

Human Shield

Why in news?

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- On April 9, during the elections for Srinagar parliamentary seat, Major Nitin Leetul Gogoi used Farooq Ahmed Dar, a civilian as a human shield at gun point against a mob to secure a booth in Budgam district.

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- Major Gogoi tied Dar to a jeep and paraded him through at least 9 villages dehumanizing him as a toy and exhibiting him as a lesson for stone pelters.

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- Amongst others, Capt. Amrinder Singh applauded Major Gogoi for his presence of mind and timely action, recommended him for the coveted Services Medal.

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- The significant voices of support from the establishment including the cue from Defence minister was followed by the announcement of Commendation for Major Gogoi while the verdict of Army's court of Inquiry on the same issue is still awaited.

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What is a human shield?

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- Human shield is a military and political term describing the deliberate placement of non-combatants in or around combat targets to deter the enemy from attacking these combat targets. It may also refer to the use of persons to literally shield combatants during attacks, by forcing them to march in front of the combatants.

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- Using this tactic is considered a **war crime** by nations that are parties to the 1949 **Geneva Conventions**, the 1977 Additional Protocol I to the Geneva Conventions, and the 1998 Rome Statute

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- The Geneva Conventions comprise four treaties, and three additional protocols, that establish the standards of international law for humanitarian treatment in war.
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- It has extensively defined the basic rights of wartime prisoners (civilians and military personnel); established protections for the wounded and sick; and established protections for the civilians in and around a war-zone; also the rights and protections afforded to non-combatants.
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- Budgam Incident is therefore a violation of the Geneva Convention, also violation of the Constitution of India and the military code.
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Who is Farooq Ahmed Dar?

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- A civilian, part of the 7 odd % who choose to come out and vote against all odds in the conflict ridden state.
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- The presumption that Dar was a “stone-pelter” and deserved this was blindly accepted.
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- According to Dar and some local reports he had cast his vote the same morning before the incident.
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- Even if he had been a stone-pelter, the army resorting to using an Indian citizen as a human shield is a moral and legal question that needs to be answered in congruence with the fundamental rights enshrined in our constitution.
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- The State Human Rights Commission (SHRC) has highlighted his alarming state of mental and Doctors revealed his traumatized state.
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Why support for Major Gogoi then?

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- The reason stated is, the unusual action has helped saved lives and

avoided an imminent bloodshed in that area.

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- The significance of a Jawan's life their innumerable and unimaginable sacrifices, and the importance of saving their lives.

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What is the response of the State (J&K)?

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- While the CM has condemned the incident, she has not ensured her own alliance partner support her on the basic premise of upholding the civil liberties of her people.
- The fundamental question in Kashmir is that of alienation that has led to the unprecedented rise in the number of local boys joining militant ranks, local militants outnumbering foreign militants.
- Presuming this surge in alienation can be dealt with, and reversed, by using an "iron fist" is a tried, tested and failed response.

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What is the Way forward?

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- A subversion of fundamental rights and a violation of the Constitution of India, validated by no less an authority but the Union Defence minister and the army chief, calls into question the very legitimacy of the government in J&K, not to speak of its non-existent writ.
- The test of the "idea of India" lies in the ability of the state and its institutions to be good in Kashmir regardless of the circumstances.
- In fighting armed militancy or any form of internal conflict, the state cannot abdicate its responsibility to uphold the fundamental rights of its citizens by holding its army accountable.
- In an allegedly binary choice, between protecting the morale of the armed forces on one end and risking the faith and trust of the people of Kashmir

on the other end, there must be a balance of justice and fairness.

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Source: The Indian Express

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