

Human Rights Violation Kashmir: A Study on Indo-Pak Relations

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Abstract – *The Kashmir conflict is one of the most longstanding and intractable issue between India and Pakistan. The dynamic nature of the conflict affects the lives of millions of people, across political, social, economic and cultural spheres. Kashmir is primarily a dispute about justice and people, although its territorial dimensions are complicated enough. The dispute has become firmly wedged in the internal politics of both countries. Kashmir found in the minds of politicians, strategists and scholars a place where national and sub national identities are ranged against each other. The study analyses the importance of human rights violations in Kashmir. The conflict in this Kashmir is as much as clash between identities, imagination and history as it is a conflict over territory, resources and people. The emergence of human rights violations increased after the eruption of insurgency in 1989 and these aspects were also examined in the paper. The incidents of human rights violation were also discussed in the study. The study is significant as far it touched how far the incidents of human rights violation affected the people in Jammu & Kashmir over these years*

Keywords: *Human rights violations, India, Jammu and Kashmir, Kashmir Conflict, Pakistan, Partition*

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INTRODUCTION

The India-Pakistan rivalry remains one of the most enduring and unresolved conflicts of our times. It began with the birth of two states in 1947 and it has continued ever since, with the periodic resumption of wars and crisis. The conflict has affected every dimensions of interstate and societal relations between the two countries. The emergence of two independent states in the Indian sub-continent on August 15, 1947, was an event of major significance in contemporary world politics. This shift in the locus of decision-making, affecting the destiny of more than 400 million people directly and the rest of Asia indirectly, combined with the upsurge of nationalism throughout Asia, brings into sharp relief the place of India and Pakistan in a world charged with high tension. Indeed, Kashmir is generally recognized to be the most critical problem in the relations between India and Pakistan since the partition of the sub-continent in 1947. The relationship between India and Pakistan is characterized by intense crises at irregular intervals.

OBJECTIVES OF THE STUDY

1. To examine the history of emergence of terrorism in Kashmir.
2. To study how far Kashmir issue affected the Indo-Pak relations.

3. To analyse major human rights violation incidents over these years.

METHODOLOGY

The study is historical, descriptive and analytical in nature. The data are collected with the help of secondary sources mainly. Secondary sources include books, Journals, articles and internet sources.

CROSS BORDER TERRORISM IN INDO-PAK RELATIONS

Cross-border terrorism is that form of terrorism whose activities are sponsored and trained by a country other than its victims. Cross-border terrorism is a facile term for international terrorism which implies the involvement of foreign national in acts of terrorism on the soil of a neighbouring country with the active connivance of the former. The problem of cross-border terrorism which needs urgent examination in the light of the violence which is today growing and fostering around us. The story of cross-border terrorism begins with the massive tribal invasion of 1947 contrived by Pakistan and armed at forcibly grabbing the state of Jammu and Kashmir. The ceasefire agreement brokered by the United Nations silenced the guns on the border but the Pakistani rulers "obsession with Jammu and Kashmir remained intact and undiminished". The edifice of Pakistan was

constructed on the “two nation theory”. The people of Jammu and Kashmir, under the leadership of Sheikh Mohammed Abdullah had decisively rejected this theory as well the very concept of Pakistan. This was made clear to Jinnah, the creator of Pakistan. After partition and independence, Jinnah was persuaded to make an attempt to win over Sheikh Abdullah for the accession of Jammu and Kashmir to Pakistan. The mounting bitterness and Jinnah’s dislike of Sheikh Abdullah bordering on hatred clouded his vision and impaired his otherwise sound judgement. In sheer desperation, he authorised the tribal invasion of Kashmir in 1947, planned and directed by Pakistan military regulars. The Pashtun tribals were motivated in the name of Islam and Jihad. This historically marks the onset of Pakistan promoted terrorism across the recognised borders of the state of Jammu and Kashmir.

The relations between India and Pakistan had been strained from the very beginning. As on today, the Indo-Pak relations are not smooth. A multitudinal factors have contributed to the worsening of the bilateral relations. It is to be noted that Kashmir issue is the core issue among all the factors which worsened bilateral relations. Cross-border terrorism had changed the colour of Kashmir conflict. Pakistan began using terrorism as early as 1947 in Kashmir. It enlarged the area to cover the North-East in the sixties and the Punjab in the eighties. Today the whole of India has become the target area¹¹. The terrorists of earlier times had a clear cut political agenda. They fought for nationalistic reasons. Now it is derived by vaguely religious and wholly irrational objectives. Trans-border Islamic terrorism gained worldwide attention for the last several years. Horrendous bloodshed, unprecedented exodus and endemic instability have marked the history of the Valley. A flurry of political experiments, Pakistan’s glareous attempts to internationalise the issue, shrill anti-India campaigns etc. have only enhanced the crisis.

There are internal and external factors responsible for the rise of militancy in Kashmir. The most important ones includes the deep rooted desire of Kashmir nationalists to create an independent Jammu and Kashmir, the preference of Muslim nationalists and Islamists in Kashmir to merge the state with Pakistan, the anxiety of Kashmiris about the erosion of autonomy of the state, the popular discontent about the lack of socio-economic development, mal-administration, corruption, unfair elections, nepotisms, growing unemployment, poverty and class-disparities. The important external factors responsible for the eruption of militancy in the state include the disintegration of Pakistan in 1971 as a result of Indian interference, the involvement of Pakistan in cold war between USA and USSR in Afghanistan, Islamic Revolution in Iran, disintegration of Central Asian Republic from Russia, impact of Khalistan movement in Punjab, the involvement of Kashmiris and Pakistanis in anti-India politics in

Pakistan, Europe, America and West Asia for the liberation of Kashmir from India.

The anti-India sentiment in Kashmir, fuelled by political and administrative management, was naturally exploited by the ISI. Politically confused, economically frustrated and systematically subjected to indoctrination of a distorted version of the religion, a section of the youth became vulnerable to the vicious game plan. Cross-border terrorism assumed wider international dimensions after the ‘Kashmir Jihad’ ceased to be Pakistan specific and was formally adopted by pan-Islamic fundamentalism. The year 1992 marked the beginning of the induction of foreign terrorists into Jammu and Kashmir especially Afghan Jihad. The Afghan crisis and Kashmir issue were interlinked in several aspects. Pakistan’s role in the subversive activities inside Afghanistan and India is now known to the whole world. In the present day itself Pakistan is doing the same in Jammu and Kashmir.

Sponsored terrorism and socio-economic subversion has been designed to contribute to the eventual collapse of the administrative, social and economic infrastructure of India. The state sponsored terrorism had always been a threat to the national security of India. The military and civilian governments in Pakistan had not made any visible positive changes in the Indo-Pak relations especially Kashmir. The former President Musharraf’s statement that India can be attacked by inflicting hundreds of wounds over its body is an evidence to Pakistan’s position on terrorism. The present Mumbai attack in November 26, 2008, also showed the evil phase of terrorism promoted by Pakistan. We can see that the present civilian government Pakistan by Asif Ali Sardari is doing the same. In the meantime we should analyse how far terrorism created human rights violations and abuses among civilians in the valley.

HUMAN RIGHTS VIOLATIONS IN KASHMIR

The year 1980 onwards infiltrations happened in Kashmir and Pak sponsored terrorist outfits caused a lot of human rights violations in the region. According to India, Pakistan has been active in increasing violence in Kashmir. Pakistan is instigating problems by training and funding terrorists especially Islamic guerrilla which resulted in a separatist war between both countries. Terrorism reached its maximum in 1989 and which resulted in the killing of thousands of Kashmiri people. The human rights violations started with the terrorism in Kashmir especially called as cross-border terrorism. Pakistan refused India’s blame that they are promoting terrorism and Pakistan called it as freedom struggle.

Human rights abuses and violence in the Indian state of Jammu and Kashmir are an ongoing issue. The abuses range from killings of masses, enforced disappearances, torture, rape, sexual abuse to political repression and suppression of freedom of speech and other various types of violence. Rape was used as a rough treatment and degrades the communities. According to a Human Rights Watch report, state security forces also adopted harsh methods to increase the terrorism, like arbitrary arrests, humiliation, prolonged detention without trial, disappearances and summary killings of civilians and suspected militants also. The terrorists were also creating human rights violations all in the valley.

INCIDENTS OF HUMAN RIGHTS VIOLATIONS IN JAMMU & KASHMIR

In the year 1995, the burning of town of Charar-e-sharif happened in a counterinsurgency operation between terrorists and security forces resulted in the killing of hundreds of people. In the year 1996, a lot of cross border battles and struggles happened between Indian and Pakistani troops and terrorists were resulted in lot of killings. There were attacks in relation with election and civilians were bombed in the same year. The terrorists, separatist groups and Indian government army started struggling each other during the year 1997 and carry out legally unwanted proceedings. Indian and Pakistani army continued to exchange cross-border artillery and mortar fire along the disputed borders. The gun battles and struggles and extra legal actions continued in the year 1998 between separatist and Indian army. The attacks on civilians by terrorists and human rights violations against the people of J&K continued in the year 1998. Nuclear test was conducted by both the nations in the year and which increased tension in the area and this resulted accumulation of troops by both countries across borders. The nuclear test conducted was marked a historic moment in Indo-Pak relations.

In the year 1999 a fierce struggle happened between Indian troops and terrorists supported by Pakistan in border and it lasted when Pakistan accepted to take away terrorists from the area. Normally all attacks resulted in killings of people and human rights violations continuing in the area. The killing of people and extrajudicial killings by security troops and killings of security troops by separatist groups were accompanied in the area. A lot of Kashmiris were killed and human rights violations against Kashmiris increased in the borders in 2000. In the disputed area of J&K the struggle between separatists supported Pakistan and Indian forces increased in 2000. The struggle between both countries and violence by separatists reduced because both governments started peace talks and our government declared unilateral ceasefire. But it should be noted that the violence after that increased and casualties exceed to more than 2600, very high

for the last four years. Fatalities, bombings, killings and attack on Indian army continued in the year 2001. In the same year our troops started attacks against terrorists groups which marked the finishing of ceasefire. An Islamic suicide group attacked parliamentary complex in Delhi in the same year. A July summit between both nations ended without an agreement treating Kashmir as a disputed area. In all these years the human rights abuses are increasing year by year.

People of Kashmir are attacked by insurgents continued in the year 2002, and in the meantime the struggle between Indian and Pakistani troops increased so far. After state election the violence by insurgents killed about 600 civilians. Tensions between India and Pakistan escalated to the brink of war in June, but stabilized after Pakistan agreed to end the infiltration of armed separatists across the Line of Control. There aroused tensions in the borders reached into the brink of war but it became calm when Pakistan agreed to withdraw insurgents across the borders. In the same year the relations between both countries normalised and both nations agreed a ceasefire across borders. But it is to be noted that insurgents and separatists disagreed with the ceasefire agreement and the violence continued and attacked civilians and our security troops, resulted in casualties for more than 2000. Another significant step was that the Indian government decided to meet a political secessionist group, All Party Hurriyat Group which marked a milestone in the Indo-Pak relations.

In the year 2004, the struggle between Indian security forces and separatists continued resulted in killings of a number of 1800 of civilians. The negotiations and agreements between both countries and moderate separatist groups failed to produce any results. These agreements could not end violence and human rights violation. Militant groups and insurgents continued violence in the Indian controlled Kashmir. Agreements and negotiations on peace between both countries attained no progress and violence continued. India withdrew 1000 troops from the borders. In the year 2005, peace talks between India and Pakistan continued including withdrawing troops from the disputed Siachen glacier. Both countries continued peace talks this year and Peace talks between the Indian government and a coalition of moderate Kashmiri militants resumed, but there were only little progress. It is to be noted that violence continued between Kashmiri rebels, insurgents and our government and about 1700 people killed. Another incident happened is the a natural calamity in the form of an earthquake in October which claimed more than 70000 lives.

There started peace talks between India and Pakistan resulted in the establishment of a new transportation between Indian and Pakistan

administered Kashmir in the year 2006. The peace talks continued however there was very slow progress. About 1000s of people killed however the violence goes down. Pakistan's instability was also a factor which affects the relation between countries. Another horrific incident happened was the bombing of Lahore-Delhi train that killed about 60 people. India blamed Pakistan for this issue. Another incident was the commercial trucks passed Wagah border for the first time after partition. Casualties were around 800 people was noted here. The rights of people were violated all the years. While the attacks reduced in 2008 yet the elections witnessed rebel attacks. The election results in about 12 casualties. In last time we noticed that land dispute between Hindus and Muslims killed more than 50 people especially in the clash between security forces. After this peace talks continues. Approximately 541 conflict deaths were reported for the year. In the year 2009 violence began to decline. Officials reported 377 deaths, a 25-per-cent decrease from 2008. India's announced that it would withdraw 30,000 troops was met with skepticism by separatists. India and Pakistan declared that they were ready to resume peace talks that were suspended in November 2008, after the Mumbai terrorist attacks.

In the year 2010, it is to be noted that an estimated 700 militant rebels were operating in Jammu and Kashmir, with another 2,500 waiting in Pakistan. In the same year, India and Pakistan started continuing peace talks after 2008 Mumbai attack. A chain of violent protests, beginning in June, killed more than 100 civilians. And in 2011 also violent incidents and fatalities fell to their lowest levels in years. The year marked political assassinations. Bilateral talks between India and Pakistan led to the opening of trade and travel routes across the border in Kashmir. There started again peace talks which led to the opening of trade and travel routes across borders. The year 2012 also marked death rates of about 117 comparatively low.

Allegations of corruption and instability on both sides of the conflict hindered sustainable solutions in 2013. In February, the Indian government executed Afzal Guru, an Indian citizen accused of attacking parliament in 2001 amidst accusations that the Indian government was conducting "selective executions." In early January 2014, Human Rights Watch (HRW) reported that the Military Court had closed a case involving security forces accused of extrajudicial killings of five civilians in March 2000. HRW cited the case as another example of officials' impunity in the face of serious human rights violations in the region. It called for the Indian government to reform the Armed Forces Special Powers Act, especially the immunity it granted to officials. The year saw 200 violations of the 2003 ceasefire agreement, with allegations that the Pakistani army was smuggling militants over the Line of Control into Indian-controlled territory. Both sides expressed concerns that fighting would intensify following U.S. withdrawal from Afghanistan in 2014.

After heavy gun fire in September the leaders of Pakistan and India met in New York to discuss re-instituting the 2003 ceasefire agreement.

There were lot of political developments happened in the political history of India in 2014. In the same year Narendra Modi, leader of the Bharatiya Janata Party (BJP), was elected Prime Minister of India in April-May elections. Another remarkable event was that in the November-December state election in Jammu and Kashmir, the People's Democratic Party (PDP) won 28 seats and BJP came in second with 25 seats. These events increased terrorists outfits in the valley and despite an increase in violence and calls by militant groups to boycott the election, voter turnout was reportedly 66 per cent—the highest in 25 years which became another remarkable event in the history of J&K. At the same time, the state elections also gave rise to large protest in the Pakistan-controlled Kashmir. In the year Indian government terminated talks that had been reinitiated by Narendra Modi. India claimed that the Pakistani High Commissioner had interfered in Indian domestic affairs by consulting with leaders of Kashmiri separatist groups. Our government stated that Pakistan is responsible for terrorism in Kashmir. The relations between both countries continued the same. Another measure taken to reduce tension in the area both governments released fishermen. On August 22, talks between the national security advisors of India and Pakistan were cancelled at the last moment. On December 6, Pakistani and Indian national security advisors discussed the Kashmir security situation during talks in Bangkok, Thailand. In the first visit to Pakistan by an Indian official in three years, India's Foreign Minister attended a conference in Pakistan's capital, Islamabad. The two countries issued a statement emphasizing their resolve to wipe out terrorism, pledging to resume bilateral talks halted after the 2008 Mumbai terrorist attacks (The Hindu). On December 25 Prime Minister Modi visited his Pakistani counterpart's Lahore residence in the first such visit in 12 years. The two countries agreed to hold a foreign secretaries' meeting in mid-January (International Crisis Group). In 2016, India and Pakistan accused each other of espionage, terrorism, and human rights violations in Kashmir. In November, India, along with Afghanistan, Bangladesh, and Bhutan, boycotted the South Asian Association for Regional Cooperation (SAARC) summit in Pakistan.

Since the insurgency reached its maximum in 1989, there were human rights violations in Kashmir. Both state and non-state actors are responsible for it. There are many laws operational in Kashmir that allows the forces to carry out human rights violations in Kashmir. These laws give the impunity to them. Some of them are the AFSPA (Armed Forces Special Powers Act), J&K PSA (J&K Public Safety Act), the CrPC (Code of Criminal Procedure), the NSA

(National Security act), and the TADA (Terrorist and Disruptive Activities (Prevention) Act. The armed forces under the garb of these laws have been blamed for committing human rights violations. Militant groups are also been accused of the human rights abuses. These separatist groups and Islamic militants are actively engaged in human rights violations. The human rights violations committed by the state and non-state actors in the state vary from mass killings, enforced disappearances, killings of political workers, torture, rape, harassments etc. The SATP (South Asia Terrorism Portal) reported that 14839 Civilians, 6388 Security Force Personnel, 23427 Terrorists were killed in the period from 2001 to till this date. As per the MHA reports, 045 Security Personnel Forces, 1481 civilians, and 3588 Terrorists were killed in the period from 2005 to 2016. Thus, in short, the human rights violations in Kashmir are a continuous phenomenon in Kashmir. Kashmiris' have suffered a lot due to it. It should be stopped and let them live a dignified life is very significant as far the Kashmiris concerned.

From the above discussion it is clear that Jammu and Kashmir problem could not be solved easily. From the partition to the present, this issue remains a headache to the politicians, policy makers, people of both the countries, especially the people of Kashmir. It is to be noted that central government had offered 24000 crores for the developmental activities of Jammu and Kashmir. These include health, education, road and transportation facilities, agricultural development employment opportunities and such other developments. For the past 70 years of India's Independence, a lot of money had been spent on Jammu and Kashmir and yet the living condition of Kashmiris not improved. Kashmir has always remained a bone of contention between India and Pakistan. In fact there are three legitimate parties involved in this conflict-India Pakistan and Kashmir. Each party has taken its own position on the question of Kashmir. For India Kashmir is one of its integral parts and hence this aspect is not open for a dispute. For Pakistan Kashmir represents a problem of partition which is yet to be solved. But for the people of J&K, Kashmir is not simply a territorial dispute between India and Pakistan and cannot be resolved without the involvement of those who are the main party in this dispute. Whatever be the solutions of the Kashmir issue; the real issue is to put an end to terrorism and to eradicate hunger and poverty. Another task is to eliminate corruption and corrupt politics from the state of Jammu and Kashmir. India should strive to establish a healthy economy in Kashmir and convince Kashmiris that they would be better if aligned with India than being independent or merge with. Both the countries must mature quickly and try to solve the issue amicably.

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