

## **India's State Sponsored Terrorism in Kashmir: Rape as a Weapon of War**

**Dr. Saqib Khan Warraich**

*Assistant Professor at Department of Political Science, Government College  
University, Lahore, Pakistan.*

*Email: [dr.saqibkhan@gcu.edu.pk](mailto:dr.saqibkhan@gcu.edu.pk)*

### **ABSTRACT**

The objective of this paper is to highlight the Indian atrocities on the women of Jammu and Kashmir under the umbrella of Indian state sponsored terrorism. Rape is used as a war tactic after the implementation of immunity laws in conflict zones. Rape is used strategically along with other strategies of warfare. Indian government is always in a state of denial and government reports shows the lowest numbers of reported sexual harassment cases in Indian occupied Kashmir. But, the reality is totally different and the Indian government did not conceal the truth. Currently, many Kashmiri women have assumed a new role. They are speaking publicly and even in court that what is happening to them and how they are mistreated by the authorities and police. This paper also argues that why many Kashmiri women do not report rape cases because they lack faith in the existing system of justice, fear and social taboos. Mostly women are silent about the sexual violence because they fear to be raped again. Raped women are stigmatized by the rapists and the community that continuously ruined their lives in the socially constructed male dominant society. Nobody wants to marry a raped girl, retain marriage or allow her to live in home peacefully. The victimized and raped women are considered a curse and bad name for the family and the society. Human right activists are silent because voices of Kashmiri women do not matter in India and the world. The exploratory cum analytical method of research is applied to the study. Newspapers and reports of different organizations have been reviewed for collection of the data. The words of the Professor William Baker on the 52nd UN Commission on Human Rights mark the dent on India secular state status. Rape in Kashmir was not the product of a few undisciplined soldiers but a systematic instrument of the security forces to demean and terrorize the Kashmiri women and population. It is the responsibility of the international community, states and human right activists to protect Kashmiri women from the Indian atrocities and put pressure on Indian government for not committing crimes that are internationally recognized as crime against humanity. This paper ends with some recommendations and way forward strategies.

**Key words:** Kashmir, Women, State Sponsored Terrorism, Rape, Sexual Violence, War & India.

### **Introduction**

Before 1947 Kashmir was not the part of India. In 1947 under the rule of Maharaja Hari Singh Kashmiri Muslim women were abducted and raped by the Indian

religious fanatic Hindus and Sikhs which were fully abetted by the forces of the Dogra State (Kaul, 2011). With the beginning of the first Kashmir war (1947-1948) between Pakistani tribesmen and Indian forces many incidents of women abduction, rape and looting the locals were reported. India has the strong stance that Pakistani tribesmen were involved in raping the Kashmiri women, abducting girls and plundering the locals (Snedden, 2015). After 1947 onwards a kind of cold war between India and Pakistan with violence started. A large number of Kashmiris have been from the very start of the dispute looking toward the Pakistan and United Nations for a settlement of the problem. The helpless attitude of the United Nations and Pakistan weakened the freedom struggle and increased the Indian atrocities especially on Kashmiri women. It should never be forgotten that the fight is between Indian occupation and Kashmir's freedom struggle between the rulers of India and the people of Kashmir. In India no political party or leftist want to stand by Kashmir democracy. All of them demand that Kashmir should be retained by armed forces of India and Kashmir should not be given the right of self-determination (Bazaz, 1954). A few cases of rape from the side of militant freedom fighters are also reported in 1989. But in 1990s their number was multiplied. The militant freedom fighters were involved in rape, tortured and killings of Kashmiri Pundits and non-Muslims females. But the rape of Kashmiri women by the Indian armed forces is larger in number and well documented (Chatterji, Buluswar, & Kaur, 2016) . Since 1988 to curb the insurgency in Kashmir rape use as a war tactic by Indian Army, Central Reserve Police Force (CRPF) and Border Security Personnel (Chinkin, 1994). The main objective of this paper is to conduct systematic research on such issues where states opt rape as a war tactic to spread terror as a political strategy. According to the historians the practice of rape in the context of war is a centuries old phenomenon and still actively practiced in the conflict zones of the contemporary world. "Armed conflict is a predictor of sexual violence against women" (Hynes, 2004). In Feminist approach rape in war is like rape in peace and it shows the desire of man to exert dominance over women. Feminist approach is different and apposite to the pressure cooker theory of wartime rape. In pressure cooker theory as described by the feminists that war rapist are the victims of authoritative command and that the anarchy of the wartime situation encourages men outlet their desires to terrible effect. In cultural pathology theory one scholar argues that sexual crimes committed by the Japanese Army during Second World War were the result of the sadomasochistic tendencies (getting sexual pleasure from hurting people) (Gottschall, 2004). In Strategic Rape Theory, rape is just another order like propaganda that military has used to achieve its strategic objectives (Gottschall, 2004). It spreads the feeling of terror among the enemy population and army. It overcome the resistance and enemy soldiers are demoralized and humiliated. In Biosocial theory argues that wartime rape is not due to sociocultural factors but it is the decision of the soldiers to rape and it is totally under genetic control. In modern biology theories of wartime rape put equal stress on genetics and sociocultural factors. Rape in wartime is a multilayered meaning phenomenon and

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it has variations in conflicts. As in the case of Kashmir all above mentioned wartime rape theories are practiced by the Indian Army.

### **State sponsored terrorism: a political strategy of India in Indian occupied Kashmir**

Terrorism is a tool that can be opted by an individual, group or even state. State sponsored terrorism refers to the involvement of states in the acts of terrorism. A state may deliberately opt terror (dissemination of fear and anxiety) as a strategy to meet its political ends. This can be done through financing, channelizing or directly administering the terror on a particular territory or community. The Indian State Policies in Kashmir valley can be analyzed through this optic. India has continuously denied the Kashmiri's right to freedom. The UN resolutions advocating for the right of indigenous people to decide on their own' have been subsided by India. As a reaction, the freedom movement usurped in the valley. In order to curb the uprising and deny the right to freedom, the strategy opted by state of India is that of sheer terrorism. Incidents clearly manifest that the policy makers want to disseminate fear in the minds of people to restrain them and curb the voices of independence. The systematic ploy of rape, open fires on the disarmed civilians, lockdowns, indiscriminate killings and bullet gun attacks speak volumes of this terror. The purpose is to alter the demographic factors in favor of occupant.

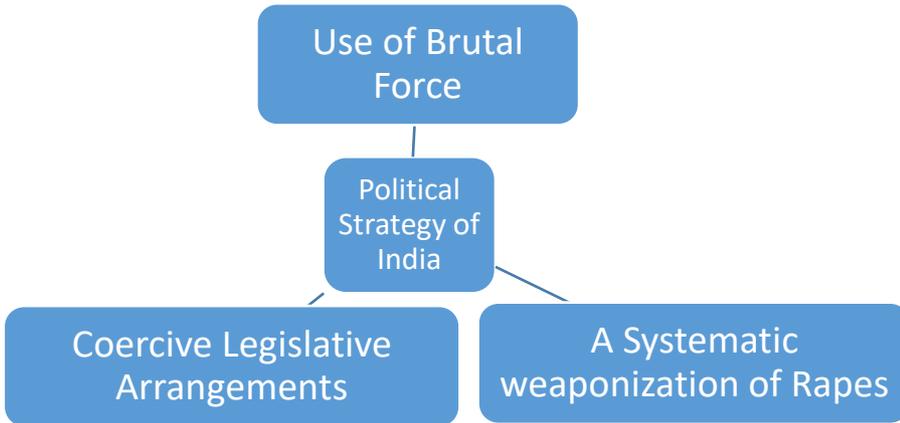
### **Violations of international law and Indian constitution**

The states are bound to operate within a constitutional arrangement. However, Indian Political Strategy in Kashmir is the violation of various tenets of International Law as well as constitution of State of India.

- **International human rights law:** Under the Universal Declaration of Human Rights 1948, Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".
- **International humanitarian law:** International Humanitarian Law also negates the use of violence over the prisoners of wars and inhuman treatment of individuals.
- **International criminal law:** Torture and other such abuses have been outlawed under Geneva Convention by the United Nations Organizations.
- **Convention against torture and other cruel, inhuman or degrading treatment or punishment (UNCAT)**

**Prohibition of torture under the Indian constitution and judicial pronouncements:** On October 14, 1997, India became a signatory to the United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment or UNCAT 247. However, till date, India has not ratified the Convention (Torture: Indian State's Instrument of Control in Indian-administered

**Fig. 1: State sponsored terrorist strategy in action in Indian held Kashmir**



As that of terrorism, the explicit demarcation of the boundary of state sponsored terrorism is also complex and difficult task. However, as quoted by Institute of Strategic Studies Islamabad; the political strategy of India can be evaluated in relation with given three important points to trace any link with terrorism.

**A) Through intimidation**

This is an important tool through which a state intimidates the masses to cease or alter the direction and status of their struggle. This is done through an outright control over media agencies and police force.

**B) Coerced conversion**

It can happen on various levels. A state may opt coercive tools to alter the physical landscapes as well as other realities of a territory. In this method, a state may deliberately and forcefully reorient the national lifestyle. Through the use of various coercive strategies, the state tries to brighten up a particular self-centric lifestyle.

**C) Genocide**

State kneels down to the strategy of systematic killing and slaughtering of masses in order to create fear and restrict the resistance. It is done to cleanse a particular community or people; to exterminate them completely and create space for the fulfillment of political and strategic objectives (Ashraf, 2001).

## **Illustration in Indian held Kashmir**

There lies quite concrete evidence that all three forms of state sponsored terrorism are operating collectively in Indian Illegally Occupied Jammu and Kashmir. Human Rights Organizations have reported so many cases where the rape and open fires on the civilians were used as a coercive tool in Kashmir by the Indian forces to create fear and inculcate panic and anxiety. One devastating example of such terrorist act is that of village Kunan Poshpura. On February 23, 1991, Indian forces entered the village in the name of search operation. The systematic rape of the Kashmiri women was carried on to demoralize freedom movement. The culprits of the gang rape have been carried out patronage of the state of India. In a report published last year, UN said: "There has been no progress in the Kunan Poshpura mass-rape case from 1991, and authorities continue to thwart attempts of the survivors to get justice".

This is one example out of too many. The even worse is the lack of seriousness shown by state of India in the investigation of these cases. According to the Kashmir Times of January 14, 1993, the state government has ordered inquiries into 87 incidents of killings, rape and arson. None has resulted in criminal prosecutions. In 1996 any male found without an identity card was dragged and liable to military interrogation center to prove that he was not Afghani or Pakistani and have no connection to the freedom fighter Mujahedeen (Das, 2009). Some resident males were killed during interrogation and labeled as displaced persons. There were approximately 20,000 widows in Kashmir and 1000 half-widows in the year 2000 (Dasgupta, 2001). In north Kashmir a village named as Dardpora that has lost over a 100 young men and is home to almost 122 widows and 300 orphans (Rashid, 2011). The landscape of Kashmir is with colonies and towns of widows like Sheikh Mohalla, Ganderbal, and a family with 11 widows, 30 orphans and just 3 men (Butalia, 2014). Such a practice is still in action in 2020. The most perpetual practice has been "Genocide". There are so many events where the civilians have been tortured to death to set examples for the rest not to ask for the freedom or to accept the current status. Government patronages such atrocities and brutal acts through a certain scheme of legislation. The State of India has also revoked Article 370 (inaugurated on June 26, 1950) and 35A in order to alter the ground situation. Through this act, Kashmir has been incorporated as an administrative unit of India with the provision of permission to non-indigenous people to settle in Kashmir. The arrangement is done under a prolonged and outright lockdown. It is not difficult to guess that the thinking is to alter the population proportion and make Kashmir a part of India. This is indeed a "Coerced Conversion" that also falls within the orbit of state sponsored terrorism. Furthermore, through an act known as AFSPA, Special powers have been bestowed to the military and police forces to brutalize the local citizenry. All these indicators are evidence to the argument that India wants to intimidate masses to subside their run for freedom. So the strategy of employing brutal force on

civilians is coupled with the tightened illegal constitutional control over the land through coercive legislative arrangements. This is India's political strategy to deal with Kashmir.

### **Indian terrorism: uncovered by neutral agencies and authors**

Kashmir issue is partially one of national pride, but is also strategic. Full control of Kashmir would give India a window into Central Asia and a border with Afghanistan. Additionally, it will also deny Pakistan a border with China and thus diminishes the usefulness of Chinese Pakistani relationship. Pakistan and China, who enjoy great friendship and have signed multibillion dollar project of CPEC, detest Indian aggression over the area. India, however, seldom fails to tease the both. To thwart the economic interests of Pakistan and make certain economic and strategic gains for India, the leaders craft non-human policies in Kashmir under the political slogans sharpened by the hatred against arch-rival Pakistan. Also, India recognizes the opportunity to endanger Pakistan's Water Security through an outright control over Kashmir. The Indus River and its tributaries provide water to two-thirds of Pakistan and it flows through the Indian Occupied Kashmir. Thus, Kashmir has a lot to offer to India. But, the people of Kashmir, have never accepted the illegitimate rule of the Indians. Resultantly India has adopted a certain course of action over a long period of time to alter the situation in its favor (Marshall, 2016).

The subsequent strategy adopted by India is multipronged which stands on various pillars. The basis is to construct an anti-Pakistan narrative through lobbies and propagandas. Whenever any incident of terror happens in India or in Kashmir, the strategy is to level the allegations against Pakistan without a wait of a second. What it does is that it creates a security valve for India to hide its own malicious acts. The construction of 'image for Pakistan as a sympathizer state towards terrorism' is used to deviate the debates and pointing fingers from India to Pakistan.

The passions of Nationalism and patriotism deep rooted in Hindutva doctrine have continuously influenced the Indian society as well as politics. The same thing traverses into the Kashmir as well. Some politicians have been witnessed to say that they wish to avenge Muslims for their brutalities against Hindus in Muslim Rule over Subcontinent. Such revengeful and extremist ideology has unfortunately shaped up the India's political strategy in Kashmir. In 2014, a minister in Modi's cabinet garlanded eight men who had been convicted of lynching a Muslim man. In such hostility, Kashmir could never remain autonomous, a place impervious to the desires of a majority happy to see its will done by violence.

## **Evidence to the argument**

The documentation of the grave crimes in Indian Administered Kashmir began after 1990s with several operations launched by Indian Army. Since then, the scores of people have been kidnapped, tortured and beaten to death.

- **Enforced disappearances:** Nearly 8000 civilians in Kashmir have become a subject to the enforced disappearances. They are mostly kidnapped on the allegations of having links with anti-India organizations. There lies no mechanism for recovery of these disappearances. In 2017, there were 8 reported cases out of which the five dead bodies were recovered.
- **Extra-judicial killings:** According to International Federation of Human Rights, during a decade from 2008 to 2018, the number of extra judicial killings in IHK summed up to 4059. The numbers have further spikes up in recent times.
- **Use of torture and systematic impunity for grave crimes:** The military personnel have been continuously involved in torturing the civilians and also in firing the pellet guns on unarmed population. The crime is further aggravated by the reluctance of Indian state in conducting a free and fair trial. **Amnesty International** has taken the notice of state of India partying with the military crimes and a deliberate patronage on its part.
- **Basic Violation of Human Rights:** The Kashmiris are denied the basic human rights. The right to freedom of speech, association and religious affiliation has met severe blows. The media is also controlled and it is also an open secret that State of India denies any impartial delegation to visit the area and make notice of the situation of human rights violations.
- **Weaponizing sexual violence:** As of the Konan and Poshpora rape incident, there have been 83 others. This is an unprecedented example where a state has employed rape as a part of its systematic strategy.

All these crimes speak volumes of the Indian terrorist strategy. Supplementing to it, Modi's arrival on the power saddle has furthered the extremist agenda exponentially. The influx of transgressive legislative arrangements and several military intrusions in recent times resulted from the Modi led BJP victory in India. Even the election campaign was based on anti-Muslim sentiments. Even such a hostility embraced BJP with a mighty election victory. This in turn speaks of the ruling passion of the masses in India. The same sentimentality that crops up time to time against the Muslims in Indian Occupied Kashmir.

## **A reflection through UN report**

On July 8, 2019, the office of the UN High Commissioner for Human Rights (OHCHR) released a report of 43 pages. It spoke volumes about the atrocities committed in Indian Held Kashmir. The use of pellet guns and sexual violence

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were called to be ceased. India has also inaugurated a special powers act (AFSPA) that empowers the military forces to conduct acts of terror under the name of security. The UN Report also called for the reforms in the act. The citation of physical and sexual violence, coercive legislative arrangement clearly manifests that the state of India has been employing the terrorist acts of intimidation, coercive conversions and genocide.

### **How does India get away despite of terrorist political strategy?**

Internally, the media in the country is less facts driven and more sensationalist which helps government to demonize certain community or to craft justifications of the hostile acts. On the overseas avenue, India gets away with its terrorist activities in Kashmir due to regional strategic situation. The main reason is that Pakistan remained a victim of terrorism in last couple of decades. The war envisaged against terrorism using Pakistani land had serious repercussions on the country. The image got severe dent on global level. India banked heavily upon the opportunity to defame Pakistan on global platforms to throw his own notorious acts under the carpet. Other important reason is the global tendency to rely upon economic imperatives rather than moral grounds. Economy seldom fails to outstrip morality thus, India, being a great economic market, enjoys exemption on human right violations. The condemnations could never become forceful or convincing enough that could safeguard Kashmiris from terror.

### **What needs to be done?**

From Pakistan's Perspective: Pakistan takes pride in advocating the right of Kashmiris but the country needs to make its efforts on diplomatic grounds more effectively and expediently. Pakistan needs to rebuild its fragile image and devalued economy to plead the case for Kashmiris with an equivalence. The country itself has admitted the fallacies in its Kashmir policy that equipped India with an edge to continue with its terrorist political strategy in IHK. Recently, Pakistan has released a dossier with a trove of evidence reflecting the close ties between Indian agencies and terrorist organizations. The concrete evidences include audio calls, banking transactions etc. to proliferate terrorist activities in Pakistan which shows that Modi led India believes in terror as a political strategy. Pakistan should seize upon such opportunities and should leave no stone unturned to unravel the terrorist face of India before the world.

### **Conclusion**

In blame game between Pakistan and India, the real issue becomes sidelined. The plight of Kashmiri people and their systematic rape, slaughtering in the hands of terrorist strategy of Modi led India is an open humiliation not only for the involved countries but also for the human right organizations and United Nations

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Organizations. It is high time that the world look at acts rather than the actor. Such acts conducted by non-state actors take little to generate a consensus for a sound reaction. However, the states get away after an open indulgence in the acts of terrorism. The current fragile state of affairs in Indian Held Kashmir suggests that the state sponsored terrorism has only escalated over the years. It has been more than a year since a lockdown has been administered in the valley and the hostile acts have continuously been carried on under the carpet. The media is under siege. The independent watchdogs are denied access in the region for a fair speculation of terrorist acts. The conflict that spans over decades seems difficult nearing an end. However, the terrorist acts and hostility can be mitigated if the states on both sides show seriousness and respect for the human values. The need of the hour is that the civilized world of 21<sup>st</sup> century comes forward and rescues the Kashmiri people from this hostility. India must be pressurized to allow independent bodies to assess the situation and a scheme must come out of the chapter 7 of the United Nation that is binding on states and may produce concrete results. If the Kashmir conflict is solved then it became a bridge to overcome the hostile attitude of two sister states. It is for leaders of the India and Pakistan what they want to make a good neighbor relations or hostile relations. Whatever is the settlement of the dispute but it is according to the wishes of the Kashmiri people what they want. For conflict resolution Kashmir may be an autonomous unit of the subcontinent which is inhabited by freemen\_\_ free in every respect, politically, religiously, economically, socially, intellectually and culturally. A land where peace prevails with no sexual violence and no victimization of the Kashmiri women. They got refuge from rapist and become the mother to children of the soil. There would be no discrimination on the basis of gender, color, religion and nationality to which they belong. Every Kashmiri women can participate in the political decision making without any fear and enjoy fullest opportunities for self-development. They are not victimized by rape. They are free in their life and decision making. People would not call them half-widows and widows.

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