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Assessing Disturbance in Jammu and Kashmir's 'Disturbed Areas'

Nikhil Raymond Puri

Introduction

In forming a coalition government in Jammu and Kashmir following the 2014 assembly elections, the Bharatiya Janata Party (BJP) and the People's Democratic Party (PDP) resolved to reconcile key points of divergence through a common minimum programme (CMP). Amongst the key issues dividing their constituents was the controversial Armed Forces Special Powers Act (AFSPA). While PDP representatives vowed during the election season to work towards the provision's revocation from the state as a whole, the BJP suggested it would allow the army to decide on the law's continuation.¹ Reconciling these positions in the CMP, the coalition partners offered to “examine the need for de-notifying 'disturbed areas'.” In other words, the parties resolved to consider removing the 'disturbed areas' tag from relatively peaceful parts of the state. Since AFSPA is only in force in an area so long as it features in the 'disturbed areas' list, the CMP essentially offers to fulfill a prerequisite for AFSPA's phased withdrawal from parts of the state. Towards this end, the BJP and the PDP will have to ask: Which 'disturbed areas' in Jammu and Kashmir are genuinely disturbed, and where is such designation less relevant?

This essay examines the extent, nature, and distribution of militancy-linked disturbance in Jammu and Kashmir, as expressed through data covering the five-year period from 2010 to 2014. It is important to note at the outset that this is an exercise of potentially limited practical utility. For one, there is no guarantee that the BJP-PDP combine will act on its stated intention to reassess conditions in the state's 'disturbed areas.' Its resolution could merely represent a political tactic meant to enable coalition formation, without initiating any meaningful movement on the issue. Even if the parties do proceed to explore AFSPA's phased withdrawal, deliberations will inevitably be guided by factors beyond the state of militancy over the past five years. In deciding for or against AFSPA, the security establishment is also likely to consider future projections, asking whether patterns of disturbance in the state might change in the near- to mid-term. For instance, some observers have expressed concern that a decreased

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demand for battle-hardened fighters west of the Durand Line in Afghanistan might prompt an invigorated militant campaign east of the Line of Control.²

To the extent that deliberations on AFSPA's phased withdrawal are informed by observable militant violence, however, this article conveys how such disturbance is expressed. It begins by introducing the data informing its analysis. It then explores the extent of militant violence across Jammu and Kashmir, showing that the 'disturbed areas' label presently applies to districts characterised by widely varied levels of militancy. The next section asks whether low levels of militant violence are a prerequisite for AFSPA's withdrawal, or if removal of 'disturbed areas' status can be considered in some districts affected by higher levels of militancy. The article then looks at the intra-district distribution of militant violence, analysing the suitability of a disaggregated approach that distinguishes between disturbed and undisturbed areas within a particular district. The final section outlines some of the factors complicating de-notification, even of Jammu and Kashmir's least disturbed districts.

The Data

The data guiding this assessment were compiled by recording violent militant incidents reported by regional newspapers in the five-year period from 2010 to 2014. The dataset shows that 719 violent incidents occurred in Jammu and Kashmir during this period, inflicting 973 casualties (322 fatalities and 651 injuries) on civilians and security forces.³ While the number of violent militant incidents in this dataset is significantly lower than that recorded by India's Ministry of Home Affairs (MHA), the fatality count is similar to that presented by the MHA.⁴

The fact that the present dataset agrees less with the MHA's tally of militant incidents and more with the ministry's fatality count suggests the MHA's record of militant incidents likely includes a significant proportion of minor (possibly non-violent) incidents that escaped the attention of the local press.⁵ The exclusion of these incidents should not compromise the ability of the author's dataset to reliably convey patterns of militant violence in Jammu and Kashmir. Moreover, since the MHA presents a statewide snapshot of militant violence without offering a district-wise breakup, its data cannot be used for the purpose of this assessment.

Extent of Disturbance

Determining the extent of disturbance in each of Jammu and Kashmir's districts allows us to separate areas affected by moderate to high levels of militancy from those less appropriately described by the 'disturbed areas' label. The extent of disturbance in a particular district can be gauged by looking at the frequency of violent militant incidents, and at the casualties inflicted by such violence (See Table 1). The incidence of militant violence varies greatly across the state's districts. While none of the 20 'disturbed' districts in Jammu and Kashmir are militancy-free, nine – Doda, Reasi, Udhampur, Ramban, Kathua, Samba, Budgam, Jammu and Ganderbal – are characterised by the lowest incidence of militancy, each accounting for less than two percent of the violent militant events occurring in the state from 2010 to 2014. Kishtwar, Rajouri, Anantnag, Kulgam, Shopian and Bandipora were also

characterised by a relatively low incidence of militancy during this period, each witnessing between two and five percent of the state's violent incidents. While the frequency of militant violence was higher in Poonch, which saw roughly six percent of violent incidents, militant disturbance was disproportionately concentrated in Srinagar, Pulwama, Kupwara and Baramulla, which accounted for 11, 14, 17 and 22 percent of recorded incidents, respectively.

Table 1: District-wise incidence and impact of militant violence (2010-2014)

District	Incidents	% of state total	Casualties (civilians + security forces)	% of state total
Anantnag	24	3.3	70	7.2
Bandipora	25	3.5	24	2.5
Baramulla	157	21.8	222	22.8
Budgam	10	1.4	29	3.0
Doda	12	1.7	3	0.3
Ganderbal	11	1.5	10	1.0
Jammu	13	1.8	18	1.9
Kathua	6	0.8	17	1.7
Kishtwar	26	3.6	15	1.5
Kulgam	22	3.1	20	2.1
Kupwara	125	17.4	95	9.8
Poonch	45	6.3	53	5.4
Pulwama	97	13.5	144	14.8
Rajouri	23	3.2	19	2.0
Ramban	5	0.7	2	0.2
Reasi	5	0.7	7	0.7
Samba	7	1.0	9	0.9
Shopian	25	3.5	25	2.6
Srinagar	79	11.0	179	18.4
Udhampur	2	0.3	12	1.2
TOTAL	719	100	973	100

The impact of militancy during the observed period was lowest in Doda, Kishtwar, Reasi, Udhampur, Ramban, Kathua, Samba, Jammu and Ganderbal, which together account for less than 10 percent of the combined militancy-linked casualties (fatalities plus injuries) suffered by civilians and security personnel. The impact of militant violence was also relatively low in Rajouri, Kulgam, Shopian, Bandipora and Budgam, each of which contributed three percent or less of the state's total casualties. While militant violence inflicted slightly more casualties in Poonch (five percent) and Anantnag (seven percent), civilians and security personnel were most affected in the districts of Srinagar, Pulwama, Kupwara and Baramulla, which combined to account for more than 65 percent of the state's casualty count.

It is clear that the meaning of 'disturbance' changes significantly as we travel through Jammu and Kashmir's 'disturbed areas.' While four districts in the Valley – Srinagar, Pulwama, Kupwara and Baramulla – are unequivocally disturbed, and militant violence is moderately high in Anantnag and Poonch, the frequency and impact of militancy is considerably lower in the state's remaining districts.

Insofar as the 'disturbed areas' tag serves to depict a district with significant levels of militancy-linked disturbance, the designation is arguably misplaced in Doda, Ganderbal, Jammu, Kathua, Ramban, Reasi, Samba and Udhampur. Empirical evidence suggests the 'disturbed areas' label might additionally overstate observable levels of militant violence in the districts of Bandipora, Budgam, Kishtwar, Kulgam, Rajouri and Shopian.

Nature of Disturbance

Since AFSPA is enabled by the declaration of a district as a 'disturbed area', one would think the provision's repeal is inevitably pegged to an empirically demonstrable absence of militant violence. In proposing districts for AFSPA's early withdrawal, however, former Chief Minister Omar Abdullah included an unlikely candidate – Srinagar. In Abdullah's view, the state's summer capital, and the perceptibly more peaceful districts of Budgam, Kathua and Samba, invite de-notification because “the army has not conducted any operation in these areas for years”.⁶ This rationale suggests it is important to look not only at the extent of violence, but also at its nature. It says that one might consider removing the 'disturbed areas' tag even from clearly disturbed districts, so long as: 1) the nature of disturbance does not warrant the army's involvement, and 2) Central Armed Police Forces (CAPF) are able and willing to carry out necessary counterinsurgency duties under the cover of other (non-AFSPA) provisions.⁷

Indeed, amongst the state's most disturbed districts, Srinagar stands out for its exceptionally low proportion of militant incidents involving military personnel – either as targets of attacks or participants in violent encounters. While roughly 47 percent of all militant incidents occurring in the state from 2010 to 2014 were characterised by army involvement, the army featured in less than four percent of violent incidents in Srinagar. Military personnel were significantly more active in Baramulla, Kupwara and Pulwama, where the proportion of incidents involving the army was 30 percent, 86 percent, and 38 percent, respectively. Turning to the state's moderately disturbed districts, we find that the army had a bigger footprint in Poonch – where 80 percent of incidents involved military personnel – but a far less pronounced one in Anantnag, where it was party to only eight percent of violent incidents.

Anantnag and Srinagar thus constitute disturbed areas where the nature of disturbance is such that the police and CAPFs have handled counterinsurgency operations with minimal army support. To the extent that the Central Reserve Police Force (CRPF) is comfortable performing without AFSPA, the 'disturbed areas' tag could be withdrawn from these districts, too.

Distribution of Disturbance

The third aspect of disturbance that is helpful in determining where AFSPA can and cannot be appropriately withdrawn is its distribution. How uniformly is militancy-linked disturbance distributed in Jammu and Kashmir's 'disturbed areas'? Is the district the most appropriate unit of analysis as we contemplate ways to roll back AFSPA? Might it be more useful in certain cases to disaggregate the

district and consider withdrawing the 'disturbed areas' tag selectively from certain undisturbed areas within it? We know that such intra-district disaggregation is a possibility from the fact that from 1990 until 2001 AFSPA was in force within 20 km of the Line of Control (LoC) in Poonch and Rajouri without applying to other parts of these districts. The question is whether the empirical record from 2010 to 2014 warrants a similarly selective arrangement in some of the state's districts.

A selective withdrawal of the 'disturbed areas' label is difficult to achieve in the state's most militancy-prone districts. While Sopore witnessed much of the militant violence in Baramulla, other parts of the district – including Uri, Rafiabad, Sangrama and Pattan – are by no means peaceful. Militancy is more evenly spread within the districts of Kupwara, Pulwama and Srinagar. Among the districts with moderately high levels of militancy, a selective approach could be considered in Poonch, where roughly 87 percent of militant incidents occurred within 20 km of the LoC, most of them in Mendhar.

Amongst the state's least disturbed districts, a selective formula is useful in border districts where low levels of militant violence coincide with a necessary military presence, making district-wide de-notification impractical. A selective approach might indeed be considered in Jammu, and possibly in Bandipora and Rajouri. Over 80 percent of the violent militant incidents recorded in Jammu district occurred in close proximity to the LoC or international border, which makes it possible to selectively classify areas within certain limits of this boundary as 'disturbed' while withdrawing this status from other parts of the district. Bandipora is slightly less conducive for such an arrangement, as militant violence is quite evenly distributed in the district. Since levels of militancy in Bandipora are low, however, it should still be possible to retain the 'disturbed areas' status along the LoC in the Gurez sector while de-notifying other parts of the district. The distribution of militant violence is also relatively dispersed in Rajouri, where half of all recorded incidents fell within 20 km of the LoC, while the other half occurred farther inland. Again, however, the overall incidence of militancy in Rajouri is low enough for this proportion of incidents to translate into a small number in absolute terms. It might thus be possible to return Rajouri to the pre-2001 setup where AFSPA applied only along the LoC.

Assuming the Border Security Force (BSF) – which guards the international border in Kathua and Samba districts – is unable to operate without AFSPA cover, one might additionally consider applying the 'disturbed areas' tag within certain limits of the border (possibly up to and including the Jammu-Pathankote Highway) in Kathua. Samba is less suited to a selective formula since the entire district lies in close proximity to the border. Any decision for or against AFSPA's retention should therefore apply to the district as a whole.

Hurdles to De-notification

While the data allow us to objectively identify 'disturbed areas' with low levels of militant violence, moving from a lack of observable militant disturbance towards a recommendation for AFSPA's withdrawal becomes a more subjective matter. For one, it is difficult to establish the level of militancy at which to safely de-notify an area. Should AFSPA's withdrawal only be considered in districts where the annual number of violent militant incidents tends towards zero (e.g. Udhampur)? Or should this

threshold be more permissive, possibly including districts with fewer than two recorded incidents per year (Kathua, Ramban, Reasi and Samba), or three (Doda, Ganderbal, Budgam and Jammu), five (Rajouri, Anantnag and Kulgam), or six (Kishtwar, Shopian and Bandipora)? And how are decision-makers to respond when the frequency of militant violence in a particular district remains low but increases relative to the previous year, as what occurred in Ramban in 2011, Kulgam in 2012, Kathua and Samba in 2013, and Udhampur in 2015? Such fluctuations show that Jammu and Kashmir's general state of instability extends even to its least disturbed districts, where conditions can deteriorate in unpredictably short periods of time.

A second factor complicating AFSPA's withdrawal from relatively undisturbed areas is the fact that Pakistan-based militant groups deliberately target Jammu and Kashmir's relatively peaceful districts when they seek to achieve maximum publicity. The logic guiding this approach is that a militant attack in an area with low baseline levels of militant violence inevitably attracts greater media attention, giving Pakistan-based militant groups and their patrons a platform to protest, complicate, or disrupt domestic developments within India, or scheduled official interactions between India and Pakistan. Militants have employed this formula on at least four occasions since the latter half of 2013. For example, they targeted a police station in Kathua district and an army camp in Samba district in September 2013, in a likely effort to disrupt talks that were scheduled between then Prime Minister Manmohan Singh and his Pakistani counterpart Nawaz Sharif on the sidelines of the United Nations General Assembly three days later. They attacked an army camp in Kathua in March 2014, presumably to protest a campaign rally then prime ministerial candidate Narendra Modi held in Hiranagar two days earlier. In a repeat of the September 2013 attacks, militants targeted a police station in Kathua district and an army camp in Samba district in March 2015. Since they occurred shortly after Chief Minister Mufti Mohammed Sayeed's much criticised expression of gratitude towards Pakistan for permitting peaceful elections in Jammu and Kashmir, these attacks were likely intended to accentuate latent incompatibilities within the state's incipient BJP-PDP coalition.

The most recent example of militants targeting relatively undisturbed areas occurred in Udhampur district, where they attacked a BSF convoy along the Jammu-Srinagar highway on August 5, before injuring two police personnel in the district's Basantgarh area a day later. It is reasonable to assume that the Udhampur attacks were intended to contribute to derailing the (eventually cancelled) August 23 talks between National Security Adviser Ajit Doval and his Pakistani counterpart Sartaj Aziz. As these examples illustrate, elements within Pakistan treat Jammu and Kashmir's relatively undisturbed districts as prized targets for 'special occasions', making it difficult to peg AFSPA's withdrawal from an area to observable levels of militant violence alone.

De-notification of a particular area also depends on geographic factors. In theory, it would be relatively easy to create an AFSPA-free zone in the Jammu region, where trouble-free districts are contiguous. Indeed, this arrangement existed between 1991 and 2001, before AFSPA was extended to non-border areas in the region. In the Kashmir Valley, however, undisturbed districts – e.g. Ganderbal, Bandipora, Budgam, Kulgam and Shopian – are tucked between the more turbulent districts of Baramulla, Kupwara and Pulwama. In order to prevent contagion of militant violence from turbulent to more peaceful areas, the security establishment will hesitate to experiment with early withdrawal of the

'disturbed areas' tag from select districts north of the Pir Panjal Range. Voices in the army are additionally concerned that a piecemeal approach in the Kashmir region will render its convoys vulnerable, forcing them to travel through non-AFSPA zones that might lie dangerously close to hotbeds of militancy.⁸

Conclusion

To the extent that Jammu and Kashmir's governing coalition seriously moves to consider AFSPA's phased withdrawal, its starting point might lie in the fact that the 'disturbed areas' appellation poorly represents conditions in at least eight of Jammu and Kashmir's districts. If disturbance is defined by the observed incidence and impact of militant violence, the empirical record from 2010 to 2014 indicates that Doda, Ganderbal, Jammu, Kathua, Ramban, Reasi, Samba and Udhampur are virtually undisturbed. The BJP-PDP combine might additionally assess the suitability of withdrawing the AFSPA-enabling designation in the relatively peaceful districts of Bandipora, Budgam, Kishtwar, Kulgam, Rajouri and Shopian.

While the absence of militancy offers the most compelling justification for de-notification, Anantnag and Srinagar show that removal of the 'disturbed areas' status is conceivable even in districts where violence fails to subside. So long as the nature of militant violence is such that CAPFs can tackle it without army (and AFSPA) support, the authorities could potentially declare unequivocally disturbed areas, 'undisturbed.' The Valley-based political leadership might be tempted to exploit this possibility given that Anantnag and Srinagar together account for 17 percent of the state's electorate and 15 of the Legislative Assembly's 87 seats. Notwithstanding the move's likely electoral appeal, however, it is reasonable to expect decision-makers to prioritise de-notification of districts that are genuinely undisturbed.

The distribution of observed militant violence shows that a selective formula (separating disturbed and undisturbed areas within a given district) is ill-suited to the state's militancy-prone districts, where incidents of militancy are fairly dispersed. Disaggregating the district is further unnecessary in undisturbed non-border districts characterised by a relatively uniform absence of militant violence. Selective retention of 'disturbed areas' status is, however, possible along the border belt in peaceful districts – e.g. Bandipora, Jammu, Kathua and Rajouri – and moderately disturbed districts – e.g. Poonch – where the army's presence is required, or where CAPFs manning the border insist on operating under AFSPA cover. Since the security establishment had 11 years to rehearse this selective approach in Poonch and Rajouri, its revival – if deemed appropriate – should require little homework.

Finally, it is important to acknowledge that AFSPA's near- to mid-term future in Jammu and Kashmir depends on more than the observable levels of militant violence characterising its districts. Even if they complete the preliminary step of identifying the state's least disturbed areas, the BJP and the PDP will have to contend with the existence of real impediments to AFSPA's withdrawal. The fact that conditions in relatively peaceful districts tend to fluctuate – extended periods of calm are often followed by sudden reversals – makes it difficult to establish a threshold for removal of the 'disturbed

areas' tag. Moreover, the demonstrated propensity of Pakistan-based elements to foment instability in the state by deliberately targeting its most peaceful districts will force decision-makers to think hard before declaring these areas AFSPA-free. Within the Valley, geographic constraints might additionally make it impractical to de-notify relatively undisturbed areas that lie in close proximity to recognised trouble spots.

Assuming the BJP-PDP coalition fails to change the status quo, one can only hope it is because of legitimate obstacles such as these, and not because it failed to follow through on its promise of examining possibilities of the kind described in this paper.

Endnotes:

1. “PDP condemns Budgam killings, urges Narendra Modi to take call on AFSPA,” *Daily News & Analysis*, 4 November 2014, viewed on 23 August 2015, <http://www.dnaindia.com/india/report-pdp-condemns-budgam-killings-urges-narendra-modi-to-take-call-on-afspa-2032062>; “J&K: BJP relents on Article 370, PDP softens on AFSPA,” *Indian Express*, 1 March 2015, viewed on 23 August 2015, <http://indianexpress.com/article/india/politics/bjp-relents-on-article-370-pdp-softens-on-afspa/>
2. “Experts fear worst for Kashmir after 2014,” *Deutsche Welle*, 28 June 2013, viewed on 23 August 2015, <http://www.dw.de/experts-fear-worst-for-kashmir-after-2014/a-16914124>
3. While militant attacks represent 56 percent of these recorded incidents, the remaining 44 percent of incidents in the dataset occurred in the form of reported violent encounters between militants and security personnel.
4. The Ministry of Home Affairs recorded 1440 “incidents of terrorist violence” in the five years from 2010 through 2014. Insofar as civilian and security personnel fatalities go, MHA recorded 111 fatalities in 2010, 64 in 2011, 49 in 2012, 68 in 2013, and 75 in 2014. The author's fatality count was: 89 in 2010, 50 in 2011, 32 in 2012, 76 in 2013, and 75 in 2014. MHA's data is presented in its annual reports, available at <http://mha.nic.in/AnnualReports>
5. MHA does not divulge details regarding its data collection methodology, making it difficult to conclusively explain the discrepancies between its statistics and those compiled by the author.
6. “Partial revocation of AFSPA this year: Omar,” *Greater Kashmir*, 29 March 2012, viewed on 23 August 2015, <http://www.greaterkashmir.com/news/news/partial-revocation-of-afspa-this-year-omar/116784.html>
7. Sources within the CRPF have suggested the force could potentially operate without AFSPA, making do with protections offered by the Code of Criminal Procedure (CrPC). See, “Some states want Maoism to continue: CRPF chief,” *The Times of India*, 28 November 2014, viewed on 23 August 2015, <http://timesofindia.indiatimes.com/india/Some-states-want-Maoism-to-continue-CRPF-chief/articleshow/45302794.cms>
8. “Raging Debate on Armed Forces Special Powers Act in J&K,” *SP's M.A.I.*, viewed on 23 August 2015, <http://www.spsmai.com/experts-speak/?id=26&q=Raging-Debate-on-Armed-Forces-Special-Powers-Act-in-Jammu-and-Kashmir>

ABOUT THE AUTHOR

Nikhil Raymond Puri is an independent researcher and risk consultant. He obtained his PhD in Politics from the University of Oxford.



Observer Research Foundation
 20, Rouse Avenue, New Delhi-110 002
 Phone: +91-11-43520020 Fax: +91-11-43520003
www.orfonline.org email: orf@orfonline.org