoted in the media claiming that the use of pellet guns would not be stopped.²⁵⁸ Earlier, in July 2016, J&K High Court Bar Association, a platform of lawyers, had brought a Public Interest Litigation before the state High Court (HC) asking for ban on use of pellet guns by police and other forces. The application was dismissed, with the HC bench remarking "as long as there is violence by unruly mobs, use of force is inevitable".²⁵⁹ The petitioners subsequently moved the Supreme Court of India (SC), in December 2016, there too without much success. The two-member bench of the SC, headed by the Chief Justice of India were reported remarking that that it would ask the Centre not to use pellet shotguns, if there was no violence, no stone-throwing and students returned to class".²⁶⁰ After much procrastinating, in July 2019, Supreme Court referred the matter back to the state High Court to decide on the initial plea by petitioners.²⁶¹ The proceedings drag on, without any direction to put an end to use of pellet shotguns. Throughout, and up until the current clampdown, when injuries caused by pellet guns have spiked, use of pellet guns have been reported widely, especially from southern Kashmir²⁶² resulting in a steady stream of blinding and injuries.²⁶³

Amid these contestations, it has been reported in the media that Defence Research and Development Organisation (DRDO), a Defence Ministry undertaking, had developed plastic bullets for use in Kashmir. These have never been used in any

258 'Pellet guns are here to stay: Committee Suggests alternatives'. The Hindu. 29th August 2016. https://www.thehindu.com/news/national/Pellet-guns-are-here-to-stay-committee-suggests-alternatives/article14620019_ece

259 'J&K HC refuses to Ban Pellet Guns: Cites Mob Violence in Valley'. News 18. 22 Sept. 2016. <https://www.news18.com/news/india/jk-hc-refuses-to-ban-pellet-guns-cites-mob-violence-in-valley-1294725.html>

260 'J&K Crisis: Go to school or College, says SC to Kashmiri stoner pelters'. Business Standard. 29 April 2017. https://www.business-standard.com/article/current-affairs/j-k-crisis-go-to-school-or-college-says-sc-to-kashmiri-stone-pelters-117042900130_1.html

261 'Ban on Pump Action Guns. SC order Jammu and Kashmir High Court to decide on plea in six weeks'. Scroll.In 22nd July 2019. <https://scroll.in/latest/931424/ban-on-pump-action-guns-sc-orders-jammu-and-kashmir-high-court-to-decide-on-plea-in-six-weeks>

262 Office of the High Commissioner for Human Rights. (OHCHR) Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan. Geneva: United Nations. (June 2018) p24 & Office of the High Commissioner for Human Rights. (OHCHR) Update of the Situation of Human Rights in Indian Administered Kashmir and Pakistan Administered Kashmir from May 2018 to April 2019. Geneva: United Nations. (July 2019) P16.

263 'Kashmir pellet gun injuries bring back memories of 2016 uprising'. Aljazeera. 4th April 2018. <https://www.aljazeera.com/indepth/features/kashmir-pellet-injuries-bring-memories-2016-uprising-180403164735687.html>

part of the country and will be tried, like lead pellets, for the first time in Kashmir. They are claimed to be less lethal than the pellet guns currently used in Kashmir, but according to a DRDO official, they can prove fatal if they hit the face or any vital organ.²⁶⁴

5. Disregard for domestic procedures and international norms

Pellet-firing shotguns are banned as crowd control weapon the world over²⁶⁵, and their use has not been reported anywhere else in India. This is precisely because they are not 'non-lethal' or 'less than lethal' as Indian government and security forces have sought to portray them, given serious injuries as well as several fatalities, that have been reported.²⁶⁶ Pellet shotguns are also inaccurate and indiscriminate, in that the pellets disintegrate after being fired, and hence it is impossible to direct the fire at a specified target. Information gleaned through Right to Information Act 2005 with the Khadki Ordinance Factory, main manufacturer of pellet cartridges in India, revealed that there was no information on the efficacy of pellets as a riot control ammunition, also that the manufacturers had conducted no tests on the weapon to assess its effects on the human body.²⁶⁷ Yet pellet guns continue to be used by security forces freely in Kashmir. Besides protestors, often stone-throwing, a large number of those injured have been non-protestors, including young children, older women and elderly bystanders and those indoors, inside houses in the vicinity of protest sites, as well as journalists covering protests.

A basic tenet of crowd control is the use of minimum force and proportionality. Existing Standard Operating Procedure (SOP) used by Police and central forces, including those for use of pellet-firing shotguns, define this.²⁶⁸ However there is a vast body of evidence available now to point to security forces in Kashmir using

264 'Centre plans to introduce plastic bullets in Kashmir. Are they really non-lethal?' The Wire, 13th Jan. 2019. <https://thewire.in/rights/centre-wants-to-introduce-plastic-bullets-in-kashmir-are-they-really-non-lethal>

265 Including where they have been used in the past, notably Northern Ireland/UK, Israel, Spain (Catalonia) and Egypt. Public protests and litigation brought an end to their use in all those situations.

266 A case was recently reported on 15th July 2019, in Madhya Pradesh state. State Government was reported having ordered an enquiry into the circumstances of its use.

267 Physicians for Human Rights. 2016. 'Blind to Justice: Excessive use of Force and Attacks on Healthcare in Jammu and Kashmir, India'. Page 7.

268 "Standard Operating Procedures to Deal with Public Agitations with Non-Lethal Measures", BPRD, Ministry of Home Affairs, 2011. Accessed by making Right to Information Act (2005) applications by activist Venkatesh Nayak, CHRI. <https://www.scribd.com/document/327234413/Standard-operating-procedures-to-deal-with-public-agitations-with-non-lethal-measures#>

pellet guns as the default weapon to quell protests, and cases routinely reported of their use also on on-lookers and non-protestors, not necessarily the 'most violent section' of the stone pelting crowd, as required per SOP; at close range; the vast majority of injuries being to the face and to eyes; and several cases of their use against emergency services too, ambulance drivers transporting the injured, even against hospital doctors and paramedics, besides non-protestors.²⁶⁹ All these – in effect, intentional use of excessive force, to the point of serious injury – violate SOPs in place.

Our own research with pellet gunshot victims confirmed the indiscriminate and intentional use of these weapons. Of the 30 cases we studied in different parts of Kashmir valley covering the period mid 2016 to June 2019, a majority of victims claimed they were either spectators or bystanders, not part of the protesting group. Some were also children, others elderly. Clearly pellet guns had been used indiscriminately, without much regard for discretion. And of our sample cases, a majority had sustained pellet injuries at close range and to the upper torso. There were also cases of women and the elderly targeted inside their homes. In most cases, the injuries seemed to have been caused intentionally, to maim.

Use of pellet-firing shotguns as a crowd control weapon by security forces in Kashmir, resulting in serious and permanent injuries not only to protestors but also non-protestors, is a serious denial of rights of citizens. It violates Art 21 of Indian Constitution (Right to life and to proportionality); various sections of the J&K Criminal Procedure Code (dealing with protestors, and with the degree and manner of use of force); police and CRPF Standard Operating Procedures (SOP, 2010) for dispersal of mobs and maintenance of law and order in the state, and SOP to deal with public agitation in a non-lethal way (2011).

Continued use of pellet firing shotguns also violate international laws governing use of force by security forces, specifically:

- UN Basic Principles on the Use of Force and Firearms, 1990: force should only be used when unavoidable, and law enforcement officials should “exercise restraint” in using force and “minimize damage and injury”. Causing permanent disabilities and deaths, including to women and children, means that the use of pellet guns goes much beyond the stated

²⁶⁹ Physicians for Human Rights (2016). Also see Association of Parents of Disappeared Persons, Kashmir (APDP). 'Report on Testimonies of Pellet-firing Shotgun Victims of 2016 Uprising in Indian Administered Jammu & Kashmir'. March 2019.

objective of crowd control, and hence its use is violation of this law.²⁷⁰

- UN Code of Conduct for Law Enforcement Officials, 1979: law enforcement officials may use force "only when strictly necessary and to the extent required for the performance of their duty".²⁷¹
- Resolution 38/11 adopted by Human Rights Council's on guidelines when responding to protesting citizens, specifically referring to use of 'lethal' and 'less than lethal' weapons, calling for ban on use of lethal weapons against crowds, and for investigation in case of any death or significant injury, as well as for proper testing of less-than-lethal weapons.²⁷²

The use of pellet shotguns does not comply with these standards, as the weapons are inherently inaccurate, and their use by forces in the state is indiscriminate, carrying the risk of causing serious injury, including to bystanders and others who are not targeted.

Their use also violates India's obligation to protect right to life and health and uphold freedom of expression and assembly. In particular the continued use of pellet shotguns violates the several international conventions. Besides the Universal Declaration of Human Rights (Art 3: everyone has the right to life, liberty, and security of person), and International Covenant on Civil and Political Rights (Art 6: every human being has the inherent right to life, including right to decent life, a life with dignity), they specifically violate the following:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987. India has not yet ratified the convention though.
- Convention of Rights of the Child, 1989, especially the "obligation of all state parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children". [CRC, General Comment 8 (2006)]. India has ratified.
- Convention on Rights of Persons with Disabilities, 2006, especially the obligation to "promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability". India has ratified.
- Covenant on Economic, Social and Cultural Rights, especially the Right

270 <https://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>

271 <https://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

272 <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G18/194/77/PDF/G1819477.pdf?OpenElement>

to Health (Art 12), that obligates state parties to, among others, maintain essential primary health care and not allow any kind of interference to access to medical care. India has ratified.

6. Structures of Impunity: Justice institutions failing the test

J&K Police and CRPF personnel have used pellet shotguns on civilians in Kashmir since at least 2010, indiscriminately and in many cases intentionally. No member of the force has been held liable for the disproportionate damage that has been caused to civilians. This lack of accountability is remarkable and all pervasive. Problem of accountability exists at two levels; firstly, with respect to laws that grant immunity to security forces in Kashmir and secondly with respect to the lack of implementation of the mechanisms of checks and balances. The principal barrier to justice in Kashmir is the existence of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 and protection granted to armed forces by it. CRPF personnel are deployed in Kashmir by central government and protected by its laws. Section 4 of AFSPA allows the armed forces to use any amount of force in order to maintain public order. It exempts them from being held accountable even for death caused in the exercise of such duty. Section 7 of AFSPA disallows any prosecution, suit or legal proceeding from being instituted against any member of the armed forces until the central government gives sanction. No sanction has been granted to date, despite several requests in a variety of cases.²⁷³ Further, Section 197 of the Criminal Procedure Code (as applicable in J&K) prevents complaints against state police officers from being filed until there is sanction from state government. This too has seldom been given, thus insulating state forces too from accountability. These laws then have in-built mechanisms of impunity, allowing J&K Police officers and CRPF personnel to escape liability for their actions. Commenting on AFSPA, UN High Commissioner for Human Rights noted in their recent report on the situation of human rights in Kashmir, "they have created structures that obstruct the normal course of law, impede accountability and jeopardize the right to remedy for victims of human rights violations."²⁷⁴

And despite directions from the Supreme Court to balance the need to protect officers discharging their duty in good faith, with the right of citizens to be

273 'In 20 years, Centre denied prosecution sanction under AFSPA in all cases recommended by J&K Govt against Army men'. Outlook. 20th January 2018. <https://www.outlookindia.com/website/story/in-20-years-centre-denied-prosecution-sanction-under-afspa-in-all-cases-recommen/307132>

274 OHCHR. Update of the Situation of Human Rights in Indian Administered Kashmir and Pakistan Administered Kashmir from May 2018 to April 2019. Geneva: United Nations. (July 2019)

protected against excesses by the officials,²⁷⁵ security forces in Kashmir have never had any penal action pressed against them for their violations. Other systemic weaknesses include the absence of the independent Police Complaints Authorities, J&K Government having refused to set them up despite Supreme Court mandating it for all states.²⁷⁶ But the Supreme Court itself has done little to redress violations in J&K, as we saw in the application to ban pellet shotguns and hold officers to account. Despite mounting reports from credible sources, of systemic human rights violations by state forces against civilians, Supreme Court – that otherwise portrays itself as activist in defence of freedoms – has never taken suo moto action to restore the fundamental rights of the people of Kashmir. Other redress institutions do worse. Amnesty International, in a recent report on Kashmir, concluded that the J&K High Court had “failed to adequately defend human rights principles enshrined in the Constitution of India and international human rights law and standards”.²⁷⁷ And the National Human Rights Commission and J&K State Human Rights Commission, both with mandate specifically to defend human rights of citizens, have delivered little. The State commission’s directions to state government to develop “solid and secure policy for the rehabilitation of pellet victims especially for those who have lost eyesight with little or no possibility of regaining vision”, has not resulted in any reported action.²⁷⁸

7. Conclusion

The Kashmiri scholar, Athar Zia has, in the context of the continuing and widespread use of pellet-firing guns against civilians, argued that the Indian state uses the ‘right to maim’ to blind Kashmiri subjects by “perfecting a technology of punishment that produces bodies incapable of physical resistance and as a representational threat to the rest of society.”²⁷⁹ This may well be the case, given there has not been a single instance of erring officials and the command leadership being held to account, despite mounting evidence of violation of national and international laws and procedures when pellet guns are directed at civilians in Kashmir. Lack of remedial action in favour of victims, including the

275 Bakshish Singh Brar Vs Smt. Gurmej Kaur and Anr. [1988 AIR 257, 1988 SCR (1) 450]
<https://indiankanoon.org/doc/961177/>

276 Prakash Singh & Ors Vs. Union of India, 2006. (WP(civil) No 310 of 1996. https://humanrightsinitiative.org/old/programs/aj/police/india/initiatives/state_compliance_analysis/jammu_kashmir_chri_compliance_analysis.pdf

277 Amnesty International. Tyranny of a Lawless Law. 2019
<https://amnesty.org.in/wp-content/uploads/2019/06/Tyranny-of-A-Lawless-Law.pdf>

278 <https://kashmirreader.com/2018/04/27/solid-policy-for-rehabilitation-of-pellet-victims-needed-shrc/>

279 Zia, Athar. “Blinding Kashmiris: The ‘Right to Maim’ and the Indian Military Occupation in Kashmir.” International Journal of Post-Colonial studies. Volume 21, Issue 6. April 2019.

failures of the highest courts, bolsters impunity among so-called duty bearers and hardens perceived sense of injustice felt by victims. This reinforces the vicious cycle – of the use of indiscriminate and intentional force against civilians, in a context of widespread violations and associated impunity by the state, and the resultant youth alienation and protest. This vicious cycle must be broken.