

## **Interrogating Basharat Peer's Depiction of Human Rights Abuses by State Forces in Kashmir in *Curfewed Night***

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### **Abstract**

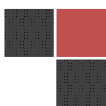
One of the most infamous allegations against the Indian government is its handling of the insurgency in Kashmir; that under the pretext of ensuring national security the Indian forces abused and violated the human rights of Kashmiri civilians. While such actions amount to being 'crimes against humanity,' but the national security laws provide the forces with legal impunity, and successive governments have denied any such human rights abuse. This has engendered an atmosphere of violence and uncertainty in Kashmir where civilians can be harassed, raped and killed anytime. In his memoir, *Curfewed Night*, Basharat Peer addresses these concerns vis-à-vis the Indian forces' counter-insurgency operations and its effects on Kashmiris. By interrogating Peer's depiction of the Indian counter-insurgency strategies, this paper argues that the text subverts the official government discourses on Kashmir and makes the global audience aware about how violence was used to suppress political dissent in Kashmir.

**Keywords:** Kashmir, human rights violation, torture, trauma, hegemony.

### Introduction: The Context of Human Rights Abuse in Kashmir

The disputed territory of Indian-administered Jammu and Kashmir has been involved in a bloody conflict for the last three decades, as insurgents continue to fight with Indian security forces for political control of the region. The Kashmiris resented India's constant denial of their political and democratic rights and the installation of weak local regimes that submitted to India's authority. They viewed the state assembly election in 1987 as being rigged by the government to ensure pro-Indian political regimes stayed in power and became certain that the Indian political establishment will never let Kashmiris control their political affairs (Butt 110).<sup>1</sup> The fear of persistent electoral malpractices by the government gradually gave rise to separatist tendencies within the Valley (Noorani 19). Consequently, in 1989, young Kashmiri boys and men began an armed resistance against Indian domination by going to Pakistan to procure weapons and acquire "combat training" (Bose 95). After the onset of the insurgency, Governor's rule was swiftly imposed in the state in 1990 (Bamzai 253) and, since then, the Indian state forces have indulged in "mass and intensified extrajudicial killings" in Kashmir (Chatterjee et al. 23).

The regular use of unrestrained violence suppressed the Kashmiri civil society and compelled people to accept Indian political rule (Dos Santos 77). However, the Indian government maintains that an insignificant "low intensity conflict" is underway in Kashmir and prolonged militarisation is essential to neutralise the insurgents. The government's strategy of categorising Kashmiri protestors as treacherous and potential militants has legalised the application of violence to achieve the political goals of the state (Chatterjee et al. 25). The consequences of this militarisation have been disturbing for Kashmiris. Shubh Mathur observes that the Indian forces have perpetuated a totalitarian regime by curbing civilian freedom and bringing in "a reign of terror by subduing the locals through arson, murder, kidnapping, rape and violence" (1-2). Thousands of civilians have been killed, maimed, raped, or have disappeared due to Indian counterinsurgency operations and the instances of custodial torture, death or disappearances fall under "the legal definition of crimes against humanity" (Mathur 1).<sup>2</sup> Besides from the numerous cases of involuntary disappearances, the state forces have also killed thousands of people in fake encounters and extrajudicial executions, whose bodies were discovered in several unmarked graves found throughout Kashmir (Chatterjee et al. 14). The State Human Rights Commission has mentioned in their report that around two thousand bodies bearing torture marks have been discovered and were later identified as mostly non-combatants and local residents (South Asia Human Rights Documentation Centre 2). Nevertheless, the government strictly maintains that all these people, who were killed, were either "foreign militants" or "Kashmiri militants killed while infiltrating ... into Kashmir or travelling from Kashmir into Pakistan to seek arms training" and has denied permission to exhume the bodies and conduct DNA tests to identify the dead (Chatterjee et al. 14, 25).<sup>3</sup> Additionally, the government justified the prolonged militarisation of Kashmir as being necessary to maintain peace, curb militancy, and ensure good governance and development (Bhan et al. 14). The Indian media has also largely failed to highlight the intense "human rights abuse" that Kashmiris have endured (Anjum and Verma 13). This ensured that the outside world remained unaware of the violent consequences of Indian state policies, and their only source of information on Kashmir continued to be the official state discourses expressed by the national media (Hakeem 103-5).



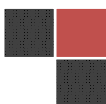
### ***Curfewed Night as a Testimony of Oppression in Kashmir***

The reluctance of the Indian state to investigate the enforced disappearances of Kashmiris along with the international community's ignorance of such human rights violations makes literature a powerful medium to preserve the memories of people whose lives were destroyed, devastated by Indian counter-insurgency operations. In his memoir, *Curfewed Night*, Basharat Peer depicts the trauma and helplessness of Kashmiris living under Indian military occupation. The memoir, written in the form of a novel, has 15 chapters and an episodic plot structure that covers key events from recent Kashmiri history. The text reveals terrifying details about the Indian force's indulgence in acts of human rights abuse to throttle the political demands of Kashmiris. Javeria Khurshid regards Peer's text to be a "cry" on "behalf of the people of the Kashmir valley," which "captivates ... readers into pondering over the devastation, and coerces them to ask ... whether this desolation was necessary?" (3). Peer draws upon both his personal experiences and those of his fellow Kashmiris whom he interviewed to illustrate the transformation of Kashmir from a relatively peaceful valley of unrivalled beauty to a conflict-ridden land under siege, where people live with fear and anxiety. He observes that unlike people living in other conflict zones, like Palestine and Tibet, the experiences of Kashmiris have not had much literary portrayal. Hence, Peer wants to fill this literary vacuum and write about the "memories and stories" of torment that Kashmiris suffered during the insurgency. (95)

### **Textual Depiction of Various Forms of Human Rights Abuse in Kashmir**

Peer recalls the pre-insurgency period with scenes from his idyllic boyhood days, spent with friends and family. He remembers that criminal activities like murder were nearly non-existent in Kashmir before everything changed in 1989 (3). Like most Kashmiris, Peer too felt a sense of "alienation and resentment" against the Indian government and the "symbols of Indian nationalism" (11). People from all sections of society had come together, after the 1987 state elections, demanding secession from India and protest marches against the government were common in Srinagar throughout 1988 and 1989. Peer was only thirteen in 1990 when, on one such protest march, the Indian forces opened fire at the protesters, leading to the notorious Gawkadal massacre.<sup>4</sup> The Gawkadal massacre, where almost fifty protestors were killed, marked the beginning of the Indian forces' human rights violence against Kashmiris. A hawker, who had participated in the protests, informs Peer that he will arrange interviews with "women whose men were killed," and provide photos of the massacre if Peer brings a TV camera, records his statements and broadcasts it on television. This incident reveals how Kashmiris want to have their voice heard about the organised suppression that they suffered (119). Peer interviews a survivor of the massacre, Farooq Wani, who tells him that the "CRPF men continued firing" on the protestors; their only intention was to kill. He remembers that one "murderous officer," upon finding him alive, "kicked him" before shooting a round of bullets at him (120). Peer highlights, through these recollections, how the state forces suppressed peaceful protests by Kashmiris during the early 1990s. The consequence of these incidents on civilians is severe, as Peer observes how Wani was still emotionally overwhelmed by traumatic memories from that day (120).

Peer mentions that these incidents were not isolated; paramilitary forces often barged into civilian houses and forcibly arrested young men, and then quickly imposed curfews (14). Several men, who were arrested thus, went missing from the army's



detention centres or suffered brutal torture. The random curfews restricted people indoors; neither were they able to go out for buying daily essentials, nor receive any information about their family members working outside. Since every household did not have access to telephones, so people were dependent on the radio for news and communication (15). Some people rebelled against these continuous infringements of their rights and slogans like “Self Determination is Our Birthright!” were “graffitied everywhere in Kashmir” (17). However, these acts of protest were suppressed, as thousands of Indian troops were deployed in the valley, and Kashmir was inundated with army bunkers.

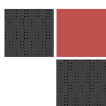
Locals had to show identity cards to move around their own land; soldiers were authorised to stop them anywhere to check these cards, thereby restricting their mobility. People were also stopped while travelling in cars or buses for security checks. Peer claims that if a soldier stopped anyone, it “meant trouble” for anything could follow: a random “identity check, a possible beating or a visit to the nearest army camp;” civilians were even forced to do menial labour (48). He cites an incident concerning his uncle Bashir who was asked about his native village by a soldier during an identity check. Unfortunately, Bashir gave the colloquial name of the region “Islamabad” and was consequently assaulted by the soldier because Islamabad is also the name of the capital of Pakistan (49). The incident scarred Bashir psychologically; afterwards, he shuddered to even look at the soldiers even if they went to his shop for buying groceries.

Peer describes the raw reality of the atmosphere of terror and anxiety that engulfed Kashmiris:

Fathers wished they had daughters instead of sons. Sons were killed every day. Mothers prayed for the safety of their daughters. People dreaded knocks on their doors at night. Men and women who left home for the day’s work were not sure they would return; thousands did not. Graveyards began to spring up everywhere, and marketplaces were scarred with charred buildings. (30-31)

Such counter-insurgency measures enraged Kashmiris and consequently, more young men rebelled and went to Pakistan for arms training. In the process, several got killed by the security forces and were buried in unmarked graves (36). When someone joined militancy, the Indian forces harassed his family by raiding his house, threatening and assaulting his family members, and molesting the women (38). If militants were to visit their families or be seen within civilian localities, then soldiers would carry out arson attacks on the civilian homes in those areas (44).

Peer recalls that these visits would also result in intensive search operations, which locals called “crackdowns,” in which civilians were detained and curfews were imposed. Curfews meant widespread food shortage and severely restricted mobility, including the inability to go to hospitals during emergencies (47). Mathur informs that crackdowns could last for days, where men had “to sit outdoors, in freezing winter cold and under the blazing sun” while the women would be molested indoors and their “cash, jewellery and other valuables” looted by the soldiers (5). Peer narrates his personal “crackdown” experience when the forces cordoned off his village and asked the men to congregate at the hospital lawn early next morning. The women were specifically ordered to stay indoors and help soldiers access every corner of their homes to search for “militants, guns, or ammunition” (50). Men were required to show their identity cards and then participate in identification parades before a masked informer who identified

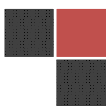


militants from within the congregation (51). Peer recalls his anxiety when it was his turn to face the informer who, thankfully, did not claim him to be a militant. But, his teenaged neighbour, Manzoor got detained for intensive interrogation because he was, previously, seen engaging in general conversations with militants (52). In detention, Manzoor suffered severe physical torture which became evident from the bruise marks on his body and his unsteady gait (55).

Peer highlights the intensity of such physical torture when he recounts how parents of young, unmarried girls became apprehensive because most young Kashmiri men were either dead or had “deforming injuries ... and non-existent careers” which reduced their chance of finding appropriate grooms for marrying their daughters (107). Amongst several detention centres in Kashmir, Papa 2 was the most “infamous” one where scores of detainees died after failing to endure intensive torture and those who could become “wrecks” (137).<sup>5</sup> Mathur adds that in Papa 2, the detainees were only “being broken” before being taken elsewhere for interrogation (15); and in some instances, men were even detained for several years despite court orders demanding their release (114).

Peer narrates the story of Shafi, a former militant who was detained at Papa 2 for seven months. Shafi was detained in a room that had bloodstains on the walls, with twenty other men. The room had no toilet; prisoners “defecated and urinated into polythene bags” and threw it in a dustbin in their cell. The lights were never switched off and, during interrogations, they were forced to look at “very bright bulbs” (141). Consequently, Shafi nearly lost his vision. Surgery was too expensive for him to restore his vision, thereby, lowering his chance of securing employment and getting married. He recalls that soldiers rolled concrete rollers on prisoners’ limbs and poked them with cigarette burns (142). Shafi alleges that prisoners underwent “psychological torture” by being forced to recite pro-Indian slogans regularly or face further violence. Another former militant, Ansar, confesses that Papa scarred him forever and cannot “live a normal life after that torture” (143). Ansar reveals that prisoners were tied up, stripped naked and submerged inside ditches “filled with kerosene oil and red chilli powder,” and then soldiers burned their bodies with hot stoves to extract information (143). Alongside the mental and physical tortures, sexual torture was also administered on the prisoners. Their hands would be tied behind their backs and mice would be put inside their pants. The soldiers would even use copper wires to give electrical shocks on their genitals. These high voltage shocks caused infertility in several inmates, and many were unable to get married (143). In addition to impotence, the electrocution also caused severe kidney damages in the prisoners. Ansar himself had to undergo treatment, for two years, for a urinary tract infection before, finally getting married. Peer argues that these “attacks on their masculinity” rendered them permanently “vulnerable” (144).

Sexual assaults on women were also perpetrated on a huge scale. Peer’s interview with Mubeena Ghani reveals that an “unknown number” of troopers raped her on her wedding night, after shooting at the bus that carried the wedding party (154). Both Mubeena and her maid were raped as they lay bleeding from the gunshot wounds (54). Her husband, Rashid, survived with multiple bullets stuck in his back, though several members of his family were killed. The local administration had offered them a compensation of Rs. 3000, which they declined. Mubeena was, subsequently, ostracised by her in-laws who regarded her as an ill omen, and Rashid remained unemployed for

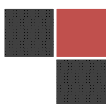


about a year. Traumatized by her experience, Mubeena still “shivers” whenever she sees security personnel (155).

During this time, Peer recalls hundreds of men went missing without a trace “after being arrested by the military,” and were subsequently categorized as “disappeared persons” (131). The government never bothered to set up inquiries to locate them, instead, it was declared that “the missing citizens...have joined militant groups” (131). Their family members have, in general, lost hope, although a few still seek justice. These people, like the seventy-year-old Noora, organize silent protests and congregate in public parks in Srinagar, holding banners and placards. Noora’s son was abducted by the security forces eight years ago when he went out to play and is missing ever since (132). Similarly, Javed, the sixteen-year-old speech-impaired son of Parveena Ahangar, got “taken away from their house in 1990 during a raid” (132). Ahangar founded the Association of Parents of Disappeared Persons for campaigning and fighting such cases of custodial disappearances in court. The government had offered her monetary compensation if she agreed “that her son was killed in unknown circumstances in the conflict” but Ahangar rejected the proposal (133).

Peer argues that the rules concerning government compensation were problematic since compensation was provided only when the victim’s family accepted that their men died in a “militancy related action,” which meant that militants killed them (162). There were no provisions to seek compensation in case the security forces were blamed for the killings. Poor financial conditions forced several families to accept the monetary compensation after, falsely, declaring that their boys were militants who were killed while fighting (163). Peer cites an instance concerning his relative, Gulzar, who was just a teenager when the forces killed him. He had, unknowingly, mocked the son of an army officer at school the previous day and, the following evening, soldiers seized him from his home, took him to his cowshed and then “detonated a mine” (165). The forces declared that Gulzar was a notorious militant who had blasted the mine by mistake. Gulzar’s family had to accept this claim because they required the monetary compensation. In Kashmir, going to a court and seeking justice is futile. Even people who were willing to receive compensation had to undergo years of visiting government offices before they finally received the money. In this regard, Peer narrates the experience of Shameema, whose seventeen-year-old son was killed when the Indian army used him as a human bomb. Soldiers had picked up her sons, Bilal and Shafi, from right outside their house when an encounter with militants was raging nearby. At the encounter site, Shameema saw Bilal standing with the soldiers, but Shafi was missing. She fought hard with the soldiers to reach Bilal, who told her that Shafi was already sent into the “militants’ house with a mine in his hands” (169). The soldiers fought with Shameema and snatched Bilal away, and tried sending him inside the house with another mine. However, Shameema persisted and succeeded in escaping with Bilal. While leaving, she recalls seeing the troopers “push an old man towards the house with the mine in his hands” (169). The incident caused Bilal to become “psychologically disturbed;” he would get restless “every time Shafi is mentioned,” and Shameema is forced to give him intoxicants to ensure that he calms down (170). She had to make several visits to the deputy commissioner’s office and the police station to procure the necessary documents to apply for compensation.

Generally, victims are required to lodge an F.I.R. (First Information Report) with the police and obtain a certificate declaring that “the person killed was not a militant.”

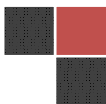




Nevertheless, to get their application processed, they had to pay a series of bribes both to the police and the officials at the district commissioner's office (173). Mathur informs that, generally, the local police will not file any reports against the army, and avoid mentioning the army in "connection with the abduction or the illegal detention;" similarly, the army personnel are not required to cooperate with police investigations and they cannot be tried by the local courts (Mathur 48).<sup>6</sup> Women, with missing husbands, are categorised as "half-widows" and are not eligible for government compensation as pensions are offered only to widows (Chatterjee et al. 35). These women, unable to accept that their husbands are dead, cannot avail any special government compensation. Financial compulsions, eventually, force them to lose hope of ever finding their husbands alive, and they change their status to that of a widow to seek compensation.

### **The Textual Subversion of the Official Government Position**

*Curfewed Night* outlines the human tragedy of Kashmir and details the traumatic experiences of ordinary Kashmiri civilians who had to endure gross human rights violations at the hands of state forces. The text reveals how the Indian forces indulged in committing severe atrocities under the pretext of conducting counter-insurgency operations to ensure national security. Peer reflects upon the consequent mental and physical damage in the victims who are forced to live with the trauma of past violence throughout their lives and discusses how justice is denied to them. The laws protect the forces from legal prosecution, which allows them to continue committing horrendous crimes. Victims can expect no accountability and have to accept their fate and apply for compensation despite their ethical reservations. Peer states that the immense bloodshed has destroyed everything beautiful in Kashmir and, in such circumstances, the only "support system" that people had was religion and "faith" (174). Chatterjee and others claim that the Indian government uses "discipline and death as regulatory mechanisms" to exercise "social control" in Kashmir (9). This cultivates a fear of imminent danger in the minds of the civilians and allows the state to suppress their democratic aspirations and assimilate them into the mainstream nationalist discourse. Laws concerning national security like the Armed Forces Special Powers Act (1958) and the Disturbed Areas Act (1976) provide "legal immunity" to the security forces (Mathur 21, 138).<sup>7</sup> Similarly, the Prevention of Terrorism Act (POTA, 2002) and the Terrorist and Disruptive Activities Act (1985) allow the detention of people for years, without any legal recourse, based on mere suspicion (Mathur 83). Human Rights Watch reported that a system of "compensations and promotions" is also practised to reward the security forces for "killing presumed insurgents". These provisions allow the state forces to execute acts of human rights violation like conducting raids on houses, detaining people without warrants, torturing and even killing them on plain "unauthenticated suspicion" (Chatterjee et al. 28). Mathur adds that "the rate of conviction was less than 2 per cent of those arrested" (41). She feels that the "writ of Habeas Corpus is a complete failure in Kashmir;" neither did it protect the "right to life" nor "punish those who violated it" (Mathur 45). The articles of the Geneva Convention (Articles 17, 120 and 130 of the First, Third and Fourth Geneva Conventions, respectively) rule that if prisoners of war were to die while in the custody of a party, then that party "must attend to the bodies" and, if possible, provide the proper funeral rites to the deceased. Furthermore, Article 121 of the Third Geneva Convention also states that "an official enquiry by the Detaining Power" be "undertaken in instances where prisoners of war are injured, or killed, or where the cause of death is unknown" (Chatterjee et al. 26). Hence, the Indian



state is legally required to conduct inquiries about the people who disappeared mysteriously.<sup>8</sup> But, the government has continuously refused any investigation into the matter and maintains that prolonged militarisation is necessary to eradicate and neutralise the national security threats which exist in Kashmir (Chatterjee et al. 59). *Curfewed Night* challenges and subverts precisely this position of the Indian government through its revelation of several human rights violations by the state forces under the pretext of conducting counter-insurgency operations.

### Conclusion

Currently, there are hundreds of military camps and thousands of security personnel in Kashmir who are placed within civilian areas, in direct contact with the civilian population. This proximity between civilians and the security forces creates the context where violence is regularised, and human rights abuses like torture, rape and extrajudicial killing take place. These coercive actions suppressed Kashmiris and forced them to accept the government's administrative policies (Shah 84, Mathur 7). *Curfewed Night* depicts this brutality perpetrated by the state forces with "impunity to regulate movement, law and order" (Chatterjee et al. 61). Peer's text argues that these events are neither recognised nor condemned by the government. Peer stresses that for peace to ensue in Kashmir, it is imperative to recognise the crimes committed under the guise of the counter-insurgency and peacekeeping operations. Through this emphasis, the text subverts the Indian government's official position on the necessity of prolonging militarisation in Kashmir to maintain law and order and curb militancy in the region. The text pleads for justice for the victims, which will enable them to secure emotional closure and come to terms with what had happened with them. *Curfewed Night* is a literary testimony to the plight of these helpless Kashmiris who were mostly ignored by the Indian media, and unnoticed by the rest of the world. People are yet to become fully aware of the physical and emotional torment that Kashmiris have endured because of the insurgency, and Peer has made a significant contribution to this emerging international awareness.

### Notes:

<sup>1</sup>For a detailed account of Kashmiri resentment towards the Indian political system, see Bose Chapters 1 and 2.

<sup>2</sup>For comprehensive information on how different international bodies and conventions address the issue of custodial detention and enforced disappearances of people as an act of human rights violation, see South Asia Human Rights Documentation Centre 2.

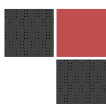
<sup>3</sup>For additional details on the refusal of the Indian government to identify the dead bodies, see South Asia Human Rights Documentation Centre 1.

<sup>4</sup>For further information on the Gawkadal Massacre, see Schofield 148.

<sup>5</sup>For more information on detention centres like Papa 2, see Mathur 15.

<sup>6</sup>For more information on reports and investigations regarding Kashmiri police officers refusing to file any complaints against the security forces, see Mathur 48.

<sup>7</sup>For more information on AFSPA and its provision for military personnel to use lethal force for maintaining public order, see Mathur 81.





<sup>8</sup>For a detailed list of the conventions that India is a signatory of, which make it imperative for the government to address the allegations of human rights violations, see Chatterjee et al. Appendix IV.

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