

# Human Rights Position of J&K, Special Reference of Kashmir Valley, 2010-18

## Abstract

This article illuminates the unanticipated but intense waves of human rights abuses in Jammu and Kashmir (J&K) since the early years of insurgency. It analyses how the advent of insurgency brought in far-reaching changes to the State. The long-standing armed scuffle between the security forces and the rebels transformed the State into a hotbed of human rights abuses which, in turn, worsened the situation of its people. The alleged human rights violations by security forces, however, have always been on the international agenda, with overwhelming opposition of the Indian way of governance. But the militant's conduct got lesser notice. In this respect, this article sheds light not only on how the Indian troops were engaged in the series of violations, but also on the militant's abuses which equally took a heavy toll on the State's old humanistic culture of tolerance, brotherhood, and harmonious living.

**Keywords:** Human Rights Violations, Kashmir, India, Pakistan, Security Forces, Militants, Politics, Society.

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## Introduction

Now a majority in Kashmir accept that their rights were seriously violated in the last twenty years of chaos and sufferings. For these gross human rights abuses (such as extrajudicial, summary, and arbitrary executions, and fake encounters), they equally blamed the Indian troops and the terror-missionaries operating in the valley from Pakistan-administered Kashmir. Undoubtedly, the Indian security forces were involved in human rights violations but Pakistan, as an external force, also played a major role to increase such violations in order to highlight the Kashmir issue internationally. Pakistan's repeated failure to exploit India's weaknesses through diplomatic offensives made it adopt this posture. Finally, one apparent fact in this muddled picture is that India, Pakistan, and the militants are all in violation of international human rights law, "with India, arguably, and militants being the worst offenders".

The human rights position in Jammu & Kashmir is highly pathetic and threatening on three accounts. First there is circumstantial and situational violation of human rights especially in view of the charter of Human Rights of the United Nations. Secondly the people of J&K are not able to draw fuller benefits of civil and political human rights in views of the limitations of civilian administration, civil society, election system as well as historic and present day drawbacks of the nature of politics in the state. Thirdly gross and widespread a stationing of military and Para-military forces in J&K is inherently akin to recurring human rights violation during combing and door to door search operations. Fourthly military/terrorists in the name of JIHAD further commit unparallel atrocities on the people of Jammu & Kashmir. Mutually crudities also occur between attacks and retaliation among terrorists, military and Para-military forces. In such mutual exchange of cruelties between military forces and terrorists common people also become in advent prey to this gargantuan violence against humanity.

These are some such questions in context that need immediate attention. It is indeed difficult to find any study that may answer all the above mentioned queries. These are difficult one's however, all above mentioned perspectives are greatly significant in different ways, while answering these queries we will also has to look into international political points such as 1st world war; 2nd world war; Cold war; multi -polarity of power; unipolarity of power; Two -nation theory; India's partition; united states; Russia; china; terrorism; accession of Kashmir to India; human rights violation in Kashmir; state terrorism; counter terrorism; human rights

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profile in Kashmir and diversified peace initiatives anent Kashmir issue including varied types of international pressures. 'The unresolved Kashmir problem affects different groups in different ways. I am concerned here with the peculiar condition of our community which has weathered many attacks. My concern is not addressed to a particular event, no matter how grave, but to our existential problem of long standing. When I consider what our community has gone through ever since we were uprooted from Kashmir about thirty years ago, I feel anguish at the suffering of the men, women, and children who had to leave their homes and live as refugees in their own country. I also feel proud at the manner in which this upheaval was faced by them. I hear remarkable stories of how new life stories were created under challenging circumstances. Further, I must admit that apart from anguish and pride I feel concern for our survival. This concern for our survival relates to not our survival as individuals but our survival as a community. Kashmiri Hindus have struggled and survived with their own efforts. In fact, there are many persons, men and women, who have done remarkably well in their chosen fields both in India and abroad. This does not assure me that we are safe as a community, for to survive as individuals is different from surviving as a community. When I consider our condition of being uprooted from our native soil, it is not unreasonable to fear that we may remain Kashmiri in name only and that too not for long.

#### **A Brief Political History**

In 1986, the National Conference (NC), J&K's major political party, hammered out a deal with the opposition that defied the basic logic of Kashmiri politics.<sup>4</sup> Before the expiry of governor's rule, it signed a pact with the Congress party to contest the 1987 state elections. As a result, the then Prime Minister Rajiv Gandhi and Farooq Abdullah reached an understanding of forming a coalition government if they won. When the two largest parties—the NC and the Congress—joined together, there was no opposition left to stand against their "grand deal". As a consequence, the people of Kashmir lost their hopes in democracy due to this "tactical alliance". Stein Widmalm clarifies why this alliance was "tactical": The term tactical alliance usually refers to a temporary coalition or the cooperation of two parties who are considered to differ too much ideologically for a permanent amalgamation. This definition...certainly applies to the National Conference–Congress (I) alliance, considering the historical legacy and the previous antagonism between the two parties. But at the same time this was something more... [Because in J&K both parties were]...the main opponents in a two-way dominated system that merged and the aim...was to try to create a political [cartel] to capture all the votes.

#### **Violation by the Security Forces**

A Regime of Terror To eliminate extremism in J&K, Jagmohan adopted coercive means to force Kashmiris into submission. On the name of combating Pakistan sponsored terrorism, the Indian security forces gravely inflicted injuries to the Kashmiri people under his administration which bruised their psyche and made matters worse. As a result, a long spell of

repression began with curfews, shortage of food supplies, road-block checks with beating, regular warrantless searches (usually in the middle of the night), intimidation, verbal abuse, humiliation, widespread torture, rape, arbitrary detention, and shootings at non-violent public processions and in the market areas by the security forces, often in panic response to militants. Several journalists noted this hammering hand of the administration. In short, the ignorance of human rights and sharp rise in human rights violations prevailed during Jagmohan's governor rule.

Under these circumstances, almost every human rights organisation, political activist, party, and journalist was hesitant to reveal or take the cases of open violation of human rights. Under such a grim situation, even the state courts were helpless. During the initial phase of insurgency, India maintained that the public had absolutely no idea regarding the grim nature and extent of human rights violations in J&K. In April 1990, however, some political activists dared to publish human rights violations report on Kashmir which finally broke the conspired silence. Similarly, in his book, *Kashmir: Insurgency and After*, Balraj Puri revealed the inner situation of human rights in the early nineties: "Apart from the unofficial censorship imposed by the government, there was a self-imposed censorship that stemmed from so-called patriotic considerations". On many occasions, most of the human rights and civil liberties organisations used to ignore civilian complaints against the gross violations or excesses committed by the security forces and administrative authorities. Puri maintains that initial reports from local activists were "received with hostility in the rest of the country". After sometime, some independent international organisations visited Kashmir and discovered more facts and figures of gross violation of human rights. This vital and bold step broke "the conspiracy of silence on the issue of human rights violations" and "mellowed down" nationwide hostility.

Jammu and Kashmir Coalition of Civil Society (JKCCS) carried out a survey of killings in Baramulla during the period 1989-2006 between 2003 and 2006. Their estimate shows that the death toll since 1990 is "70,000". This figure, however, has been turned down by Indian administration as an exaggeration. In this respect, the JKCCS accepts that "Not all of the 70,000 victims...died at the hands of Indian forces. Many were victims of militants".<sup>8</sup> To understand the cause of deaths, this survey extensively classifies the deceased into various categories. In recent past, during 2008-10, some shocking cases appeared in the public domain when the Indian army was caught red handed. In order to get speedy promotions and cash rewards, as the media reported on April 30, 2010, some security personnel engineered a fake encounter and killed three young Kashmiris: Shafi Lone, Riyaz Lone and Shahzad Khan. While protesting against these atrocities Tufail Ahmad Mattoo, a 17 years old 12th class student, was killed by police negligence. Soon after these killings, the Kashmiris began protests for justice which, in fact, resulted in massive loss of human life. More than 124 youth lost their lives! While

tracing the history of human rights violations in the State, it is obvious that these unfortunate killings are not foremost of its kind. These are just a few fresh cases that draw our attention to the security forces impeccable legacy of unlawful killings in Kashmir.

Rape, molestation and other forms of sexual abuse have been widely practiced by the Indian security forces on women in Kashmir. Kashmiri women also become target of the bullets of Indian soldiers. This also became a cause for the rising of militancy in Kashmir. Most people do not bear atrocities against women folk and they took arms against Indian forces. Since the government crackdown against militants in Kashmir began in earnest in January 1990, reports of rape by security personnel have become more frequent. Rape most often occurs during crackdowns, cordon-and-search operations during which men are held for identification in parks or schoolyards while security forces search their homes.

As in 2016, Govt. debarred people from offering Friday prayers for 18 weeks at stretch. Although there is no state of emergency Kashmir is practically sealed off from the rest of the world. The state government has imposed restrictions on print as well as electronic media and suppresses any news regarding atrocities committed by the security forces. The incident that has happened in Kunan Poshpora are the worst tragedy of mass rape in the history of Jammu and Kashmir by the security forces on 23- 24 February 1991. The Varghese report that was prepared however widely disseminated that all charges of human rights violation are false. Some statistics showing the number of killings are given below in the table:

#### January 1989 To July 31, 2016

Total killings	94,465
Custodial killings	7,061
Civilians Arrested	135,657
Structures Destroyed	106,071
Women Widowed	22,819
Children Orphaned	107,577
Women gang-raped/Molested	10,283

#### In Year 2016

Total killings	74
Custodial killings	04
Civilians Arrested	346
Structures Destroyed	03
Women Widowed	01
Children Orphaned	08
Women gang-raped/Molested	90

#### Conclusion

Recent incidents of human rights violations and reports of unidentified graves are yet another set in the unending episodes of decade old chain of fake encounters, disappearances, arbitrary detentions, and custodial killings in J&K. Since the emergence of

insurgency in the State, thousands of Kashmiris have been killed at the hands of security forces and militants. Unquestionably, the scale of human rights abuses committed by Indian troops in the State "ranks among the worst anywhere in the world". To grasp the current state of human rights in J&K, the SHRC report gives a correct description, especially by quoting the former British Prime Minister William Gladstone: "Show me the manner in which a nation cares for its dead and I will measure with mathematical exactness, the tender mercy of its people, their respect for the law of the land and their loyalty to high ideals"

On several occasions, the Western governments, mainly the United States and European countries, have opposed the Indian way of governance and criticised the wide-spread breakdown of legal system in J&K. This hard-pressing yielded magnificent results. Now India's status, as an emerging power, is growing sharply; but this tectonic shift in power does not mean that the international community should step back from its humanitarian duty. It should remind India that as a party to both the Geneva Convention and the International Covenant on Civil and Political Rights, it has not only an obligation to respect the international norms of human rights but also to enforce them.

#### References

- Agrwaal, Ashok (2007): "Paradigm of Impunity: Two Months in the Life of the 20 Grenadiers", Economic and Political Weekly, Vol.42, No.20, pp.1814-18.*
- Bearak, Barry (2000): "The Mystery of Chittisinghpura", New York Times Magazine, December 21.*
- Bose, Sumantra (2003): Kashmir: Roots of Conflict, Paths to Peace, Vistar Publications, New Delhi.*
- Bukhari, Shujaat (2006): "Militants Targets Srinagar Rally, 6 Killed", Hindu, May 22.*
- Behera, Navnita Chadha (2012): "A Perception Survey of Media Impact on the Kashmiri Youth", Institute for Research on India and International Studies, Gurgaon*
- Gossman, Patricia (1995): "An International Human Rights Perspective", Asian Affairs: An American Review, Vol.22, No.1, pp.65-70.*
- Ganguly, Sumit (1997): The Crisis in Kashmir: Portents of War, Hopes of Peace, Woodrow Wilson Center Press, New York.*
- Ghosh, Partha S (2002): "From Legalism to Realism in Kashmir: Internationalising the Line of Control", Heidelberg Papers in South Asian and Comparative Politics, University of Heidelberg, 2002, [http: www.sai.uniheidelberg.de/SAPOL/HPSACP. htm](http://www.sai.uniheidelberg.de/SAPOL/HPSACP.htm), accessed November 19, 2007.*
- Hindu (2011): "J&K Human Rights Commission's SIT confirms 2,156 Unidentified Bodies in Kashmir", August 22. Hindu, December 4, 2000.*
- Mohan, Surinder (2012): "Democracy in Jammu and Kashmir, 1947-2008", World Affairs, Vol.16, No.3, pp.88-116.*