

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
Jammu and Kashmir in Context

November 14, 2019 – 2:00 p.m.
2200 Rayburn House Office Building
Statement of Yousra Y. Fazili
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Cousin of Dr. Mubeen Shah, Detained Kashmiri Businessman

I am submitting this testimony to document the experiences of my family and other Kashmiris since August of this year. I speak for those who are unable and afraid to come forward because they fear retribution for their family in the Valley, and I speak for my cousin, Dr. Mubeen Shah, who has been unjustly imprisoned by Indian authorities since August 5, 2019.

Mubeen Shah is my cousin, but that doesn't fully describe how close we feel as a family. His mother, my aunt, was more of a second mother to my dad. Growing up my siblings and I did not call her by her name, or even 'Auntie,' instead we called her 'Tati,' which means 'Beloved.'

It is no exaggeration to say I would not have the privilege of being an American if my Aunt had not helped get my dad finish medical school. And my father, the youngest son of a teacher, may never have been able to afford medical school or been admitted, if Article 35A had not been in place. Article 35A created affirmative action-like programs to help Kashmiris, who despite being a numerical majority had lived subjugated under oppressive and unrepresentative rulers. The law allowed my parents, permanent residents of Kashmir, to have special rights to education and scholarships.

My cousin Mubeen is being made an example of. His imprisonment sends a strong signal to the people of Kashmir that money, family, and status mean nothing in the face of Indian capriciousness.

There is a climate of fear in Kashmir. Protesting means being shot at or arrested. Protesting. In a democracy. Armed forces conduct night raids on homes and are pulling young men and boys from their beds into military custody. There are reports that terrified parents are sending their children to sleep at relatives' homes or to hide in fields at night.

My cousin was taken in a midnight raid on his home.

My cousin is not a politician or a dissident, he isn't a freedom fighter, or even a kid in the street throwing stones; he is just a businessman. His life's work has focused on bringing economic opportunity to Kashmir.

Just to place his arrest in context: On August 1st India deployed 35,000 paramilitary forces to Kashmir, to streets that were already flooded with military forces and to a place that was **already** the most militarized place in the world (that's right, Kashmir--- not Iraq or Syria or Afghanistan or other headlining-grabbing places, is the most militarized place in the world). There were rumors that the government was planning to end Kashmir's autonomy. On August 2nd the Indian government issued evacuation orders for all Indian and foreign tourists, workers, and students. All of Kashmir waited with baited breath for what this could mean, because it was certainly not a good sign. Sadly, Kashmiris are accustomed to military crackdowns and curfews, and pragmatic families had begun to stock up on basics like rice and flour.

My cousin is in his 60s and has several severe health issues. Most urgently, he suffers from drug resistant chronic urinary tract infections (UTIs), which require surgical intervention. In fact all summer my father had begged Mubeen to come to America for surgery. Now, we have no idea when he will be able to receive the care he needs. Despite numerous appeals to state officials and the Indian court system, he remains without access to surgery, and each day the risk for uncontrolled septicemia (which, if left untreated, could be fatal) grows greater.

I came here today to tell his story, and to convey what is happening to ordinary Kashmiris like him and their families under India's brutal crackdown in the Kashmir valley.

Around midnight on August 5th, my cousin and his wife were awakened by a loud noise in their yard and a banging on their door. Dozens of police and armed military personnel raided the home and an officer told him he was under arrest.

His wife, Asifa, was stunned and terrified. *Did they have a warrant? What was the reason for this arrest?*

The officer grabbed Mubeen's arm and simply said "This is different, there will be no warrant. I have orders to bring you in."

His wife, anxious and afraid to be home alone in such a time of uncertainty, asked if Mubeen could be put under house arrest because of his ill health.

The Police officer denied this request, replying, "He will be back soon, do not worry."

Believing that this would be brief interrogation, Mubeen didn't even take his much needed medications with him.

Hours after my cousin's arrest on August 5th Kashmiris woke up to find that the Internet, cell phones and landlines were cut. Even cable TV was cut; only Indian state-controlled media could be seen. Army jeeps patrolled the street with loud speakers broadcasting that people shouldn't leave their homes. Confusion and fear were rampant.

With no access to the outside world, Asifa had to wait until daylight and miraculously found a way to travel to a relative's house to convey that she was alone and her husband had been taken into military custody.

Mind you, there wasn't just a communications blackout; there was almost *no movement* in the streets. Almost overnight the military occupation of Kashmir intensified: roads were cordoned off with barbed wire, the streets were eerily silent. Military personnel lined every block, carrying huge loaded guns.

These were the streets Asifa had to navigate to find help. It was impossible to get an auto rickshaw, let alone a car, as Indian forces had forbidden movement, shops were closed, and a curfew was in place. Military checkpoints were set up everywhere and you needed a stated reason to move from point A to point B. Concrete barricades blocked roads every few hundred meters.¹ Even journalists were not allowed to move about freely. Kashmiris were braced for violence and uncertainty.

Mubeen and Asifa had no way of knowing that this was the start of one of the biggest mass arrests of civilians in decades carried out by “democratic” India. Government sources admit to 4,000 arrests, but human rights advocates believe the true number is many thousands more.² Media reports thus far have had a huge range for numbers arrested, on the low end 4,000 and on the high end 20-30,000. The reports speak of regular people—teenagers, business leaders, human rights advocates, elected representatives, teachers, and students as young as 14 — being rounded up by federal security forces in the first week of August. Kashmiri Americans who were in Srinagar in August reported hearing screams coming late at night from their neighbors' homes, as mothers begged military forces not to take their children. They spoke to parents lined up outside police stations asking for information on their children's whereabouts.

But at that moment, on August 5, when her house was raided and her husband taken away in the middle of the night, Asifa didn't know that in a few hours the Indian government would publicly announce it had unilaterally stripped away Kashmir's autonomy and statehood; without any democratic pretense or attempt to engage with the Kashmiri people or Kashmiri politicians.

Here on this side of the Atlantic, it took more than 4 days to learn about my cousin's arrest, due to India's communications blackout in Kashmir. In Kashmir, it is “normal” to have curfews and internet shutdowns in the days before August 14th and 15th (Pakistani and Indian Independence Days). I had become so desensitized to these tensions that the latest communications blackout seemed like blustery build up and all talk.

We were all so blindsided by what came next.

¹ <https://www.washingtonpost.com/outlook/2019/08/26/i-arrived-kashmir-indias-crackdown-began-it-was-terrifying/>

² <https://www.reuters.com/article/us-india-kashmir-detentions/thousands-detained-in-indian-kashmir-crackdown-official-data-reveals-idUSKCN1VX142>

Asifa and Mubeen had no way to tell any family members, including their 3 sons, who live outside of Kashmir, what had happened. To be honest, even relatives *in* Kashmir did not know what had happened because it was impossible to communicate.

By pure luck and happenstance, a neighbor had an airline ticket to fly out of Kashmir in a few days. Asifa walked to his home to tell him about Mubeen's detention. Once he landed in New Delhi on August 7th, he called one of Mubeen's sons who lives in Dubai.

Reflect on that for a moment. In this era of instantaneous communication, when I can (and often *do*) communicate with the several people via iMessage, Instagram, Facebook and Whatsapp in a 1-minute span, a message had to be personally couriered by foot and plane, because Kashmir had been completely cut off from the rest of the world.

By pure luck, this neighbor was able to navigate through the curfew-ed streets to the Srinagar airport because he already had an airplane ticket, and only once he touched down in New Delhi could he return to the modern world.

So, news of my cousin's arrest did not reach any of us in the US until August 8th. I did not know where my cousin was. I only knew he had been arrested without a warrant or a formal charge and that his wife was safe and staying with her relatives.

His elder brother, Niaz, physically went from jail to jail in Srinagar to track Mubeen down. The guards in Central Jail allowed Niaz to hug his brother and told Niaz he could return the next day with clean clothes. The next morning, Niaz returned with clothes, only to find that his brother was gone, the guard said Mubeen had been taken to Agra on a military plane.

In a panic, my sister and I called our friends at the State Department and were put in touch with wonderful people at the US Embassy in India, but their hands were tied and they could only do so much. Later we learned Mubeen was flown 600 miles away from Kashmir to Agra's central jail. We confirmed his placement there thanks in part to U.S. State Department officials, who kindly placed an informational request with the Indian authorities to confirm my cousin's detention status.

It took almost one month for Mubeen's wife to be granted permission to visit him in Agra. On September 9—a full 36 days after the midnight raid on their home—she learned that his health had deteriorated. The jail's doctors determined my cousin needed surgery imminently because of the complicated and high-risk nature of his medical conditions.

His wife, Asifa, filed a Habeas Corpus petition in the Indian Supreme Court on September 16th, seeking a reason for Mubeen's arrest and for his immediate release so that he could receive appropriate medical care. Weeks after his arrest and detention, the Indian government explained that he was being held under a draconian and sweeping Public Safety Act (PSA), which affords

zero due process and allows for up to two years of detention without charge. In fact, Amnesty International has called the PSA a “lawless law.”³

Our attorneys in India thought we had a strong case. My cousin was clearly ill and the Indian government confirmed this with their own doctors. But when it comes to Kashmiris, India has never acted with justice or fairness and the regular rule of law is often suspended. Here were Kashmiris, outside of Kashmir, in India proper, and *still* the regular Indian legal system was not a place for recourse or justice. The Supreme Court agreed to listen to the case, but has offered no relief thus far, even for the requests for urgent medical evaluation. In each appearance the Court either contradicts its previous rulings or offers the government endless continuous deadline extensions to reply to the court’s orders.

So now, our family is settling in for what looks like a long, expensive, protracted battle to get my cousin the life-saving medical care he needs and to secure his release from prison. In the mean time, his wife relocated to New Delhi to be closer to him--- actually, it’s not *that* close, it’s a 6 to 8 hour drive from Delhi to Agra. She is only granted permission to visit him once every two weeks, and technically only for one hour per meeting. (However, she actually only gets to see him for 30 min because entry security procedures at the prison take 30 minutes).

Despite all this, Asifa knows she is one of the lucky ones; she has the resources to be in Delhi and travel to Agra. This is a luxury that literally thousands of Kashmiris, whose relatives have been detained, do not have.

For example, there is young 18-year-old Hussein D.⁴ Hussein is a pellet victim⁵ (The military regularly uses shotguns that fire lead pellets to quell peaceful protests, which has resulted in the blinding of several thousand Kashmiris, including babies as young as 19 months old⁶). He was wounded by Indian soldiers, and he has already undergone 3 eye surgeries. Four years ago, when he was only 14, he was severely and savagely beaten by police in Kashmir, resulting in lasting leg injuries.

Hussein is a simple roadside vendor, he isn’t a rabble-rouser or loudmouth, he is just a kid who has tried to be a regular kid.

On August 6th he was arrested under the same PSA as my cousin, and since August 17th he has been imprisoned far away in Varanasi jail in Uttar Pradesh. He only speaks Kashmiri, so he cannot communicate with anyone in the jail, and his family can’t afford to visit him.

There is also Faisal A., a 25 year old who suffers from seizures and bipolar disorder. Since 2016 he has been arrested and tortured under the PSA several times. He was out buying medicine for

³ <https://www.amnestyusa.org/a-lawless-law/>

⁴ Names have been changed to protect the identities of the people and families involved.

⁵ <https://www.amnestyusa.org/reports/losing-sight-in-kashmir-the-impact-of-pellet-firing-shotguns/>

⁶ <https://www.bbc.com/news/world-asia-india-46368231>

his mother on August 5th when he was picked up by the Indian military. Around August 21 he was moved from a jail in Kashmir to one far away in Uttar Pradesh.

Our relatives who have been able to visit Mubeen have returned documenting many random arrests and detentions of Kashmiris being held in Indian jails, and children, boys under 18 years of age, being held in Agra. Many families are too poor to visit their loved ones or have taken out large loans to be able to make the journey. Mubeen has started to use his own money to buy food for his fellow inmates.

These are stories of the living, even if they are imprisoned without just cause and with no end in sight.

But there are so many tales of the dead that I shudder just to think of them. I will share one that demonstrates why it's so hard to even understand the scope and impact of human rights abuses Kashmiris face daily.

This August, 17-year-old Omar was being chased by CRPF (Central Reserve Police Force, a Indian military police force). According to eyewitnesses, he was physically beaten by a member of CRPF. Terrified and trying to save himself and escape this unwarranted beating, he ran into a river, but he didn't know how to swim. So he grabbed onto a reed to stay afloat. Another CRPF member followed him into the water, and hit his hands so he would release the reed and drown.

Young Omar slipped beneath the waters, and once they thought he was dead, the CRPF forces left. As soon as they left, local boys jumped into the river to fish Omar out. He was still alive, but barely. He died on the way to the hospital and was declared dead at the hospital.

Doctors refused to issue the family a death certificate--- which is an example of the intense pressure health care professionals are under⁷ in order to support the narrative that no Kashmiris have died as a result of India's actions since August 5th.

In this case, doctors refused to issue the family a death certificate, claiming that Omar's name had been entered into their records incorrectly and asked them to go to the police (the very same police that had beaten his hands and watched him drown) to complete paperwork in order to get a death certificate issued. His family obliged, but the police claimed they didn't have jurisdiction.

When the body was finally taken for burial, CRPF feared there would be unrest because all of the locals knew how this young boy had really died. No Kashmiris instigated any violence at this sad and somber occasion. Nevertheless, CRPF used tear gas and pepper spray at the burial ground to "break up" a funeral, and even fired bullets, which ended up injuring 2 people.

⁷ <https://www.independent.co.uk/news/world/asia/kashmir-india-death-certificates-jammu-protests-violence-modi-a9079371.html>

So, we know we are lucky, my cousin Mubeen is alive, and sure he may have to scrub toilets in a gross Indian prison, and have no clean clothes and improper access to medical care, but he is alive. And for that, I am so thankful.

After each visit, we learn how his health has deteriorated and how the jail authorities will only authorize surgical treatment in the case of an extreme emergency.

My cousin's arrest has not just been a shock to our family. Ask any Kashmiri and they will be taken aback by the news that Dr. Mubeen Shah has been arrested. His case was so alarming that *The New York Times* covered it as an example of how broad and sweeping India's crackdown is.⁸

The Indian government has claimed that it removed Kashmir's autonomy to promote economic development in the region. My cousin's arrest proves how disingenuous the BJP government's claims are. Mubeen has been a tireless advocate for achieving peace in the region through economic development and trade. In fact, he has written and spoken widely on the topic. He is a former President of the Kashmir Chamber of Commerce and Industries, and is a part of the JKSECC (Jammu and Kashmir Socio Economic Coordination Committee). He is a voice of moderation, peace and economic progress in Kashmir.

He is also a kind man, a brother, nephew, cousin, husband, son, father and now, most recently, a grandfather. Last week his first grandchild was born in Dubai, and he was not there to meet baby Suleiman. When he got news of the birth of his grandson he cried, sad he couldn't even congratulate his son on becoming a father, see a photo or even virtually meet the little man on a video call. But also, as a testimony to the human spirit, he gave the jail authorities money and asked them to distribute sweets to all the inmates to help celebrate baby Suleiman's birth (a common custom to mark auspicious occasions).

While technically my older cousin, since Mubeen is closer to my father's age, our relationship often felt more like that of an uncle and niece. He took me on my first horseback ride in Kashmir when I was 5, hoisting me up to share a saddle with him; we ambled up the Himalayas in Gulmarg. I still remember the beautiful green mountains and how he comforted me when the horse's sharp incline scared me as we came down the mountain.

Last Spring he and Asifa came to DC to visit me, and it was my turn to play host, to show him the beautiful Capitol we are in right now. We went to every museum on the Mall and admired the grand affirmations to life and liberty that adorn so many of our monuments.

There are some funny habits I notice about my relatives when they come to the US after living in Kashmir. Asifa loves to walk for hours because she can do so unencumbered and without fear. Just the joy of being outside, with sunshine and wind on her face, is enough to make her happy.

⁸ <https://www.nytimes.com/2019/08/23/world/asia/kashmir-arrests-india.html>

My cousin Nafisa gets thrilled by driving at night, because for much of her childhood there were sunset curfews and she was often not allowed to leave her home after dark.

As a child I thought America was perfect, not just perfect... I could imagine nowhere better in the world. When I was 10, I remember feeling so blessed and lucky that this is where I was born and live, I didn't have to worry about curfews and school closings, we have a justice system I *had* faith in, and we have the right to speak, to protest, to be heard.

When I was 10 I didn't know what the phrase "human rights" meant or what "due process" was, but I was acutely aware that I had these things and my relatives abroad did *not*. And today, after the violence of the 1990s, I see another lost generation of Kashmiris and business as usual in India, where they do not just continue to trample on the political and human rights of Kashmiris, they have upped the ante and stripped them of statehood and autonomy. It's hard to believe India has the audacity to refer to itself as the world's largest democracy when it essentially has kept Kashmir under martial law for decades and allows its military to operate with total impunity, exempting all Indian security forces from legal accountability.⁹ What democratic rights are there in Kashmir, with no freedom of speech, no due process rights, and no freedom of assembly?

For the last four months all Kashmiris have lived under some form of house arrest. Everyone feels trapped in their homes. Like a deer in perpetual headlights, Kashmiris are paralyzed; afraid a simple trip to buy groceries may end with unwarranted and endless detentions. With so much military patrolling the streets, people are afraid to move around. With landlines, cellphones, and Internet service down, people had no idea what was happening in other parts of town, let alone in the rest of the world. Even now, four months later, the Internet is *still* down, texting is nearly impossible and cell service is heavily restricted.

While I hope Congress is able to put pressure on India to release all detainees, especially children and those arbitrarily detained—or, at a minimum, to provide basic human rights like the right to due process and the right to medical care to detainees like my cousin—I also hope you are able to become an advocate for all the people of Kashmir as well.

The international community, including members of US Congress itself and independent journalists and human rights monitoring organizations, should be allowed access to Kashmir for a fact finding mission. The stories I tried to document of arbitrary arrests and detentions, disappearances, children in jail, torture and other human rights abuses must be investigated and India needs to live up to its international treaty obligations under International Law. India should fully lift the communications blockade on Kashmir, including restoring the Internet and texting and cell services.

⁹ For more information on the Armed Forces (Jammu and Kashmir) Special Powers Act see: <https://www.amnesty.org/download/Documents/ASA2018742015ENGLISH.PDF>

All Kashmiris want to live in a place that has free and fair elections. For over 70 years, India has proven it will consistently undermine any form of true democracy in Kashmir. This is why Kashmiris consistently call for the international community to fulfill the United Nation's promise¹⁰ of self-determination, to be agents of their own history and future.

Kashmir is not just a strategic place in a Great Powers game in South Asia. It is a home with families and people who for far too long have lived lives of generational suffering. As an American, I hope you can become a voice for true democracy in the region, and for the Kashmiri people to be given a choice in deciding their own destiny.

¹⁰ <http://unscr.com/en/resolutions/47>