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## UNTOLD STORIES OF HUMAN RIGHTS VIOLATIONS IN KASHMIR

**ABSTRACT:** Kashmir is an intractable conflict between the two South Asian countries: India and Pakistan. It had affected people of tiny nation badly. Every individual suffered here in this vale of paradise which was known as the beautiful region across the globe. But its irony that due to unrest, turmoil, and cycle of violence, people lost their kiths and kens; and because of all that, State of Jammu and Kashmir suffered a lot. This valley has seen plenty of untold stories of massive violations of human rights committed by Indian army, police, and by some of the militant groups. Since 1989, the people of Kashmir were killed, tortured, humiliated, and injured. Thousands of the people were killed due to cycle of violence prevalent in Jammu and Kashmir. Thousands of the people got injuries and they became disabled to work. Many are those who lost their beloved children's, daughters, sisters, mothers, and some women have lost their beloved husbands, who were only the source to care for them. Due to turmoil situations, thousands of the houses and shops were burnt. This study will describe how fundamental rights of the people were encroached and curtailed. It will also highlight how the people of this region were suppressed due to misuse of the armed forces. It is pertinent to mention here that no democracy can be successful where draconian and inhuman laws are prevailing. Democracy can only survive when the dignity of every individual will be respected and safeguarded. Here are tears in every mother's eyes that lost their beloved children. Everybody here hates violence and is ready to see peaceful Kashmir without any conflict and human rights violations, may this dream of so many become reality.

**KEY WORDS:** Untold stories, violations, fake encounters, draconian laws, psychological disorder and suicides, disappearances in Kashmir, and human rights.

### INTRODUCTION

Since 1989, the people of Kashmir were killed, tortured, humiliated, and injured. Thousands of the people were killed due to cycle of violence prevalent in Jammu and Kashmir. Thousands of the people got injuries and they became disabled to work. Many are those who lost their beloved children's, daughters, sisters, mothers, and some women have lost their beloved husbands who were only the source to care for them. Due to turmoil situations, thousands of the houses and shops were burnt.

In the historical context, the Jammu and Kashmir State was given special status and greater autonomy within the Union of India when Union adopted its Constitution on 26 January 1950. The Jammu and Kashmir was the only Muslim state, which rejected the two-nation theory and the partition of the country

on the basis of religion and joined the Union of India. However, due to specific historical events in which country was divided on the basis of religion and followed communal riots with the largest transfer of population even taking place in human history, the autonomy issues got mired in controversy. Talween Singh blames the Congress and NC (National Congress) for failing to recognize the discontent in the local Kashmiri Muslim population of the valley (Singh, 1994:11).

These developments cast their spell on the debates in the Constituent Assembly of India too in which the majority opinion of makers of Indian Constitution favored a strong Centre. That ethno-cultural, linguistic, religious, and geographical diversity of the country was well known to them and they could not just wish it away. Therefore, striking a balance between these two complex realities, they adopted a

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Constitution, which remains federal in form and but unitary in spirit. At the political level, the special status of Jammu and Kashmir State was an anathema to those political forces, which perceived that it held the potential to pose a challenge to the unity and integrity of the country (Ranabir, 2005:93-113).

Thus, the autonomy of Jammu and Kashmir fell victim to the controversy between the centrist and centripetal political forces did manage to dilute the autonomy of Jammu and Kashmir State to more extent. Ironically, these were not the forces which are perceived as right wing, extremist-nationalist in nature, responsible for weakening of autonomy in Jammu and Kashmir. In fact, the political dispensations at the centre which diluted the autonomy of Jammu and Kashmir wanted to achieve the twin objective of gradual withdrawal of states autonomy under the perception of strengthening the process of nation building in the country and extending the influence of their own political parties in the State of Jammu and Kashmir. The existence of over centralization, in the political, constitutional, and economic spheres, for the last five decades has revealed that such a policy has left large chunks of population in the country dissatisfied. Moreover, the paradigm of centralized planning pursued in the country has indicated that benefits of development have not percolated to the grassroots level (Punjabi, 2000:6).

The crude process of centralization was introduced systematically and pursued vigorously by successive Central governments in collaboration with the state government in the name of integration. In this process of centralization, the titles of *Sadre Riyasat* and *Wazire Azam* were changed, the jurisdiction of Election Commission of India and Supreme Court of India was extended to the State of Jammu and Kashmir; and many central laws were extended to the state in undemocratic way. All major political as well as non-political decisions were imposed from Delhi. Thus, many of the basic features of the Article 370 of the Constitution of the India were scrapped and making special status of Jammu and Kashmir completely ineffective. Now, it can be said that Article 370 is only a showpiece.

In actuality, the state was made like a colony (Behuria, 2000:25; and Acob, 2010:10).

Its reality about the Kashmiris that they have been considered always as second-class citizens within their own land. They have been crushed, humiliated, and dishonored. Reality is that the innocent people of Kashmir have been treated like animals and worst than slaves. Kashmiris were tortured, interrogated, and killed by the Indian security forces. Every person in Kashmir does not feel himself/herself free as far as the democratic rights (freedom, rule of law, justice, and security); all are absent in Kashmir.

Only the army, police, task force, and leaders of Kashmir so called villains have their rights to terrorize Kashmiris without any reason. Media persons are not allowed to present the right picture of gross violations of human rights in their newspapers. Armed forces and police beat some media persons. People are not allowed to go hospital during *hartals* and curfew. Reality is that Kashmiris have no right to protest, demonstrations, and right to peaceful march. Thousands of the people have been killed and thousands injured; thousands are in prisons and thousands are missing; hundreds have done suicides due to turmoil situations prevalent in Jammu and Kashmir.

Every person in Kashmir is living a life with fear. In addition, schools, colleges, and universities remained closed for indefinite periods due to cycle of violence. In nutshell, it can be said every Kashmiri have suffered by one-way or other. Kashmiri youth were killed in the name of encounter, women were molested and raped, and old men were dishonored. Schools, shops, buildings, bridges, and other properties were demolished or burnt. Indian Armed Forces and other Paramilitary Forces and Police backed by India did all this.

These are the untold stories about the Kashmir, it brings tear in eyes of every Kashmir. Until and unless India will not change its attitude towards Kashmir, Kashmiris will support India nor will they live with India only they will work for self-determination and freedom. India can end the doors of alienation when it will give the greater autonomy to the people of the Kashmir, when it will accommodate the interests of Kashmiris, when

it will prevent misuse of power, and violations of human rights committed by armed forces.

Kashmir conflict is not only a border dispute between India and Pakistan, rather Kashmiris are the main party of the dispute. It is reality, which is not hidden that Kashmiris have suffered more. The human rights violations in Kashmir is same, as it is in Palestine committed by Jews over innocent people of Palestine; but in the context of Kashmir, it is committed by Indian Forces and Indian Paramilitary Forces and Police backed by India willingly.

Violations of autonomy and violations of human rights in Kashmir show the failure of Indian democracy. India can win hearts of Kashmiri's people only through the process of greater autonomy, addressing the problems of Kashmiris, good governance, and prevention of misuse of power in Kashmir. It is not good option for India as a major democracy in the world to curtail the fundamental rights of the people of Kashmir, rather best democracy is that country which can provide safety and security to her people and fulfill their basic amities.

It is only democracy, which talks about particular and distinguished rights of people. India has the glorious past based on non-violence and tolerance but in the context of Kashmir, tolerant India has lost its tolerance and become violent in Kashmir valley. After 1989, the autonomy of Kashmir was abrogated and amended gradually and slowly through process of centralization or over centralization (Chadha, 2007:84-86). Government started the curtailment of the fundamental rights of the people of Kashmir. Kashmiris were suppressed, tortured, massacred, and humiliated through the deployment of armed forces, AFSPA (Armed Forces Special Powers Act), Public Safety Act, and other draconian and stringent laws. Violation of human rights includes no respect of the dignity of Kashmiris, brutal killings, encounter, illegal detentions, molestation and rape of women, missing of youth, torture of old men, burning of houses, shops, schools, buildings, and other properties etc.

Peace can be established in Kashmir when India will respect the dignity of the Kashmiris

and withdraw all draconian laws from Kashmir, minimize armed forces, and end human rights violations. It is very important to mention here that state came into existence for the welfare of the people, if state is not successful in the maintenance of its objectives for the welfare of people then revolution started. State has no importance if it will not take into account aspirations of its people. Safety and security to its people is the main duty of every state. However, very few states become successful in their objectives. The best examples are USA (United States of America), Britain, and other developed countries where citizens are satisfied and feel secure and safe (Bukhari, 2009:20-22).

### **UNTOLD STORIES OF VIOLATIONS**

The Kashmir problem has affected Kashmiris on both sides of the Line of Actual Control. In fact, they have been suffered in the absolute sense of the term in the previous years (Bose, 2003:14-15). After the ongoing movement started in 1989, the Kashmiris have been killed, massacred, raped, tortured, dishonored, and humiliated. According to local human rights organizations estimates, about 70,000 youths, mainly belonging to the age group of 15-25 years, have been killed by the security forces and militants; about 40,000 youths have been tortured in the interrogation centres and jailed; more than 20,000 are missing; equal number have become disabled due to injuries, torture, and psychological breakdowns; hundreds of young women have been raped by the Indian forces; elderly women have been molested repeatedly; and elder men have been dishonored; the entire population have been humiliated through the practices of parades, crackdowns by the security force.

A simple survey reveals that every family in Kashmir has been suffered in terms of youth killed, injured or tortured, a woman raped or molested, elder men and women dishonored and humiliated. The people who were killed or injured mostly were innocent children's from the age of 5 to 22 years old, not only this but women were killed and injured during the peaceful protest march.

It is a matter of great concern for civil society as well as for human rights

organizations to highlight the issues of gross violation of human rights in Kashmir valley, if civil society and human rights organization will not highlight the issues of gross violation of human rights in Kashmir valley, then, it would be considered a criminal silence of them. Undoubtedly, it can be said that the people of Kashmir are humane, generous, religious, tolerant, and gregarious by nature. But due to conflict, the people of Kashmir suffered a lot.

It is history of Kashmir, which is the best proof that Kashmiri youth have followed the path of freedom; because they have lost their parents, sisters, brothers, and their property were burnt due to conflictual situations in Kashmir. It was the major reason that they have adopted the path of self defense. Whereas, youth of Kashmir having immense potential and ability to crack even the highest and prestigious exam of their country, and its best example is not only Shah Faisal who topped the IAS (Indian Administrative Service) in 2009 at his first attempt, but there are many more who have the courage to achieve the excellence; and the youth of Kashmir always remains in turmoil situations, their schools are being closed during cycle of violence; and in this situation, their education become affected.

It was the great irony with Kashmiri people that they did not have good friends who can understand their genuine problems and try to solve them. Hiren Mukherjee said: "*Even today, perhaps the best of us do not quite realize the depths of Kashmir's alienation and are unready to ponder ways and means of overcoming it*" (cited in Noorani, 2009:35). Wajahat Habibullah realistically remarks: "*Until each citizen can live free from fear, democracy can only be notional, no matter how elections are conducted or who participates*". Wajahat Habibullah, further, says:

I believe, based on my experience working the state with its people that remedy for the Kashmir situation need not be elusive, provided that all stakeholders are sincere in their endeavor to restore peace and that respect for the dignity of Kashmiri people is at the core of any resolution. Ignoring the self-respect of Kashmiris believing that they as a people could be bought-brought on and fuelled the cycle of ruin. A brief history of Amarnath land dispute will tell us that Kashmiri people special rights are being violated. The 800

Kunals land at Baltal was considered to be given to the *Shri Amarnath Shrine Board* (SASB) in 2008. In return, SASB has to pay 2.5 crore to the Forest Department. There is no doubt in saying that Hindus came to Kashmir for Yatra and Kashmiri had treated them in humane way. Then what was the need to transfer the Kashmir land and to create violence in Kashmir valley. For the first time, the SASB comes into existence in 2001, when Farooq Abdullah was the Chief Minister (Habibullah, 2008:180-190).

In 2005, the then governor S.K. Sinha, as Chairman of the board, writes to Chief Minister Mufti Mohammad Sayeed asking for land to accommodate the rising number of pilgrims, finally Gulam Nabi Azad Cabinet approves unanimously. On 23 June 2005, Syed Ali Shah Geelani, Chairman of the All Parties Hurriat Conference, announced an agitation on transfer of Kashmir land to SASB (*Shri Amarnath Shrine Board*). The first fake encounter that attracted attention was the killing of five people by the police and the seven Rashtriya Rifles in the Pathribal area of South Kashmir on March 25, 2000. In later the death of a carpenter in Kokernag in a fake encounter uncovered the killing of four more civilians in the same fashion. Eleven policemen, found guilty of hatching the conspiracy to kill five innocent civilians, calling them "militants" were arrested.

In February 2006, about 20 boys playing cricket in playground in Doodhipora in Kupwara district were fired upon by Army personnel, four boys were killed. In March 2009, in Sopore Bomai area, two civilians were killed without any guilt. There are untold stories of encounters in Kashmir vale, it become an easy way for armed forces to kill innocent people of Kashmir in order to reach the higher ranks by committing such heinous crimes. On 29 May 2009, Aasiya Jan, 17 year old, a school girl, and her sister in-law, Neelofar Jan, 24 years old went into their orchard at Degam, Katpura, across the Rambiar Nullah, around 5 p.m. Neelofars husband, Shakeel Ahmad Ahangar, told the press:

When they did not return till late in the evening, I went out to search for them. I could not find them anywhere and a neighbor told that the duo had left for home just when a patrolling party was passing through the area. I then approached

the police party led by the station officer, went out in search of Neelofar and Aasiya but could not locate them till 3 a.m., after which we return (cited by Noorani, 2009:39-40).

## FAKE ENCOUNTERS

These are also the untold stories of Kashmiri people. Since the armed uprising of 1989, thousands of Kashmiris have fallen victims to these stage-managed encounters undertaken by different security agencies to get out of turn promotions and other rewards. The recent custodial death of Sopore youth Nazim Rashid and a fake encounter of a beggar in Poonch have once again brought disgrace to the repute of men in uniform. Recently, Nazim Rashid, 28, died in a police camp in Sopore, hours after the police picked him up to question him about his alleged role in the killing of a civilian. The incident caused widespread rage in valley and people came on streets to protest, thus police had no option but to accept that Nazim Rashid died in police custody.

In another related incident, on 5-10 August 2011, a police man, based on SOP (Standard Operating Procedure) and an army Jawan jointly picked up a mentally challenged Hindu beggar from border district Rajouri and later staged his fake encounter in Surankote area of the neighbouring border district of Poonch on 6 August 2011 with the help of strong contingent of army and police. After killing him, both police and army had claimed to have killed a divisional commander of *Lashker-e-Toiba* and his identity was announced as Abu Usmaan of Gujjaranwalla, Pakistan. Dubbing the killed beggar as *Lashker* Militant, police handed over the body to locals for his burial. However, the luck ran out for the killers when the Moulvi, to whom body of the “militant” was handed over for burial in Surankote, declined to do so on the ground that body was not of a Muslim as it hadn't been circumcised. After probe, his identity was revealed as that of Ashok Kumar, a mentally challenged Hindu beggar (Chawla, 2011:28).

Ironically from the past two decades, the shameful phenomenon of “fake encounters” has assumed menacing proportions in the Valley of Kashmir. Since the uprising of 1989,

thousands of Kashmiris have fallen victims to these stage-managed encounters undertaken by different security agencies to get out of turn promotions and other rewards. Last year, the whole of valley was once again shocked by the dreadful revelations of fake encounter in Machill. Pertinently, three villagers: Shahzad Ahmad Khan, Riyaz Ahmad Lone, and Muhammad Shafi Lone belonging to Nadihal Village of Rafiabad in North Kashmir, were allegedly framed as separatist guerrillas and were killed in a staged shootout on 30 April 2010, in north Kashmir's Machil sector of the Line of Control (LoC), which divides Jammu and Kashmir between India and Pakistan.

Appreciably enough, the Jammu and Kashmir Police unearthed the Machil fake encounter case. The police arrested four accused – a soldier of the Territorial Army and three army informers for luring the three civilians to work as labourers for the army. On their interrogation, the accused revealed that they handed over these boys to the army officers of Rajput unit, who killed them to get awards and other benefits; they got Rs 50,000 each for the victims. Pertinently, the Rajput unit on 30 April 2010 had claimed to have killed three militants in a bid to stop an infiltration attempt by militants.

Analysts see all the above cases as the few cases among many that got media prominence, as there are scores of alleged fake encounter cases in Kashmir that according to many have got unnoticed. “Kill a Kashmiri, win a reward” is a famous punch line that has off late found its place in many “literary pieces” which aptly depicts the shameful reality of fake encounters in Kashmir. Sometime back, renowned human rights expert, Brad Adams, Asia Director at Human Rights Watch, while commenting on the fake encounters in Kashmir, had famously remarked as follows:

This epidemic of fake “encounter killings” by the security forces have plagued Kashmir for too long. The police must stop their SOP (Standard Operating Procedure) of killing people in custody. Too often we find that India's security forces are deemed “above the law” and are spared criminal prosecution despite committing grave human rights abuses. Extrajudicial executions by Indian security forces are common.

Recent revelations have confirmed what families in Kashmir have been alleging all along. The Indian security forces have “disappeared” countless people in Jammu and Kashmir since 1989 and staged fake encounter killings while fabricating claims that those killed were militants.

When there are public demonstrations protesting a fake encounter killing, the official response usually is to offer an oral assurance of an inquiry, though these rarely happen. If such inquiries do take place, the findings are seldom made public. If any action is taken against those found responsible, that too is rarely made public (Adams, 1993:1-40).

It is worth mentioning that the list of people killed in fake encounters in Kashmir includes students, shop keepers, vendors, and hawkers; and even old people which is causing immeasurable pain and tragedy in the society. According to many sane voices, all these encounters fuel further alienation and also build a lawless atmosphere in which the police would typically take a suspected militant into custody without filing an arrest report. If the suspect died during interrogation, security forces would deny ever taking the person into custody and instead claim that they were killed during an armed encounter. Even many in our part of the world believe police would add weapons to the dead body to demonstrate cause for killing the individual, stage managing the encounter, leading to the popular phrase “fake encounter killing”. They would also concoct a story about militants staging an attack, or the suspect attempting to escape while being escorted to recover militant arms (Bamzai, 2010:20-29).

The fake encounter in Bomai area of Sopore, the Amarnath Land issue, and rape of two innocent Kashmiri girls by CRPF (Central Reserve Police Force), and other discriminatory issues had created recent protests in Kashmir valley. People of Kashmir valley taking full participation in peaceful protests against atrocities and discrimination. People of Kashmir are dissatisfied over political leaders of Kashmir, who do not respect Kashmiriyat and the dignity of Kashmiri masses. And they do not protect and preserve the special rights of Kashmiris, who are not their leaders but so called villains and criminals of Kashmir.

The Special Armed Forces which was passed in some states of India on 11 September 1958, but it was extended to Kashmir state in month of July 1990. The main powers of armed forces are following types: (1) fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law against assembly of five or more persons or possession of deadly weapons; (2) to arrest without a warrant and with the use of “necessary” force anyone who has committed certain offenses or is suspected of having done so; and (3) to enter and search any premise in order to make such arrests.

The Indian Armed Forces have been given so much power in Kashmir that they do not bother in killing and torturing the Kashmiri people, those who have no guilt to be killed and tortured in extensive manner. There is need that this Armed Forces Special Powers Act should be revoked when Umar Abdullah, the youngest Chief Minister of Kashmir, contested in 2009 election, he got success due to his speech in Indian Parliament. He said, “*It is matter of our land and we will fight for it till we die*” (cited by Bamzai, 2010).

These words create a kind of sympathy among Kashmiris people and they give him full support in 2009 elections. But, what Umar Abdullah did for the people of Kashmir, the people of Kashmir were having a lot of hopes over the youngest CM (Chief Minister), Umar Abdullah, but he did nothing for the people of Kashmir in his present regime more than 107 people were killed and thousands got injuries during peaceful protests, where as it is well known that in democracy protest, demonstration, criticism, right to expression, and speech all are allowed under the democratic umbrella or within the domain of democracy.

Moreover, hundreds and thousands people are behind the bars, and thousand are missing. In addition, many people of Kashmir have committed suicide. In simple words, the Kashmiri humanity was treated like animals. They become badly affected due to violence in Kashmir valley. The politics of “might is right” was always present in the vale of Kashmir. Kashmiris have been marginalized and discriminated, that is the reason they are

protesting on the roads, because nobody is listening to their demands for over last two decades.

India as a largest democracy cannot win the hearts of people of Kashmir through torture, force, imprisonment, and killings but through use of flexible policies and addressing the basic issues of autonomy, self-determination, dignity, security, and freedom for the people of Kashmir. Great academicians are suggesting that greater autonomy is the best means to resolve the Kashmir dispute. Some political parties are suggesting demilitarization as an option to maintain peace and harmony in Kashmir valley. Some have suggested that prisoners of Kashmir should be released from prisons and AFSPA (Armed Forces Special Powers Act) should be revoked, and India and Pakistan should use conflict resolution mechanism and confidence building measures for the resolution of Kashmir dispute.

Most of the scholars suggested that only through peaceful means of dialogue and negotiation, the Kashmir conflict could be avoided. For this purpose, all parties including India, Pakistan, and People of Kashmir must do a meaningful exercise in terms of dialogue and sort-out the long-standing Kashmir conflict whereas secessionism or separation is not a right option in 21<sup>st</sup> century.

Fake encounter killing of innocent people at the hands of the personnel of the armed forces has become customary in those parts of the country where the draconian Armed Forces Special Powers Act is in force. Rarely do such incidents come to light except when some individual members of the armed forces come forward and speak the truth out. Only recently an army Jawan, Abbas Hussain Shah of 161 Battalion of the Territorial Army in Gauntmullah, Baramullah, who himself was involved in the conspiracy, confirmed the killing of three youths on April 30 at Machil sector along the LoC (Line of Control) in Kupwara district of Jammu and Kashmir. These young men were earlier lured from their village three days ago by a former special police officer and his accomplice on April 27 in the name of providing them work with the army, and handed over to an army Major, Opinder, for the set up encounter.

After the fake encounter got exposed a Colonel was removed from his command and Major Opinder was suspended. The Army officers had claimed that the three young men were Pakistani terrorists and were killed during an encounter while infiltrating into the country, though inquiries later revealed that they were residents of Nadihal in Baramullah district (Noorani, 2008:85).

They had also claimed recovery of assault rifles and ammunition from their possession, which were obviously implanted by the army personnel themselves. Last month, in a similar incident, the Army had claimed killing a 70-year-old militant in a gunfight inside Rainawari forests of Handwara. However, the deceased later on turned out to be beggar. The Police later registered a murder case against the Indian Army in that case also. In another incident, two young men from the valley were fitted with spiked boots and jackets and taken to the LoC with the help of a local SOP (Standard Operating Procedure) to be killed in a fake encounter.

Fortunately, the plot became known and the local police sprung into action and saved the youths from sure death for them and ignominy for their families. Allegations of planned and fake encounters by security forces for reward, money, and promotions are frequent in Kashmir. Some estimates put the number of Kashmiri's killed by the Armed Forces at 100,000 and the incidents of rapes at 20,000 during the last 21 years since 1989.

According to International People's Tribunal on Human Rights and Justice, more than eight thousand people have been reported missing during these years of insurgency. To a great extent, they can be attributed to the impunity enjoyed by the Armed Forces under the AFSPA, which has similarly been misused in Manipur also from where similar reports pour in day in and day out.

#### **DRACONIAN LAWS INSIDE THE VALE**

The Armed Forces Special Powers Act (AFSPA), which has been in force for fifty-two years since 1958, is in clear violation of the letter and spirit of the Constitution and has led to an undeclared Emergency and Martial Law in the Northeastern states of the country. The



AFSPA has been responsible for the untold misery, death, rape and torture, and the denial of civil and political rights to the people of Nagaland, Manipur, and Assam.

With the extension of AFSPA to Jammu and Kashmir, the same culture has dawned upon the state. Extra-legal killings have become the order of the day there and people are denied their civil and political rights because the armed forces there enjoy unfettered powers over areas declared as “disturbed area” prohibiting the assembly of five or more people. The citizen is wholly dependent upon the whimsical and subjective satisfaction of a warrant officer or a non-commissioned officer who becomes the ultimate officer to define “order” and determines the steps to be taken to maintain “order”.

Under Section 4(a) of the Act, if the concerned officer is of the opinion that it is necessary to maintain public order, after giving such due warning as he may consider necessary “fire upon, or use such force, even to the causing of death”, and under sub-section (c) arrest any person without warrant who has, or is likely to commit a cognizable offence; and under sub-section (d) enter and search without warrant any premises to make such arrest. And the worst part of it all is that to take such action the officer needs no permission from a superior and is not answerable to anyone.

Under Section 197 of the Criminal Procedure Code (Cr.P.C.), no court can take cognizance of an offence alleged to have been committed by a public servant or member of the Armed Forces while acting or purporting to act in the discharge of his official duty except with the previous sanction of the central or state government whereas the permission of the central government has to be obtained to prosecute a military officer under Section 7 of the Armed Forces Special Powers Act, which practically means that people have no right to approach the court and launch prosecution for atrocities committed by any such officer. Even various commissions of enquiry appointed by the government have found security forces guilty of gross human rights violations but in most of the cases the guilty officials have not been prosecuted for the offences committed by them (Habibullah, 2008).

When personnel of the armed forces go even beyond the powers invested in them under the AFSPA and indulge in extra-judicial killings, the gravity of the situation and helplessness of the affected people can well be imagined. Unfortunately, all this happens in the name of protecting the unity and integrity of the country. There is no doubt that the imposition of AFSPA in Kashmir and elsewhere has resulted only in an increased violation of human rights, breeding discontent, and a sense of alienation in the minds of the people and pushing the frustrated youth into taking to arms and joining the insurgents – for self-defense, freedom from unwarranted killings, rapes and brutalities, and for the establishment of a political and social order which would give them the right to live a dignified life as equal citizens of the country. Their angry and quite often violent, demonstrations against extra-judicial custodial and fake encounter deaths should be seen and interpreted in the backdrop of these incidents.

To continue to treat them, the way they are being treated, as second-class citizens, can only result in further alienating them and strengthening their demand for freedom and separation from India. Unless the draconian laws like the AFSPA (which is in force in other parts of the country) are repealed and the army withdrawn from the state of Jammu and Kashmir and other parts of the country, a sense of safety cannot be produced in the minds of the people. To reinforce that sense of safety, the presence of the armed forces should be strengthened on the borders, which is their mandated place during war times and when there is a threat perception from across the border.

During peace times, barracks are their best habitat. Their arms are also meant to be used against the enemy and not against their own countrymen who they are supposed to defend. Everybody praises and respects their deeds of bravery and sacrifice during their fight against the enemy. We should not allow their image to get tarnished by posting them in areas where they wreck havoc on their own people.

## TRAUMA, PSYCHOLOGICAL DISORDER, AND SUICIDES

We know it's difficult or next to impossible to breathe in such kind of atmosphere but children in Kashmir are actually being subjected to this kind of life. Kashmir massacre, the reality behind the recent fake encounters, was not news for Kashmir. It's been happening since 1989. The wounds of the Gaw Kadal massacre, the Sopore massacre, and the Paribas killings are still fresh in the minds of Kashmiris. The Kashmir conflict, which killed more than 35,000 people since 1989, has sired a generation of children lost to hate and fear. They grow up in the no man's land, between politics and war. Unfortunately, India remained so busy crushing militancy that the children were almost forgotten. What do you do about your tomorrow when you are not sure of your today?

The Valley, which was once an epitome of "paradise on earth", now has nothing to offer these children except violence, hatred, and death. Present generation children in Kashmir also show a high level of mental trauma because of the war that they come to interact with since their childhood. Many – probably a majority – of the children in Kashmir (not the 10,000-odd orphans of militancy, but the average, school going, normal kids) have deep, permanent bruises of the mind. Bruises that have far-reaching consequences, that are now finding reflection in psychic disorders, drug abuse, and personality changes (Adams, 1993).

On 6 February 1990, a young girl committed suicide by swallowing poison at her home in Kashmir. A few weeks later, a teenaged girl from Srinagar hung herself at her residence. On 24 February 1990, two girls from the Budgam district committed suicide by consuming poisonous substances. A few days later, on 28 February 1990, a youth ended his life by jumping into the Jhelum River in the Sopore district of North Kashmir on the same day that a 40-year-old man killed himself. On 29 February 1990 saw the death, by poison, of another teenaged girl in the same area. In the month of February 1990 alone, over 10 suicide attempts were reported in the Valley, giving just a glimpse of the roughly 17,000 suicides that have

been reported in the past 21 years, experts say (<http://www.allvoices.com/contributed-news/10691879-meadals-of-shame-by-rameez-makdoomi-cover-story-the-kashmir-impact-magazine-october-2011>, 16/2/2013).

Research on suicides conducted by B.A. Dabla, a sociologist at the University of Kashmir, indicates that an average of 227 suicides have been reported in 27 months in Kashmir, based on medical reports. The study, which is yet to be made public, says that 62 percent of all suicide cases involve females. Youth in the age group of 17-26 are found most likely to take their own lives, though teenagers as young as 13 years old have also committed suicide over the last two decades. Suicide rates in Kashmir were negligible before insurgency hit in 1989. The past 21 years of conflict have seen a sudden surge in suicides, with researchers at Kashmir's sole Psychiatric Disease Hospital indicating an increase from 0.5 deaths per 100,000 people in 1989 to 20 deaths per 100,000 in 2007 (<http://www.allvoices.com/contributed-news/10691879-meadals-of-shame-by-rameez-makdoomi-cover-story-the-kashmir-impact-magazine-october-2011>, 16/2/2013).

The National Crime Bureau Records (NCBR) of India states that Kashmir has a higher suicide rate than the Indian states of Uttar Pradesh and Bihar, since one person in the Valley commits suicide every day. The Sher-e-Kashmir Institute of Medical Sciences (SKIMS), Kashmir's premier medical institute, recorded 248 suicides in 2010. In 2011, over 1,000 suicides cases were registered with SKIMS and the Shri Maharaja Hari Singh (SMHS) hospital of Srinagar. However, experts believe these numbers are conservative estimates, since media reports and police and hospital records do not present the real scenario of just how rampant suicide has become in Kashmir. "The actual rate is higher than what is being reported. Because of the social stigma (and shame attached to the act), people do not report suicide attempts or death", psychiatrist Mushtaq Margoob told to IPS (Indian Police Service). Particularly in rural areas, suicide cases go largely unreported. "It is an unfortunate fact that the suicide rate is higher than what we know and (steadily) mounting",

Mushtaq Margoob said (<http://www.allvoices.com/contributed-news/10691879-meadals-of-shame-by-rameez-makdoomi-cover-story-the-kashmir-impact-magazine-october-2011>, 16/2/2013).

Along with the increase has come more “efficient” ways of committing suicide. Earlier, Dabla said, people would threaten their families with suicide, without actually doing themselves any harm. They would jump out of first floor windows or slash their hands – adopting measures that, though harmful, still left them alive. “*But now, the most deadly substances are being used for suicides*”. In urban areas, hanging, jumping into rivers, and consuming poison are some of the most common methods. In villages, pesticides are often used. Women commonly set themselves ablaze during suicide attempts. There are many reasons for this surging rate; besides conflict, the level of life-or-death desperation in the Valley has been linked to the drastic rise of psychiatric disorders, which currently affects roughly 800,000 people across Kashmir. “*Impulse control disorders, psychiatric disorders, materialist lifestyles, psycho-social and socio-economic problems are some of the major causes for the increase*”, said Mushtaq Margoob (<http://www.allvoices.com/contributed-news/10691879-meadals-of-shame-by-rameez-makdoomi-cover-story-the-kashmir-impact-magazine-october-2011>, 16/2/2013).

Depression, panic disorder, and anxiety are all linked to suicides as well. Independent psychologist, A.G. Madhosh, categorises the causes of suicides in Kashmir into social, psychological, and anticipatory. “Social” causes are mostly linked to family pressure, marital status, career, strained relationships, and the inability to compete at social levels. “*In urban areas, employment and education are compounding factors*”, said A.G. Madhosh. “*When students commit suicide after appearing for an examination, it is an ‘anticipatory’ cause*”, she explained (cited in <http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013). Amongst teenagers, poor impulse control, examination stress, love affairs and parental pressures are found to be prominent reasons for suicides.

Experts suggest adoption of a practical

system of education, counseling, and religious education for preventing suicides. The epidemic has not only plagued the local population of Kashmir but has endangered hundreds of Indian paramilitary troops deployed in the Valley as well. A recent report issued by the Indian Defense Ministry found that 780 Indian paramilitary troops have committed suicide since 2005, mostly by shooting themselves. The study shows that 38.56 percent of Indian forces are schizophrenic, 14.17 percent suffer from alcoholism, and 9.8 per cent are struggling with depression (<http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013). Tremendous psychological stress, loneliness, short leaves, and hostile conditions are stated to be major reasons for the rise in suicides amongst troops.

#### **DISAPPEARANCES AND RAPES IN KASHMIR**

It is not surprising at all that the Chief Minister of Indian Kashmir, Umar Abdullah’s written statement on the disappeared persons, in the assembly on 8 October 2012 should have been received with complete disbelief. He said, “*Till ending July 2012, about 2,305 persons have been declared missing*”. FIRs (First Information Reports) were lodged only in 182 cases. In the rest of the cases, “*missing reports and complaints have been lodged*”. Sana Altaf of the Srinagar daily, *Greater Kashmir*, noted “*even after 23 years of armed conflict, no authentic official data exists on the number of disappeared persons in Kashmir valley while successive governments continue to come up with contradictory figures*” (cited in <http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

According to the National Conference, government headed by Farooq Abdullah, the official figure of disappeared persons stood at 3,184. The then People’s Democratic Party government headed by Mufti Sayeed informed the assembly in February 2003 that 3,744 persons went missing between 2000 and 2002. According to the Srinagar-based Association of Parents of Disappeared Persons (APDP) which has rendered yeoman service all these years, at least 8,000 persons have disappeared since the militancy began in 1989.

Punjab witnessed a similar pattern of abuse and cover-up during the counter-insurgency operations from 1984 to 1995. An inquiry by the police investigation team of the Jammu and Kashmir for State Human Rights Commission (SHRC) has found 2,730 bodies dumped into unmarked graves in four districts. The Inquiry Report of Unmarked Graves in north Kashmir, submitted by the investigating police team to the SHRC on 2 July 2011, said that the unidentified bodies had been buried in 38 sites in the Baramulla, Bandipora, Handwara, and Kupwara districts. At least 574 were identified as the bodies of local Kashmiris.

The government had previously said that the graves held unidentified militants. Meenakshi Ganguly, South Asia director of Human Rights Watch, said:

For years, Kashmiris have been lamenting their lost loved ones, their pleas ignored or dismissed as the government and army claimed that they had gone to Pakistan to become militants. But these graves suggest the possibility of mass murder. The authorities should immediately investigate each and every death (cited in <http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

The Inquiry Report recommended that the SHRC (State Human Rights Commission) call for immediate DNA sampling and other forensic tests to try to identify the bodies by matching them with the next of kin of the people who have disappeared. Seventeen of the bodies found in the four districts have already been reburied by relatives in family graveyards. The investigation found that 18 of the graves contained more than one body. But the Kashmir government has refused to conduct DNA tests to identify the bodies. New terms have come into vogue. The wife of a “disappeared” man is called “half-widow”. International law, especially international humanitarian law, has begun to grapple with the problem. For long, the chairperson of the Working Group on Enforced or Involuntary Disappearances, studied the record in some countries and reported to the then UN (United Nations) for Human Rights Commission at Geneva now replaced by the Human Rights Council (<http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

The International Convention on the Protection of All Persons from Enforced Disappearances defines enforced disappearances as:

The arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law (cited in <http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

The convention grants all persons directly harmed by an enforced disappearance, such as family members of the disappeared, a “*right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation, and the fate of the disappeared person*”. India signed the convention in 2007, but has not ratified it. The convention prohibits states from claiming a lack of resources to justify refusing to investigate a possible enforced disappearance by placing a duty on states to guarantee those resources. “Security” cannot justify refusal to release information related to enforced disappearances. No “*exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance*” (<http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

Mr. Ravi Nair, executive director of the South Asia Human Rights Documentation Centre in New Delhi, to whom this writer is much indebted for his assistance, rightly holds that the law is violated if governments impose on the families of the victims the burden to provide information before attempting to identify whether any of the bodies belong to disappeared persons ([http://www.nchro.org/index.php?option=com\\_content&view=article&id=1467:kashmiri-detainees-in-tihar-facing-abuse-torture&catid=11:prison&Itemid=21](http://www.nchro.org/index.php?option=com_content&view=article&id=1467:kashmiri-detainees-in-tihar-facing-abuse-torture&catid=11:prison&Itemid=21), 24/4/ 2013).

Meanwhile, the UN Human Rights Committee places the burden of implementing the right to the truth on the state, not the victim’s family:

In cases where allegations are corroborated by credible evidence [...] and where further clarification depends on information exclusively in the hands of the state party, the committee may consider [...] allegations substantiated in the absence of satisfactory evidence or explanations to the contrary presented by the state (cited in [http://www.nchro.org/index.php?option=com\\_content&view=article&id=1467:kashmiri-detainees-in-tihar-facing-abuse-torture&catid=11:prison&Itemid=21](http://www.nchro.org/index.php?option=com_content&view=article&id=1467:kashmiri-detainees-in-tihar-facing-abuse-torture&catid=11:prison&Itemid=21), 24/4/ 2013).

Disappearances blight the lives of whole families. In Kashmir, they spread what *The Economist* aptly called “a war-borne epidemic of mental illness” (cited in <http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

During the period from 1989 to 1998, about 92 out of 108 wars were domestic armed conflicts, with the highest number in Asia, followed by Africa and Europe resulting in the killing of thousands of people, mostly civilians. The valley of Kashmir has also been a witness to escalating violence and conflict over the last two decades resulting in the world attention. The violence has resulted in the loss of almost one *lakh* of lives, which also includes 8 to 9 thousand women. This high number of killings also rendered thousands of women as widows who count up to 25 to 30 thousand.

It is evident that the whole process of armed conflict is about action and reaction in which those who lose their lives are mostly men, but women do not remain unaffected. Armed conflict inflicts particular sufferings upon women in the form of murder and torture, primarily used against them as a weapon, a tool used to achieve military objectives such as ethnic cleansing, spreading political terror, breaking the resistance of a community, rewarding soldiers, intimidation, or to extract information. Rape and sexual violence has also been used frequently as a weapon war.

In a study conducted in Kashmir by Medicins Sans Frontierers in 2006, about 11.6% of interviewees reported that they had been victims of sexual violence since 1989 and almost two-thirds of the people interviewed (63.9%) had heard about cases of rape, while one in seven had witnessed rape. Like any other armed conflict situation, the continuous

violent situation prevalent in Kashmir since 1989 has hit the Kashmiri women in every aspect, every day due to the ongoing-armed conflict women continue to suffer. She is a mother grieving for her missing or dead sons, a widow or a half widow fighting for her existence and the bringing up her children and a refugee to find shelter once displaced from her land.

The Association of Parents of Disappeared Persons estimates 8,000 to 10,000 persons have become victims of disappearances. Everyday, women continue to struggle with their life situations and mostly land up with psychological disturbances. The Guild of Service (North India) reported that the widows are witnessing worst socio-economic conditions as their only bread-earners were killed or injured during the course of ongoing armed resistance (<http://www.ipsnews.net/2012/03/suicides-soar-in-kashmir-2/>, 24/3/2013).

Shah Manzoorl Alam, a researcher from Kashmir, reported that more than 30,000 to 40,000 orphans and widows lead a miserable life and no one is solicitous about their maintenance. More worrying is the fact that the suicides have increased in the valley, especially among women. The study “Suicides in Kashmir” (2000-2001) reveals that the proportion of females is more than males in suicides and it is more intense in the rural areas while as throughout the world the suicide rate among the males is more and it is more intense in the urban areas. The present paper attempts to provide a picture of women in Kashmir with focus on women who are widows and sexually abused and are suffering continuously for almost two decade and find themselves trapped in the vicious cycle of violence. It also tries to highlight the various forms of atrocities-physical as well as psychological, inflicted on women by both parties to the conflict. The paper also suggests some strategies to improve the living situations of these women (cited in <http://www.ipsnews.net/2012/03/suicides-soar-in-kashmir-2/>, 24/3/2013).

## **KASHMIRI DETAINEES IN TIHAR JAIL (PRISON) AND MEDICAL CONSEQUENCES OF THE CONFLICT**

The Jammu and Kashmir High Court Bar Association on Saturday said Kashmiri detainees at Delhi's Tihar jail had narrated tales of "abuse, torture. and humiliation". At a news conference here, the Association members who had visited Tihar jail claimed that the Kashmiri detainees suffered "sexual abuse and mental torture". Bar president, Mian Abdul Qayoom, who headed the five-member team, said the detainees they met narrated identical stories of "abuse, torture, and humiliation" (cited in [http://www.wscpedia.org/index.php?option=com\\_content&view=article&id=37:women-and-armed-conflict-a-case-of-kashmir-valley](http://www.wscpedia.org/index.php?option=com_content&view=article&id=37:women-and-armed-conflict-a-case-of-kashmir-valley), 10/2/2013).

Kashmiri detainees are subjected to third degree torture, forcible sexual intercourse, and are made to drink urine instead of water. Mr. Mian Abdul Qayoom alleged that adding, "*Some incidents are hard to narrate, the situation is worse than that of notorious Abu Ghraib*". The team had visited Tihar and other jails after getting permission from the High Court. "*We had filed a petition in this regard and Justice Nirmal Singh allowed us to visit jails in and outside the state*", he said. The team said it was not allowed to meet all the detainees in Tihar jail. They, however, met Sheikh Abdul Aziz, separatist leader; Mohammad Ahsan Untoo, human rights activist; Mohammad Afzal Guru, who was found guilty in the Parliament attack case of December 2001; and Zamrooda Habib, a separatist women leader ([http://www.wscpedia.org/index.php?option=com\\_content&view=article&id=37:women-and-armed-conflict-a-case-of-kashmir-valley](http://www.wscpedia.org/index.php?option=com_content&view=article&id=37:women-and-armed-conflict-a-case-of-kashmir-valley), 10/2/2013).

"*There are ten jails inside the huge Tihar, we were allowed to meet some detainees in Jail 1, 2, 4, and 6. All of them (detainees) told us they were subjected to the worst kind of treatment, denied medical treatment, and legal help*", Mr. Mian Abdul Qayoom said. Expressing concern over the situation prevailing in the jails, the Bar president said the report drafted by the Association would be forwarded to international human rights organisations

and the United Nations Secretary General in that time, Kofi Anan ([http://www.wscpedia.org/index.php?option=com\\_content&view=article&id=37:women-and-armed-conflict-a-case-of-kashmir-valley](http://www.wscpedia.org/index.php?option=com_content&view=article&id=37:women-and-armed-conflict-a-case-of-kashmir-valley), 10/2/2013).

The conflict in Kashmir has devastated basic health services in the state. Many community health care programs which had been in place for years have ceased to operate or have been severely curtailed. The main reason for the breakdown in medical services is that travel has become too dangerous for health care workers trying to visit rural towns and villages, or even attempting travel between major cities. Militant ambushes and gun battles between militants and security forces occur frequently. Vehicles traveling on the roads are stopped and searched repeatedly at numerous security checkpoints. Security officials at these checkpoints frequently detain passengers, or refuse them permission to proceed further and order the vehicles to turn back. Convoys of army soldiers and other security forces which move along the roads often delay other vehicle traffic.

The programs that have suffered the most as a result of the conflict have been the rural immunization, maternal, and child health care and family-planning programs. Before the conflict, immunizations in rural areas had been carried out under a nation-wide program called "Door to Door". Doctors in Kashmir reported that in 1989-1990, before the conflict worsened, approximately sixty percent of the children in Kashmir were successfully immunized in this program and the dropout rate was very low. However, since the escalation of the armed conflict in 1990, health workers responsible for the program have not been able to visit rural areas and the program has been suspended (<http://dawn.com/2012/10/27/disappeared-in-kashmir/>, 9/3/2013).

## **CONCLUSION**

Kashmir is an intractable conflict between the two South Asian countries, India and Pakistan. It had affected people of tiny nation badly. Every individual suffered here in this vale of paradise which was known as

the beautiful region across the globe. But its irony that due to unrest, turmoil, and cycle of violence people lost their kiths and kens. This valley has seen plenty of untold stories of massive human rights violation.

Since 1989, the people of Kashmir were killed, tortured, humiliated, and injured. Thousands of the people were killed due to cycle of violence prevalent in Jammu and Kashmir. Thousands of the people got injuries and they became disabled to work. Many are those who lost their beloved children's, daughters, sisters, mothers, and some women have lost their beloved husbands who were only the source to care for them. Due to turmoil situations, thousands of the houses and shops were burnt.

Democracy can only survive when the dignity of every individual will be respected. Here are tears in every mother's eyes that lost their beloved children. India has to stop massive violations of human rights in Jammu and Kashmir. Every day, we get news of killings of innocent people of Jammu and Kashmir by the security forces, it's really shocking and terrifying. What is guilty of the people of Kashmir if they do protest for the restoration of genuine rights? They should not be attacked and killed. The government has totally failed in protecting people in the state. Using force against innocent civilians is not justified in any political system of the world. There is need of strong laws to check the power of security forces and safeguard the people of Jammu and Kashmir. India has to acknowledge this thing that no Kashmiri is terrorist. The human rights violations in state of Jammu and Kashmir would be considered democratic failure and dysfunctional polity which is run by the Indian government in valley.

Kashmiri even are not feeling safe in other parts of India, they are being terrorized and killed in other parts of India. India has always abused her power in Kashmir. This all was done on the basis of bayonet and misuse of power. India debunks the image of Kashmiri everywhere; undoubtedly, it can be said that Kashmiri people are talented, humane, charactered, and generous, but the system had always suppressed them without taking

into consideration their genuine demands. Democracy is based on rule of law, justice, equality, and liberty. But it's quite ironic that these features of democracy are absent in Kashmir. All eruptions in the state were caused only because of the democratic failure.

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