

# HUMAN RIGHTS VIOLATIONS ON KASHMIRI PEOPLE

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**Abstract—** Human rights are moral principles or norms which describe certain standards of human behaviour, and are regularly protected as legal rights in municipal and international law. Human rights abuses in the Indian-administered Jammu and Kashmir state are an ongoing issue. The abuses range from mass killings, enforced disappearances, torture, rape and sexual abuse to political repression and suppression of freedom of speech. The impact of conflict is experienced by people of all ages who suffer displacement, loss of home and property, loss or involuntary disappearances of close relatives, poverty and family separation and disintegration. Violence or the threat of physical violence seems to have had a significant effect on the mental health of people in this region. It led to social disorder, disorganization, educational backwardness, physical and mental health deterioration, mass psychological depression, mass humiliation and extreme helplessness and the degenerated cultural aggression. The focus of the present paper is on the negative impact that violence have on Kashmiri youth.

**Index Terms—** Human Rights, Violation, Kashmir, Impact.

## I. INTRODUCTION

Kashmir's conflict with India started immediately after the partition of the country in 1947. Kashmir has been divided between India and Pakistan since both countries since then. Both nations claim the Himalayan territory in its entirety, with Kashmiris still staking a claim to self-determination. The situation in the Valley has been bleak ever since the first bomb blasts in 1988; the attacks marked the beginning of an armed rebellion for the right to self-determination that still continues. Since 1988, the Indian military has deployed hundreds of thousands of security forces to quell an insurgency against Indian rule. During the 1990s, India used torture, oppression, killings, enforced disappearances, kidnappings, and government corruption to preserve its control over Kashmir. Over the past two decades more than 60,000 people have been killed in the insurgency, and the dispute remains a perilous red herring in India-Pakistan relations.

The major Act that governs military action in Jammu & Kashmir is the Armed Forces (Special Powers) Act, 1958 [as amended in 1972]. Human rights activists have long

argued that this Act is unconstitutional and violates international humanitarian law. The Supreme Court has, like in the earlier case of TADA, upheld the validity of the law, but in view of the potential abuse of human rights has laid down some detailed guidelines for its use. Nonetheless, we believe this is a "lawless law" which violates both the Constitution and international law. The Act gives no precise definition of "disturbed area." The declaration of any area as 'disturbed' under Section 3 is the prerogative of the Governor of the State or the Central Government. The State legislature has absolutely no jurisdiction in the matter, though under the Constitution 'public order' is a State subject [Seventh Schedule, List II, Entry 1]. Under Section 4(a) of the Act, even a noncommissioned officer can order his men to shoot to kill "if he is of the opinion that it is necessary to do so for maintenance of public orders" This gives very wide discretion to even very junior officers. Similarly, Section 4(b) allows such military personnel to destroy any shelter from which, in his opinion, armed attacks "are likely to be made" or which has been utilised as a hide-out by absconders "wanted for any offense." This latitude has permitted the destruction of large numbers of dwellings and other buildings in the State, including in collateral damage when buildings adjoining the one targeted have been damaged or destroyed. Section 4(c) of the Act permits the arrest without warrant with whatever "force as may be necessary" of any person against whom "a reasonable suspicion exists that he is about to commit a cognizable offence." This has provided the basis of indiscriminate arrests, and the use of brutal force including firing against innocent civilians. Section 4(d) authorizes the entry and search, without warrant, of any premises to make arrests as sanctioned under Section 4 ©, or to recover any person "believed to be wrongfully restrained or confined," or any property "reasonably suspected" to be stolen property or any arms, ammunition or explosive substance "believed to be unlawfully kept in such premises".

In July 1990 Indian Armed Forces were given special powers under an Armed Forces (Special Powers) Act (AFSPA) that gives protection to Indian Armed Forces personnel from being prosecuted. The law provides them a shield, when committing human rights violations and has been criticised by Human Rights Watch as being wrongly used by the forces. According to the Armed Forces Special Powers Act (AFSPA),

in an area that is proclaimed as “disturbed”, an officer of the armed forces has powers to: Fire upon or use other kinds of force even if it causes death, against the person who is acting against law or order in the disturbed area for the maintenance of public order, after giving such due warning. Destroy any arms dump, prepared or fortified position or shelter or training camp from which armed attacks are made by the armed volunteers or armed gangs or absconders wanted for any offence To arrest without a warrant anyone who has committed cognizable offences or is reasonably suspected of having done so and may use force if needed for the arrest. To enter and search any premise in order to make such arrests, or to recover any person wrongfully restrained or any arms, ammunition or explosive substances and seize it. Stop and search any vehicle or vessel reasonably suspected to be carrying such person or weapons. Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest. Army officers have legal immunity for their actions. There can be no prosecution, suit or any other legal proceeding against anyone acting under that law. Nor is the government’s judgment on why an area is found to be disturbed subject to judicial review. Protection of persons acting in good faith under this Act from prosecution, suit or other legal proceedings, except with the sanction of the Central Government, in exercise of the powers conferred by this Act. Since 1990, there has been substantial militant activity in the State. According to police sources, there were 5,153 incidents of violence and other militant activities in that year. These rose sharply to 7,315 incidents in 1992, and amounted to 7987, 8784, 8731 and 6633 incidents in 1993, 1994, 1995 and 1996 respectively. After this, with an elected National Conference government taking office in October 1996, militant activity declined to 4702, 4150, and 4326 incidents in 1997, 1998 and 1999 respectively. In the 10 year period from January 1990 to December 1999, there were a total of 63,387 incidents involving the militants, signifying a high level of activity, which was however, significantly reduced after 1996. The Indian Army, central reserve police force, border security personnel and various separatist militant groups have been accused and held accountable for committing severe human rights abuses against Kashmiri civilians. Revised figures from Indian sources state the number of civilians killed due to the Kashmiri insurgency has been estimated to range from 16,725 to 47,000 civilians while 3,642 civilians were killed by security forces. According to a report, 17,000 people, mostly women, have committed suicide during the last 20 years in the Valley. According to a study by the Medecines Sans Frontieres, “Women in Kashmir have suffered enormously since the separatist struggle became violent in 1989–90. Like the women in other conflict zones, they have been raped, tortured, maimed and killed. A few of them were even jailed for years together. Kashmiri women are

among the worst sufferers of sexual violence in the world. Sexual violence has been routinely perpetrated on Kashmiri women, with 11.6% of respondents saying they were victims of sexual abuse.

At the beginning of the insurgency there were 1200 patients in the valley’s sole mental hospital. The hospital is now overcrowded with more than 100,000 patients. Indian security forces and police have been accused of the systematic use of torture. US officials first showed concern regarding the widespread use of torture in 2007 where they presented evidence to Indian diplomats. Human rights groups state that 150 top officers have participated in torture as well as sexual violence and that the Indian government was covering up such acts. Indian security forces have been implicated in many reports for enforced disappearances of thousands of Kashmiris where the security forces deny having their information and/or custody.

Total killings	74
Custodial killings	04
Tortured/ critically injured	228
Civilians arrested	346
Structures arsomned /Destroyed	03
Disappeared	00
Woman widow	01
Children orphaned	08

This is often in association with torture or extrajudicial killing. The number of men disappeared have been so many to have a new term “halfwidows” for their wives who end up impoverished. Human right activists estimate the number of disappeared over eight thousand, last seen in government detention. These are believed to be dumped in thousands of mass graves across Kashmir. A state human rights commission inquiry confirmed there are thousands of bullet-ridden bodies buried in unmarked graves in Jammu and Kashmir. Of the 2730 bodies uncovered in 4 of the 14 districts, 574 bodies\ were identified as missing locals in contrast to the Indian government’s insistence that all the graves belong to foreign militants. According to a new deposition submitted by Parvez Imroz and his field workers asserted that the total number of unmarked graves were about 6,000.

**Table:1 showing the total number of killings in the valley and the killings in the year 2016: JANUARY 1989 TO JULY 31, 2016**  
**JULY 2016**

Womens gang raped/molested	90
Total Killings*	94,465
Custodial Killings	7,061
Civilians Arrested	135,657
Structures Arsoned/Destroyed	106,071

Women Widowed	22,819
Children Orphaned	107,577
Womens gang-raped/Molested	10,283

The Conflict in Kashmir has a wider and deeper impact on all sections of Kashmiri society. The impact of conflict is experienced by people of all ages who suffer displacement, loss of home and property, loss or involuntary disappearances of close relatives, poverty and family separation and disintegration. The ongoing violence, the constant threat and poor future perspective put a heavy strain on the natural coping mechanisms of the people in Kashmir. A lot of people suffer from stress (normal or related to traumatic event), high amounts of psychosocial problems (substance abuse, distrust) are registered and disorders like anxiety, mood and posttraumatic disorders are mounting. Most of the mental pain is presented as physical (somatization). Mental health experts in the state's summer capital, Srinagar, said that there has been a staggering increase in the number of stress and trauma related cases in the Kashmir valley and these psychological problems have also given rise to general health problems like diabetes, cardiac problems and hypertension (The News, August 18, 2005). There's been a tenfold rise in the past decade in the number of cases of trauma (Izzat Jarundi, 2002). Considering the daily traumas these people endure, it is not surprising that the state of Jammu and Kashmir, where the rebellion is raging, has one of the highest rates of suicide in India (Agence France Presse, April 8, 2001). Mental disorders in both men and women have shown an alarming increase when compared to pre-conflict days in 1989.

**Number of patients who visited valley's only psychiatric hospital at Rainawari**

Year	Number of patients
1985	775
1989	1700
1994	1800
1996	20000
1999	35000
2001	38000
2002	45000
2003	50000
2005	70000
2006	82000

**Source: valleys lone psychiatric hospital.**

Records from the outpatient department of Srinagar's Hospital for psychiatric Diseases show that in the 1980s about 100 people were reporting for treatment in a week; today, between 200 and 300 people arrive every day. Before the onset of militancy certain mental disorders, which were unknown to Kashmir, have shown a phenomenal presence

after the conflict. One such disorder, Post Traumatic Stress Disorder (PTSD), is a disorder in which the victim relives the trauma time and again. No case of this kind was reported before 1990, this kind of disorder was completely unrecognized in Kashmiri society as the situation was peaceful but now 15 to 20 percent patients in outpatient department (OPD) are suffering from this mental disorder, followed by Major Depressive Disorder and the cases pouring in are just the tip of iceberg. The cure for this mental condition is difficult in a situation like Kashmir. Patients need a peaceful environment, which Kashmir still cannot afford. **Number of suicide deaths registered in SMHS Hospital**

Year	No. of suicides deaths	women	Men
1998	167	92(61%)	75(39%)
1999	208	144(69%)	64(31%)
2000	567	377(66.5%)	190(33.5%)

**Source, SMHS Hospital, Srinagar.**

In SKIMS, one of the city hospitals, over 200 people reported with mostly organ phosphorus poisoning. The male:female ratio here is the same as in SMHS. According to a survey conducted by Dr G M Malik, Professor in the Department of Medicine, SMHS hospital, a random sample of 164 Para-suicide cases showed that 114 were females (69.51 per cent) and 50 (30.49 per cent) males. The fear, stress, tension, and uncertainty prevailing in the state are the main reasons behind the rise in suicides. (Fayaz Bukhari 2002) The real story of the deaths and destruction is well expressed in the following couplet composed by a Kashmiri poet. "I cannot drink water It is mingled with the blood of young men who have died up in the mountains. I cannot look at the sky; It is no longer blue; but painted red. I cannot listen to the roar of the gushing stream It reminds me of a wailing mother next to the bullet-ridden body of her only son. I cannot listen to the thunder of the clouds It reminds me of a bomb blast. I feel the green of my garden has faded Perhaps it too mourns. I feel the sparrow and cuckoo are silent Perhaps they too are sad." Despite the thousands of human rights violations in the region, few men in uniform involved have faced justice. Rights' groups have been demanding investigations into these cases by an impartial international body. A local human rights group, the Jammu Kashmir Coalition of Civil Society (JKCCS), run by Parvez Imroz, a lawyer, has documented human rights violations committed by the Indian armed forces. The group has also exposed more than 7,000 mass graves over the years. Despite these revelations, the government has yet to take action. For informed observers of Jammu and Kashmir, and many of its citizens, little of what this report contains is

new. But much of what may seem common knowledge, particularly in the Valley, is not well known in the rest of India. We believe if the Indian public comes to realize the extent of human rights violations in the State, public pressure to restrain such violations will ascend. But this study is unusual on one specific count. Unlike most human rights reports, it also describes and indicts human rights violations by the militants. While the militants may reject the Indian Constitution and Indian law, they have no moral or legal right to violate the universally recognized canons of international humanitarian law. To the extent they do, they are also violators of human rights and must be criticized as such. Amnesty International's 2009 World Report and other **Sources show that individuals are:**

- Tortured or abused in at least 81 countries
- Face unfair trials in at least 54 countries
- Restricted in their freedom of expression in at least 77 Countries

## II. CONCLUSION

The aim of the present study was to evaluate the negative impact of human rights violation on the population of Kashmir especially on youth as the youth is the most affected lot of any population suffering from any violation they feel depressed, anxious, anger, frustration and helplessness at the same time of not able doing anything in favour of their people and also their future gets affected a lot. Also the reason of more impact of negativity on youth is the Indian army targeted more on youth population as they are more danger to them. They raise their voices against the abuse and humiliation which are cruelly suppressed by the military by killing them. On the basis of the studies and reports included in the paper it can clearly be seen that the violence is affecting the lives of thousands of people which is having a worst impact on them physically, economically as well as mentally. A number of people lost their family members, so many children lost their fathers, became orphan or the head of the family at a very little age, many of the women become widow or half widows, large number of mothers and fathers are crying for their missing or dead sons, their daughters, mothers, sisters are gang raped in front of them, they lost their newborns, children are forcefully become blind, they are forced to walk towards dark future, they lost their houses, properties and most importantly they lost their mental peace, they are not able to come out of the trauma, how could they when they have to face the same worst situations each and every day. These issues are not so new for the population of India but this paper is an effort to make them realize that what worst scenarios the people of Kashmir valley are facing and how much they are suffering. They only need a support, a voice in their favour for which they are waiting and hoping.

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