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**Dr. Vikas**  
Assistant Professor of Political  
Science, Pt. NRS Government  
College, Rohtak, Haryana,  
India

**Dr. Ved Parkash**  
Assistant Professor of Political  
Science, Pt. NRS Government  
College, Rohtak, Haryana,  
India

**Corresponding Author:**  
**Dr. Vikas**  
Assistant Professor of Political  
Science, Pt. NRS Government  
College, Rohtak, Haryana,  
India

## Human rights violations in Kashmir

**Vikas and Ved Parkash**

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### Abstract

Kashmiris have been victims of human rights violations for seven decades. After the accession of Kashmir to India in 1947, a conflict emerged between India and Pakistan. Pakistan has never accepted the merger of Kashmir with India and has always instigated Kashmiri Muslims against the Indian Government and local authorities. The condition in Kashmir became miserable after the emergence of militancy in Kashmir in 1989. To crush the militancy in Kashmir, the Indian government provided special powers to armed forces with the Special Act AFSPA, that is, the Armed Forces (Special Powers) Act. Armed forces such as the Indian army, BSF, and CRPF were blamed for misusing their special powers and violating human rights. On the other hand, militant groups started to target the Kashmiri Hindus, particularly the Kashmiri Pandits. Under the terrorist threat, Kashmiri Pandits were forced to leave their houses and their properties. So, human rights of Kashmiris are violated by both armed forces and militant groups in the form of extrajudicial killings, torture, rape, kidnapping, and displacing them from their native places.

**Keywords:** AFSPA, armed forces, militant groups, Kashmiri pandits, human rights

### Introduction

When the British decided to free India, the “Desi Riyasats” were allowed to join Pakistan or Hindustan or to remain independent. But the Indian Government and the Pakistan government were not ready to allow any Riyasats to be independent. So, most of the Desi Riyasats were made to join either Pakistan or Hindustan. This merger was mainly on the basis of religion. With the population of majoritarian Muslims, they decided to join Pakistan, and the Hindu majority Riyasats finally joined Hindustan. Kashmir was such a Riyasat which had a majority Muslim population, but the king was a Hindu, Raja Hari Singh. Raja Hari Singh was in a dilemma. He was unable to make a final decision on which country. Because if he had decided to join Pakistan, then a Hindu King would not have received due regard, and on the other side, if he had decided to join Hindustan, then Nehru was in the favor of Sheikh Abdullah, the popular leader of Kashmir who fought against the dynamic or despotism of Raja Hari Singh along with Pandit Nehru. Pandit Nehru was in favor of democracy and would never accept dynastic rule. Raja Hari Singh decided to choose the third option, which was to establish an Independent state. Pakistan, due to its Muslim majority, claimed Kashmir Riyasats and wanted it to be a province of Pakistan. Pakistan provoked the local tribes and provided them with weapons to attack Kashmir. Some of the Pakistani army Jawans also joined the invasion to dethrone Raja Hari Singh. Under the pressure of this attack, Raja Hari Singh signed the instrument of accession prepared by the Indian government. With this, Kashmir became the territory of India. The Indian Army retaliated and started to push back the tribal and other infiltrators. In the meantime, Pandit Nehru approached the Security Council of the United Nations, which asked for an immediate ceasefire to resolve the issue. This ceasefire made the Kashmir dispute permanent between India and Pakistan, which could not be resolved till now. Kashmir had been divided into two parts, one of which was occupied by India and the other was under the control of Pakistani administration, which Pakistan described as Azad Kashmir. India blamed Pakistan for the illegal occupation of a large part of Kashmir, while the same allegations were made by Pakistan against India. India claimed Kashmir as its integral part, and the demand for the separation of Kashmir was considered sedition. Mainly after 1989, Muslim militant groups emerged with the support of Pakistan. In 1990, the Indian government provided special powers to the armed forces through the Armed Forces (Special Powers) Act.

An undeclared war had been started between militant groups and armed forces, which made the lives of civilians in Kashmir miserable and put them under threat. Human Rights Watch and Amnesty International reported the cases of torture, rape, extrajudicial killing, arbitrary detention, death in custody, and restriction on the freedom of expression by armed forces and state government on the one hand, and on the other hand, militant groups tortured, killed Hindus, and forced them to leave their houses. Such a type of violation of human rights was faced by Kashmiris, both Hindus and Muslims, for a prolonged period, and they are still experiencing such types of atrocity, threat, extrajudicial killing, and detention.

#### • **Arbitrary Arrest and Detention**

With the emergence of militancy in Kashmir, the Indian Parliament enacted a law in September 1990 to provide Special Powers to the armed forces. It is famous as AFSPA, which is the Armed Forces (Special Powers) Act. Indian Army, Border Security Force (BSF), Central Reserve Police Force (CRPF), and local police were entrusted with the responsibility to maintain peace and security in the state. The Indian Army, CRPF, and Border Security Force are generally blamed for the misuse of their special power. They are accused of torturing innocent people, raped Kashmiri women, and retaining people for a prolonged period without presenting them before a judicial magistrate. In most cases, the armed forces arrested young people of Kashmir as suspected militants or blamed them for helping militants without informing the local police. They generally did not follow the due process of law, that is, to produce the day before the judicial magistrate within 24 hours and inform the family members of the arrested person. The arrested people do not know the cause of their arrest. Provisions of preventive detention and special law for armed forces in Jammu and Kashmir allowed forces to keep people in their custody up to 2 years or more without charge or trial. Shabir Shah was detained for 5 years without any trial. He was released in October 1994. Amnesty International received many complaints of the illegal detention of Kashmiri people by the armed forces. Many detained people could not be freed even after the court order. Armed forces generally conduct security operations and crack down on militants. During these operations, security forces have conducted mass detentions of residents, generally without a proper legal process. In August 2019, the Indian government decided to revoke Article 370, and as a precaution, a large number of political leaders, activists, and residents were reportedly detained without proper legal justification.

#### • **Torture and Abuse**

Armed forces and military groups in Kashmir are generally blamed for torture and abuse of Kashmiri civilians. In a 1993 report, Human Rights Watch stated that Indian security forces "assaulted civilians during search operations, tortured and summarily executed detainees in custody and murdered civilians in reprisal attacks" <sup>[1]</sup> Armed forces picked up people from their houses, arrested people as suspected militants or helpers or informants of militants. Like this, militant groups also kidnapped the family members of security forces or other civilians, blaming them as helpers or informers of security forces and tortured them and rape women, etc. In custody, security forces badly and inhumanely torture the people. The Telegraph, citing a WikiLeaks report, quotes the International Committee of the Red Cross (ICRC) that Indian security forces were

physically abusing detainees with beatings, electrocutions, and sexual interference. <sup>[2]</sup> Various cases of death in custody were also reported by Amnesty International. Exceptional brutality is also reported by Human Rights Watch. Armed forces have many times conducted search operations in the hunt for militants, and such counterinsurgency operations put the entire civilian population at risk. The torture in custody ranged from beating, electric shock, hanging people upside down, to burning body parts, and crushing their legs with heavy rollers. In February 1993, Manzoor Ahmad Ganai died within weeks of having his legs amputated. The Indian government routinely denied those allegations. On 9 April 2017, the Indian Army used Kashmiri youth as human shields. They tied a 26-year-old Kashmiri youth in front of a jeep to shield themselves from being hit with stones by the public. This inhuman incident was widely criticized by the media and Human Rights activists. In this case, the Jammu and Kashmir Human Rights Commission asked the government to pay ten lakh Rupees as compensation to the humiliated youth. But it was denied by the government. Women are soft targets for both security forces and militants. Dr. Seema Kaji stated in her report that security forces had surpassed the militants in raping women. Professor William Baker blamed the armed forces for using rape to intimidate civilians. He said that it is an active strategy of forces to humiliate the Kashmiri people. In April 2002, three Paramilitary soldiers were arrested for the gang rape of 17 a 17-year-old girl. An anti-India protest was conducted in Srinagar against the alleged rape of a 25-year-old woman in Mangam village. Many of the custodial deaths are also reported, followed by incidents of torture. Sometimes the body returns to the family without any explanation. Masroof Sultan, a student, was tortured with electric shock in a notorious interrogation Center. Beyond physical abuse, detainees in Kashmir often endure psychological torture, including threats against family members, sleep deprivation, and prolonged isolation. In 1991, Kunan and Poshpora in Kashmir, the Armed forces were alleged to have been involved in mass rape and sexual violence. This incident highlighted broader Human Rights violations in the region. In 2009, two Young women were found dead in the Shopian district. The police claimed the deaths were accidental. But subsequent investigations found evidence of rape and murder.

#### • **Extrajudicial Killings**

Security forces in Kashmir are also blamed for extrajudicial killings. Hundreds of men, women, and children were killed in extrajudicial killings by security forces. Border security forces shot dead at least fifty-three unarmed people in the town of Sopore. In October 1994, at least thirty-seven unarmed civilians were shot dead by the BSF in Bijbehara, who were demonstrating against the security forces. Although the investigation in such cases is exceptional. The government ordered an inquiry into the case. This incident highlighted the excessive use of force and lack of accountability. The armed forces are generally accused of faked encounters. On July 5, 2005, Hizb-ul-Mujahedin commander Ghulam Mohiuddin Dar was killed in an armed encounter. Dar's supporters alleged that he was arrested by members of the Rashtriya Rifles when he was taken into custody and shot down after five hours by armed forces in a fake encounter in a forest <sup>[3]</sup>. In March 2007, seven civilians were killed by the Indian army in a staged encounter in Panchalthan. This incident raised the issue of fake Encounters by the armed forces in Kashmir. The Indian Army also claimed to have gunned down militants in an

encounter conducted in Pathribal in March 2000. The army claimed that these militants were wanted in the Chattisingpara massacre. However, the investigation revealed it as a staged encounter, and the victims were innocent civilians. This encounter raised serious concerns about extrajudicial killing and impunity. In 2016, when people protested against the armed forces for alleged molestation by an army soldier. Security forces opened fire on demonstrators in Handwara. This issue further raised the issue of extrajudicial killings in Kashmir. In some cases, Kashmiris were found missing. In December 1993, Amnesty International reported 127 cases of disappearances since January 1990. The public had apprehension about the killings of these people by the armed forces. The Jammu and Kashmir High Court found evidence of this appearance of many people and ordered police to produce the victims, but these orders were not complied with by the law enforcement agencies. Armed forces operating in Jammu and Kashmir consider themselves above the law and generally misuse the special powers provided by AFSPA. They act with total impunity. In exceptional and highly publicized cases, they are investigated, but rarely are the culprits, soldiers, punished. The provisions of AFSPA contravened the standard of International human rights. Judiciary enquiries were conducted in the Sopore firing (1993) and the Bijbehara killings. Generally, the government is unwilling to commit extrajudicial killings by armed forces. The government is not ready to accept the allegation of torture and death in custody.

#### • Muslim militants and violation of human rights

Muslim militant organizations emerged in Jammu and Kashmir after 1989. They conducted terrorist activities against the armed forces and the Hindu population of Kashmir. They have been murdered of hundreds of civilians, both Muslims and Hindus, on suspicion of being supporters of the government or informers of police or armed forces. There are no accurate statistics on the number of these killings, but anecdotal evidence from Kashmir indicates that most of these abuses have increased since 1994 <sup>[4]</sup> Militant violence in the 1990s, led by the Jammu Kashmir Liberation Front against Kashmiri Hindu Pandits had led to the exodus of them out of the Kashmir valley <sup>[5]</sup>. They forced Kashmiri pandits to migrate from their native place. They were threatened, humiliated, and tortured by Muslim militants. In March 1990, the wife of a BSF inspector was kidnapped by terrorists. She was tortured and gang raped for many days and brutally killed by them. A Kashmiri Pandit nurse, who was working in the Sher-i-Kashmir Institute of Medical Sciences, was beaten to death after being gang raped by terrorists. Armed militants have used rape as a weapon to punish, intimidate, coerce, humiliate, and degrade. The fear of rape has reportedly been a factor in the flight of Muslim families from Kashmir <sup>[6]</sup>. Many cases of gang rapes and killings were not reported and investigated because of the fear of violent reprisal by terrorists. Terrorist groups also forced Kashmiri girls to marry terrorists. In 2000, a woman from Kishtwar was forced to marry the Hizb-ul-Mujahideen commander Farooq Ansari. In another incident in 2005, a 14-year-old Gujjar girl was abducted from Lurkhoti village by the Lashkar-e-Taiba militants, and later she was forced to marry one of them. Like this, a 15-year-old girl from Bajoni was also forced to marry a Hizb-ul-Mujahideen militant in December 2005. Beginning in 1988, many Hindus were made the targets of threat and act of violence by militant organizations, and this

wave of killings and harassment motivated many to leave the valley <sup>[7]</sup>. A report on the population of Kashmiri pandits highlighted that the population of Kashmiri pandits declined in Kashmir from 4 Lakh in 1989 to 4 thousand in 2011. Jammu and Kashmir Liberation Front (JKLF), a militant group in Kashmir, was accused of ethnic cleansing between 1994 and 1998, by using murder, arson, and rape as a weapon of threat. Many cases of rape and murder of Hindu civilians were reported against the JKLF and Hizb-ul-Mujahideen militant groups, who also targeted security forces in Kashmir. Many times, militants threaten government employees to perform their duties. On April 6, 1996, the Hizb-ul-Mujahideen threatened government officials making arrangements for the elections, stating that “any government official...found taking part in poll duties... will be dealt with severely” <sup>[8]</sup>. In the Pulwama attack in 2019, they killed more than forty soldiers.

#### Conclusion

The Kashmiri citizens' human rights are violated not only by terrorist groups but also by armed forces. AFSPA provides impunity to personnel of the armed forces. The emergence of terrorism and dealing with the situation with an iron hand has made the situation miserable for Kashmiri citizens. Some Kashmiris are tortured, raped, and killed by militants, suspected of supporting the government and armed forces. On the same ground, armed forces also torture civilians suspected of being terrorists or their supporters. In every situation, the real victims are Kashmiri civilians.

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