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GRT ARMED CONFLICT WOMEN AND HUMAN RIGHTS: A STUDY OF KASHMIR



Fayaz Ahmad Bhat

Department of Sociology JMI (Central) University New Delhi, India

Abstract: Since Universal Declaration of Human Rights (1948) many conventions and conferences on Human rights has been held within the ambit of United Nations (UN) and outside it. After almost 63 years of the declaration, human rights violation is a great concern before “modern democratic” world. Nation States have failed to deliver according to convention of United Nations in protecting basic human rights of people particularly during the periods of war and conflict. It is the responsibility and duty of a state to provide security and protect basic rights of its people particularly of the marginalized section of the society. It has been observed armed conflict has both direct and indirect bearing on women rights. Women are not only being denied security and basic rights but are victim of deliberate and programmed violence during the times of war and armed conflict.

The valley of Kashmir has been experiencing armed conflict since late 1980's during this period grave human rights violation have been reported from the valley. This paper argues that women bear out of proportion the consequences of armed conflict in Kashmir and suffer grave violations of human rights. Woman has been utilized as an instrument of physical, structural and cultural violence.

Key words: Human Rights, Women, Armed Conflict and Kashmir

INTRODUCTION :

Human rights are rights which people are entitled by virtue of being human; they are a modern and secular version of natural rights. Human rights are 'universal' in the sense that they belong to all humans rather than to members of any particular state, race, religion, gender or other group (Andrew Heywood -2009 : 326)

Human rights are considered as those rights which are fundamental for the peaceful survival of an individual. An individual cannot develop its personality at its fullest without enjoying certain rights which are termed as human rights. According to encyclopedia Britannica human rights are those r 'rights that belong to an individual or group of individuals as a consequence of being human. They refer to a wide continuum of values or capabilities thought to enhance human agency and declared to be universal in character, in some sense equally claimed for all human beings'.

According to German philosopher, Immanuel Kant, treating humans with dignity was to treat them morally. He said every person has a dignity and ought to be treated by virtue of being a human with no consideration to his education, or power. (Political theory NCERT)

The above statement makes it clear that human rights are rights of every individual across the globe without any distinction on the bases of region, religion gender, space and time. Humans are always humans; they do deserve and need human rights under every circumstance. The preamble of the United Nations charter provides that the members "reaffirm faith in fundamental human rights, in the equal rights of men and women" and Article 1(3) of the United

Nations charter states that one of the purposes of the UN is: "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (United Nations Charter Article 1(3)). However the bitter and sad fact about human rights is that time, space, age, race, religion, numerical strength of a group, gender and circumstances are closely interrelated with human rights of human beings.

"It is estimated that close to 90 per cent of current war casualties are civilians, the majority of whom are women and children, compared to a century ago when 90 per cent of those who lost their lives were military personnel" (Women Watch).

It cannot be denied that entire communities suffer the consequences of armed conflict but women and girls are particularly affected because of their status in society and their sex. Parties in conflict situations often rape women, sometimes using systematic rape as a tactic of war (ibid)

According T. K Ommen (2006) Violence against women emanates from its universal phenomenon and has existed for millennia. He argues that traditionally women have been professed as the symbol of honour and when one has to avenge humiliate and terrorize the “enemy”

It is during the times of conflict, violence and war that all human rights are kept aside by none other than humans who do possess power, dominance or upper hand in the society. It is women who are not only denied basic rights during these odd times but are victims of planned and

programmed violence. No care or heed is paid to the rights of women thus making United Nations Universal Declaration of Human Rights 1948 dig and hollow. It is not only non state actors who do violate conventions of United Nations but nation states who even are signatories to United Nations Declaration of Human Rights equally violate its conventions.

Background of Armed Conflict in Jammu and Kashmir

"BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :-

1.-(i) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in Dominions. India, to be known respectively as India and Pakistan." Indian Independence Act 1947)

(<http://blog.shreshthbharat.in/dn/Indian-Independence-Act1947.pdf>)

The Indian Independence Act 1947 ended British rule in India in 1947, resulted in the creation of two new nations: India and Pakistan. The fate of 562 Indian princely states remained undecided. According to the Indian Independence Act 1947, "the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States" These states were left to choose their destination by themselves they were free whether to join India or Pakistan or to remain independent.

Jammu and Kashmir was one among the princely states, dominated with Muslim population while Maharaja Hari Singh was a Hindu ruler of the state. The state acceded with Indian Union under very special circumstances and on certain conditions on 26 October 1947. Maharaja Hari Singh's ruler of the state requested Indian for armed support in backdrop of Pakistani invasion into the state of Jammu and Kashmir. The Indian state denied any kind of assistance without signing the instrument of accession. These pathetic, gripping and pressing circumstances made Maharaja of Kashmir to sign the instrument of accession. It was only then that India provided armed service to the state. Indian troops succeeded in halting the Pakistani forces, driving them back however they failed to free the northern parts of Kashmir which were occupied by invaders with the support of Pakistani army resulting in the division of the valley of Kashmir. This led to unending hostilities between India and Pakistan that ranges from low level conflicts to war (Chenoy, 2007). Pakistan continued to support what it call moral and legal support to pro-secessionist forces in the state since 1947.

At the time, British authorities stated that the question of Kashmir's accession should be settled by a plebiscite as soon as law and order was re-instated and the invading forces had left. India promised the people of Kashmir that they will be given democratic space by conducting plebiscite. However till date the promise has not been kept and India claim Jammu and Kashmir an integral part

of India.

The things change drastically and took ugly shape when the movement took a violent turn and insurgency in the state started in the year 1989. Wakar Amin in his paper 'Women and Armed Conflict A case of Kashmir quotes Chenoy's argument that the number of casualties since the armed conflict began in 1989 is many times more than the combined casualties in the four wars fought between India and Pakistan. (p-70)

There is varying figures and arguments on the number of killings, molestations, disappearance, rapes, and other war crimes. Urvashi Butalia (2002) remarks that, "Figures for the number of people killed in the violence, the dead, the missing, women widowed, raped women, children orphaned-all these vary widely depending on where they come from". Whatever may be the dissecting point of argument of different parties but it is commonly held view that women have been severely hit by violence. But there is no unanimity on the numbers and figures of women who have been sexually, physically, socially, educationally bear the brunt of armed conflict in Kashmir.

In October 1947 Pakistan backed the tribal invasion into the state. Maharaja Hari Singh requested India for help. Indian leaders put condition of accession before the Maharaja for armed help. Under these pathetic, gripping and pressing situations Maharaja had no option other to sign the instrument of accession. The invaders who with the support of Pakistan entered the northern parts of the Kashmir resulting in the division of the Kashmir into Pakistan administered Kashmir and Indian Kashmir separated by the contentious line of control (LOC). This led to unending hostilities between India and Pakistan that ranges from low level conflicts to war (Chenoy, 2007).

Though Pakistan continued to support the anti India and pro-secessionist forces in the state since 1947 but the event took a violent turn and insurgency in the valley started in the year 1989. The number of casualties since the armed conflict began in 1989 is many times more than the combined casualties in the four wars fought between India and Pakistan (Chenoy, 2001).

Armed Conflict and Women in Jammu and Kashmir

Women tolerate unduly the costs of wars. They experience serious violations of human rights in situations of armed conflict, including terrorism, torture, disappearance, rape, ethnic cleansing, and family separation. Additionally, they bear lifelong social and psychological traumas. Along with children, women constitute 80 per cent of the world's refugees and displaced persons. (ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA)

Women's experiences of armed conflict in Kashmir were multiple and they may be classified as- vulnerable victims. Women in Kashmir have been continuously the victims of physical/psychological, cultural as well as economic violence. The problems that they have to face on almost daily basis range from eve teasing to rape, body searches to cordon searches, getting injured to being killed in the militancy-related violence. Interestingly, women in Kashmir are victims of violence from both sides: security forces as also the militants. They are caught amidst two guns

with no neutral space.

Besides violence inflicted directly on women's bodies, women in Kashmir also bear the ramifications of the general—typically male on male—violence in the Valley. The affects of violence on women were Social, Psychological and economical. They undergo directly by being subject to rape, molestation and torture and others whose relations are subject to atrocities suffer because of being related to them. It therefore becomes imperative to try and analyze the impact that the past 22 years of armed conflict have had on Kashmiri women.

Acute insecurity has been experienced by women in Kashmir due to conflict between state and militants. (T. K Oommen 2006)

Women in Kashmir have suffered enormously since the separatist struggle became violent in 1989-90. they have been raped, tortured, maimed and killed. According to Medecins Sans Frontieres, Kashmiri women are among the worst sufferers of sexual violence in the world. "Sexual violence has been routinely perpetrated on Kashmiri women, with 11.6% of respondents saying they were victims of sexual abuse," adding that the figure is much higher than that of Sierra Leone, Sri Lanka and Chechnya.

A study conducted by the Department of Sociology of Kashmir University revealed 90% of the estimated 10,000 Kashmiri war widows didn't remarry despite provision of remarriage in Islam.

Kashmiri women commit suicide than men. Bashir Ahmed Dabla (Sociologist of valley) says conflict is the underlying factor of suicides in Kashmir, he adds "Throughout the world, it's found that suicide rates are highest among men and more intense in urban areas, but in the Valley the reverse is true."

More than 60% of the patients visiting Kashmir's lone psychiatry hospital in Srinagar for treatment constitute women, with most of them suffering from Post Traumatic Stress Disorder. "And this is tip of an iceberg," (E:\Women\Women in Kashmir suffer silently.mht)

Dr Arshad Hussain, a senior psychiatrist said he believed hundreds of women didn't come out as of illiteracy and social taboos attached to the psychiatric hospitals. "They continue to suffer silently,"

There are also hundreds of 'half-widows' whose husbands disappeared during conflict mostly in custody of Indian troops, leaving them to fend for themselves. The failure of society and government to help women them has compounded their suffering.

Rapes and Molestation in Jammu and Kashmir.

According to T.k Oommen 'traditionally women has been perceived as the symbol of honour and therefore mutilating and destroying women's physical integrity became a means of terrorizing and humiliating the enemy in wars'. Women's bodies have been made available to armies. Though Oomen argues that women become target as of enmity but in context of Kashmir things are different. On the one hand "Security forces" who are involved in the most of human rights violations case belonged to India, which always claim Kashmir an integral part of it. On the other militants who perpetuated sexual or other kind of violence

were none but persons from their own community who mostly shared common language, culture, and religion.

In response to militancy in Kashmir government in Kashmir began in earnest in January 1990. Rape by "security forces" become more frequent According to Human Rights Watch and Physicians for Human Rights (1993 : 14)

"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. In these situations, the security forces frequently engage in collective punishment against civilians by assaulting residents and burning their homes."

Medecins Sans Frontiers (2006) an international Humanitarian organization reveals that Kashmiri women are among the worst sufferers of sexual violence in the world. The study adds that since the beginning of the armed struggle in Kashmir in 1989, sexual violence has been routinely perpetrated on Kashmiri -women. Their figure is much higher than that of Sierra Leone, Sri Lanka and Chechnya.

According to Human Rights Watch and Physicians for Human Rights (1993) Rape is used as a means of targeting women whom the security forces accuse of being militant sympathizers; in raping them, the security forces are attempting to punish and humiliate the entire community. Rape has also occurred frequently during reprisal attacks on civilians following militant ambushes. In many of these attacks, the selection of victims is seemingly arbitrary and the women, like other civilians assaulted or killed, are targeted simply because they happen to be in the wrong place at the wrong time.

Various armed militant groups in Kashmir have also committed rape. In some cases, militants have raped women whose family members were believed to be informers or supporters of rival groups. In other cases, women have been raped and killed after being held as hostages for their male relatives.

In May 1990 a young bride, Mubina Gani, was detained and raped by BSF soldiers in Kashmir while she was traveling from the wedding to her husband's home. "Security forces" forces also raped her aunt and killed one man and wounded several others accompanying her. The government claimed that the party had been caught in "cross-fire."

While narrating the heart piercing tale to Basharat Peer the author of the book *Curfewed Night*, Mubina narrated she was bleeding, when a group of "soldiers" dragged her and her chambermaid to the mustard fields. An unknown number of "security" persons raped the two women who were injured with bullets of BSF. "I could not remember how many they were. I had lost my sense" (Basharat Peer : 2006 : 158).

On 26 June 1990, BSF personals entered Jamia Qadeem of Apple town Sopore after an exchange of Cross-fire with militants at about 11:00 p.m. where they showed their masculinity to women folk by raping Hasina, a 24-year-old woman.

The doctors of sub district hospital Sopore stated that when Hasina was brought to the hospital she had vaginal bleeding and bite marks on her face, chest and breasts and scratches on her face, chest and legs, and injuries to her

genital area. A police report filed on July 5, 1990, charged members of the BSF with rape. (Asia Watch, Kashmir Under Siege, p. 87.)

A large number of women were allegedly on the night of 23 February 1991 in the village of Kunan Poshpora, Kashmir, by soldiers from the 4th Raj Rifles, posted in the border district of Kupwara. The incident provides a telling example of atrocities, war crimes, targeted targeting, brutalities and human rights violations committed by "security forces".

According to reports hundreds of soldiers arrived at the village at around 11pm. The men were taken from their houses and tortured during the night while large numbers of women aged between 13 and 80 years old were raped.

A team of human rights activist and journalist led by Mufti Bahauddin Farooqi a retired Chief Justice visited Kunan Poshpora on 17 March 1991. On 19 March the team in its report established that they had interviewed 53 women all of whom had confirmed the rape allegations, but the team leader thought that that about a hundred women could have been abused. Team in its report also stated that seven soldiers gang raped a 21 year old woman even though she was months pregnant. Another woman was assaulted by six soldiers "One by one, they raped me, while my five-year-old son was forced to watch" (Amnesty International, Rape and Ill-treatment of Women in Kashmir 21 March 1991. P-1

The government for time to time denied the charges. The Ministry of Defence and the army have denied the charges and expressed doubt about the authenticity of the allegations in his report, describing them to be "incorrect". However it was only in 2011 that State Human Rights Commission acknowledged the credibility of the case.

Asia Watch and PHR recognized fifteen individual cases of reported rape by forces of the Indian army and BSF in Kashmir. Thirteen of them happened in two incidents which took place in the two weeks prior to the Asia Watch/PHR team's visit to Kashmir. Of the two one incident occurred in Chak Saidapora of Shopian where an army unit of the 22nd Grenadiers gang raped nine women including an eleven-year old girl and 60 year old women. In an interview to Asian Watch and PHR gynecologist and assistant surgeon at the Shopian District Hospital who examined seven of the women on October 11 and the remaining two on October 12 confirmed rape to the victims. The second one of the two occurred in Haran 25 KMs west from Srinagar. The incident has been narrated by Asian Watch and PHR as follows.

Asia Watch and PHR interviewed J., a resident of Haran, who stated that at about 6:30 a.m., five soldiers came into a courtyard and ordered her to give them some water. Two of the soldiers then dragged her into her room. One of them removed her clothes while the other stood at the door. She stated, The first soldier slapped me and then pushed me to the ground where I fell

on a wooden stake and hurt my back. Both of the soldiers raped me. At some point I fainted, and when I regained consciousness, I discovered that my husband had placed a blanket over me.

A second woman, H., told Asia Watch/PHR that she was at home at about 9:00 a.m. when two Sikh soldiers entered the house. H. was pregnant at the time. Other soldiers

remained outside in the compound. She stated, They told me that I had to go to a shop with them to search it. My father said he would come, but they said, "No, she has to come." I refused. Then one of them asked for some milk but when I gave it to him, he touched my breasts and pushed me into a corner. One covered my mouth with his hand while the other held a gun. They ordered me to lie down. One of them raped me. Then I fainted. P-103

On October 1, 1992, there was heavy exchange of gun fires between BSF and militants in the village of Bakhikar, in Handwara district. In the exchange of gun fire one BSF personal got killed following this BSF forces rampaged through the nearby village of Batekote, killing ten people and burning houses and grain stores. The BSF forces also entered the village of Gurihakhar where they sexually molested women..

On October 2, 1992, local police took the women to a female doctor in Handwara who confirmed that the women had been "severely molested," Asia Watch and PHR also interviewed the mother of a 13-year old girl in the same town who provided an account of the rape as if she, and not her daughter were raped, apparently to protect her daughter from public humiliation.

On May 29, 2009, Asiya Jan and Neelofar Jan left their home, left for ever in Shopian town and travelled together to the apple orchard. The disappeared under mysterious conditions the husband of Nelofer Jan and brother of Asiya Jan, Shakeel Ahmad with his kins roamed pillar to post whole night in search of duo. On May 30, 2009, the dead bodies of the two unfortunate ladies Asiya Jan and her pregnant sister-in-law Neelofar Jan were found who were subjected to rape. The dead bodies were taken to hospital for the postmortem. The postmortem report of the duo confirmed rape. This incident led mass strike in the Kashmir valley and people protested against the gruesome crime.

In this gruesome crime high profile officials were allegedly involved in the gruesome crime. Everything was done to cover up the storey.

After 4 months on Sept 28, 2009 CBI exhumed the bodies of the two Shopian women who were raped and murdered in mysterious circumstances. The bodies were examined by a team of doctors from the All India Institute of Medical Sciences (AIIMS), headed by Dr T D Dogra in the presence of eye witnesses. The AIIMS postmortem report contradicted the previous report by the Shopian and Pulwama. The report of CBI was unwelcome not only to people of valley but many human rights organizations. CBI report kept many questions unanswered and gave birth to many new questions. The CBI report anguished and alienated the report. Independent Women's Initiative for Justice Shopian 2009 a group of women comprising lawyers, law researchers, a medical doctor, a journalist and women's rights activists carried independent inquiry of the double murder and rape. They confirmed gruesome rape and murder of the duo and rejected CBI version of the case.

T. K Oommen (2006) argues both "security forces" and militants prey on women. While narrating the storey of a school teacher and housewife who had been victim of sexual violence of "security forces Oommen study lines with many national and international studies which accuse "security forces" for violation of human rights.

Ommen has also provided space to Mangla Devi's narration who nine family members were shot dead her nine family members including her husband and two sons. She herself was shot in the head and has lost her speech.

He has also brought forth that how conflict has made women to marry against their choices. For instance he mentions a case where neighbour intending to marry a girl used 'security forces' to perpetuate violence on the girl and her family. In another similar case he has brought forth militant forcefully marrying the women of his choice.

It would be bias and prejudice not to mention atrocities committed by militants in the state of Jammu and Kashmir. It is not that it were only Indian "security forces" who often turned violent and beasts in Kashmir militants joined the Indian forces in display of brutality. It is not militants executed brutalized members of any particular community. Many attacks committed by militants deliberately targeted civilians including members of Hindu community, civil servants and political leaders, particularly Muslim political leaders, reads Asian Watch Human Rights and PHR report, 1993, p- 141

One of the earliest brutality demonstrated by militants was the abduction of Sarla Bhat a staff nurse at the Saura Medical Institute, she was abducted from the institute on April 14, 1990. Her body was found four days later. The post-mortem report concluded that she had been raped before she was shot dead.

According to Asian watch of Human Rights Cases of rape by militant groups are difficult to investigate because most Kashmiris are unwilling to discuss abuses by the militants out of fear of revenge. According to one report, the increasing number of rapes has led to an increase in abortions in Kashmir, resulting in one case in the murder of a doctor who complained about having to perform them. Militants from the Hezb-ul Mujahidin and Al Jihad reportedly accused the doctor of being an informer.

A second case of inhuman act has been reported by Asian Watch Human Rights and PHR (1993)

A 1992 case of rape and murder by militants attracted publicity in part because the incident provoked street protests condemning the militants for the crimes. The incident involved the family of a retired truck driver named Sohanlal, 60, who lived in Nai Sadak, Kralkhud. At about 8:30 p.m. on March 30, 1992, armed militants entered Sohanlal's home. According to his son, the men demanded food and shelter. The family complied. After about two hours, Sohanlal and his wife, Bimla, heard their daughter, Archana, crying for help from a room on the ground floor of the house. When they reached the room, the militants shot Sohanlal, killing him instantly. The bodies of the two women were later discovered in the street outside the house. According to the autopsy report, both women had been raped before being shot. According to one report, 5,000 women staged a protest march to condemn the rapes and murders. 181 To Asia Watch/PHR's knowledge, no group has claimed responsibility for the incident. P-154

The above mentioned incidents are not limited to Mubina Gani, Sarla Bhat, Asiya, Nelofer, Kunan Poshpora, Shopain, Sopore, Sringar but many other women like Sarla and others every corner of Kashmir

Armed Conflict Women and Education in Jammu and Kashmir

"Since wars begin in the minds of men, it is in the minds of men that the defence of peace must be constructed." (Preamble of UNESCO's Constitution)

Human rights are the basic rights which all human beings exclusive of any difference are entitled. Human development at its fullest is impossible without entitlement of certain human rights. Education is one among the basic human rights which have been recognized obligatory for the development of an individual. Many provisions of United Nations (UN) have exclusively dealt with this all important issue. It has been made mandatory for the member states to provide free and compulsory education to people at least up to elementary stages.

Education for all a global movement initiated by United Nations Education Scientific Cultural Organization (UNESCO), aiming to universalize elementary education by 2015 does not seem to be achievable by 2015. Among the major thorns in achieving the goal armed conflict is one of the major concerns in the achievement of the goal. Studies have revealed that armed conflict do affect schooling roughly very harshly.

The UNESCO report Hidden Crises : Armed Conflict and Education reads as 'Countries affected by armed conflict are among the farthest from reaching the Education for All goals, yet their education challenges go largely unreported.' The report further adds

In conflict-affected poor countries, 28 million children of primary school age are out of school – 42% of the world total.

Children in conflict-affected poor countries are twice as likely to die before their fifth birthday as children in other poor countries.

Only 79% of young people are literate in conflict-affected poor countries, compared with 93% in other poor countries. State and non-state parties involved in armed conflicts are increasingly targeting civilians and civilian infrastructure. Schools and schoolchildren are widely viewed by combatants as legitimate targets, in clear violation of international law.

According to global study, Education under Attack, published by UNESCO in

2007 the number of reported attacks on education had dramatically increased in the preceding three years.

The study conducted by UNESCO Education under Attack 2010 found that systematic targeting of students, teachers, academics, education staff and institutions has been reported in a greater number in conflict hit countries. According to report attacks intensified dramatically in Afghanistan, Pakistan, India and Thailand.

The study reads, 'nearly 300 schools were reportedly blown up by Maoist rebels between 2006 and 2009. Though there is no mention of education system of Kashmir but it is easy to assume that education system in the State has been harshly affected by armed conflict as the intensity of armed conflict in Kashmir was higher than Maoist hit areas in India. Furthermore there were repeated incidents of acid spray on school going girls in Kashmir.

(news.bbc.co.uk/2/hi/south_asia/1487395.stm)

Oommen (2006 : 94) reported "Manny girls do not go to school as it is far from their homes and they are afraid. Militants come and go as they please. There have been forced marriages and pregnancies." Even he reported a case of school teacher who had been sexually molested by "security forces.

Many schools and colleges were burnt down by militants and hundreds were occupied by armed forces of India. This directly affected schooling in Kashmir.

Socio – Psycho implication of Armed Conflict on Women in Jammu and Kashmir

Ironically, and miserably, women and girls who experience sexual brutality during conflict are probably the most vulnerable of all to further exploitation in post conflict settings. Some rape victims may be rejected by their families and communities for having lost their value.

Raped women may be abandoned by husbands who simply cannot tolerate the shadow of "dishonor" they believe their raped wives have cast across them.

According to Asian Watch of Human Rights and PHR women who are the victims of rape are often stigmatized, and their testimony and integrity impugned. Social attitudes which cast the woman, and not her attacker, as the guilty party pervade the judiciary, making rape cases difficult to prosecute and leaving women unwilling to press charge. (Human Rights Watch. 1993)

The ill fated young bride Mubina whose tale has been cited above faced many social stigmas after rape. Her in laws and villagers call her bad omen: the cause of misfortune who took one life and injured many others. She has been traumatized by her in laws and neighbours on daily bases thus adding salt to her wounds. Peer (2006 : 159) writes that she encounter braving taunts thrown by her in – laws, neighbours, and villagers. She can't wait in que for water, she lowers her head. She moves like smoke on the streets of the village, trying to be invisible. These kind of social interaction could remind her trauma.

In other incident a house wife confessed: NSG men came to our house. They took away my husband. It has been 5 years. Now even my parents – in – laws have kicked me out of their home. (T. K. Oomen 2006 :95)

Asia Watch and PHR in its study revealed how the mother of a 13-year old girl in the Handwara hides the rape of her daughter, apparently to protect her daughter from public humiliation. The incident narrates the complexity and social stigma associated with such incidents. In spite people know about innocence and helplessness of the victim yet women folk is punished for the crime which they never commit.

"Many half-widows visiting the hospital are hypersensitive and show signs of depression. We treat them with Cognitive Behavioral Therapy," said Sadaqat.

Rehman, Assistant Professor in Clinical Psychology, Government Psychiatric Hospital, Srinagar. (http://www.kashmirilife.net/index.php?option=com_content&view=article&id=1179:half-widows-double-misery)

The social system is woven in such a way where there is no space for victims, Mubina Gani whose case has been dealt briefly above faced many kinds of social

challenges and discrimination. The victims of Kunan poshpora complained of social ostracism from their families and communities because of the "shame" of having been raped. Some of the alleged victims reportedly committed suicide after the incident. According to the report, not a single marriage proposal had been received for any women, raped or not, in the village for three years after the incident. (Shazia Khnan 2008)

Though there are not many studies related to implications of armed conflict on women in Kashmir but there are enough systematic and scientific studies across the globe which has dealt in detail about the issue.

The continuous and systematic repression to the people can lead into existential problems for people. They may be alienated from their own selves. Fanon writes 'systematic negation of the other persons and a furious determination to deny the other person all attributes of humanity, colonialism forces the people it dominates to ask themselves question constantly: 'In reality, who am I?'

Action against perpetrators of Human Rights Violators in Jammu and Kashmir

Someone has rightly said justice delayed is justice denied. In context of Kashmir

Many episode of rape have been reported from Kashmiri mostly committed by Indian security forces. In the vast majority of cases, no investigation takes place. In the few cases where the government has ordered investigation and courts-martial, the result and the punishments are not made public, send away the sufferers to judge that such abuse is committed with impunity. In the purview of International law rape by security personnel is a gross violation of international human rights and humanitarian law.

Moreover, India's own criminal law makes torture a crime and explicitly prescribes punishments for members of the police or other security forces who have committed rape. Under section 376(1) of the Indian Penal Code (IPC), a minimum term of seven years' imprisonment may be imposed for rape. In addition, the Criminal Law (Amendment) Act of 1983, which for the first time provided for the offense of custodial rape, prescribes a mandatory 10 years' imprisonment for police officers who rape a woman in their custody. 110 The sentence may be extended to life, and may also include a fine. Commissioned officers of the paramilitary and military forces are included under Section 376(2)(b) of the IPC and are thus also subject to this mandatory sentence. The Criminal Law (Amendment) Act (1983) also shifts the burden of proof regarding consent to the accused.

Asia Watch/PHR reports, the government has stated that, "Wherever there is transgression, action has been taken. By now, over the last two years, action has been taken against over 100 personnel of the security forces, and this has involved punishments including imprisonment ranging from less than a month to seven years and various forms of departmental action including suspension pending enquiry in a number of cases."

Contrary to official propaganda, transgressions committed by the security forces are hardly ever investigated. Just the process of getting an FIR registered is burdensome. Way back in 1992, the establishment ordered

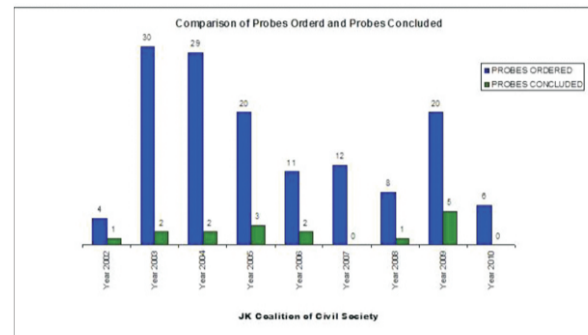
that FIRs should not be registered against the security forces. When lawyers brought this before the Jammu and Kashmir High Court, the order was reserved. However, on the ground the orders of establishment prevailed, registering an FIR has always been a difficult asks. Without an FIR, no inquiries are carried out. Even when it comes to the few incidents where FIRs are registered and inquiries are carries out, the process get stuck in endless rounds of inquiries and reviews before sanction is obtained for prosecution.

The principal secretary, home department, was directed by High court to furnish a list of cases pending with the state government between 1990 and 2007 awaiting sanction for prosecution by the central government. The list submitted, said the deputy registrar of the high court in a letter dated 22 December 2008, "would show that during this period 458 cases were received by the government. In four cases, the Union of India rejected sanction of prosecution. The list, further, illustrates that 122 cases have been referred to DGP/IG Crime and Railways for clarification but reply of DGP is awaited." Gautam Nalvalkar (2010) argues in 18 years, just 458 cases reached the stage of sanction in a place where no less than 70,000 people got killed, where at least 60,000 suffered torture in 63 Guantanamo- type torture centres in the valley alone and where 8,000 were allegedly victims of enforced disappearance.

According to Jammu and Kashmir Coalition of Civil Society ,from 2002 to 2009 the government ordered 140 probes on different human rights abuses, out of which only 16 enquiries have been concluded. In just one case an army personnel who was accused of rape has been punished for misbehavior and sent to 1 year rigorous imprisonment.

Hobbes sate of nature exactly suits to Kashmir which is poor, nasty, solitary and brutish. Institution of justice show partiality when it is of Kashmir, argues A.G. Noorani. Questioning the statement, "MILITANTS are more responsible than the security forces for the human rights violations in Kashmir. The media is responsible for not focusing on the militant atrocities as much as they should be doing." Of Raganath Mishra the Chairman of National Human Rights Commission a quasi judicial body, Noorani called it blanket exoneration of the security forces.

In an interview which appeared in 'The Hindu' on 17 July 2010 Mishra said " Mr Shankar Sen, an officer holding the rank of DGP, would be visiting Jammu and Kashmir to investigate the complaints received by the commission during its recent visit to the state". Noorani reacted "What is the worth of this official's probe when the commission's chairman has already pronounced his opinion? Incidentally, will the other members of the commission pull him up for this? It is hardly likely. But, of course, there is a purpose behind the Sen mission. It is to find material to refute Amnesty.



CONCLUSION

The studies from Kashmir show grave breach of international laws and convention on the part of state and non state actors. Though every section of the society suffers the consequences of armed conflict upon women are multiple. They have been continuously the victims of physical, structural and symbolic violence. The problems that they have to face on almost daily basis range from eve teasing to rape, body searches to cordon searches, getting injured to being killed in the militancy-related violence. They are victims of violence from both sides: security forces as also the militants.

As a woman is regarded symbol of honor in society they had been deliberately victimized to avenge whole community. To demoralize Indian security forces

The special impunity to security forces and negligence of government to deliver justice made the Kashmir a hell on the earth. Indian officials most of the times brand cries and woes as allegations.....

Rape in the valley continued to be a weapon of oppression against Kashmiri women. Kashmiri women are among the worst sufferers of sexual violence in the world.

Indian has not violated International law but also its own constitution by violating India's own criminal law.

Judicial system has been found very partial when it was of Kashmir. The prosecution process has not been followed. India has alienated its own people by denying justice to them. There has been no distinction of colour, creed and religion when it was violation of human rights of women. They have suffered symbolically, culturally and structurally.

The failure of society and government to help women whose husbands, brothers and sons have disappeared during years of conflict in Kashmir has compounded their suffering.

The 'hyper-masculinization' of the armed forces, and the gala of militarization and its associated violence, has created multiple contexts wherein its members have perpetrated gendered and sexualized violence on the women of Kashmir. The prevailing conditions of armed conflict continue to impact the psychological health of women.

The violation of human rights manifests the extent of fear psychosis, denial of security and democratic rights to the people, it also demonstrates the miserable negative response of those at the helm of affairs to bring the culprits of gross violation of human rights to book.

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