

## Human Rights Violations in Kashmir: A Need to Re-look the Indian Counter Insurgency Strategies<sup>1</sup>

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### Abstract:

*The study builds on the proposition that the Indian strategies to counter insurgency are operating for immunising the country from the threat of terrorism; at the same time the very strategies are causing deliberate and grave human rights violations. Kashmir is considered as one of the most protracted conflict zones in the world and therefore, it is very much prone to terrorist activities. It is always regarded as the main weapon of the opposition party to make its gains. In this ground, the counter insurgency strategies of the Indian government are applied here. But the worst thing is that during the counter terrorism operations, grave human rights violations are perpetrated. Though Human Rights Commission (HRC) is working across the country, as India being the largest democratic country in the world as well as the great advocate of respecting the Human Rights, but when it comes to the north eastern states or to state of Jammu and Kashmir, the concerns of the Human Rights Commission have always received a deaf ear. The study is motivated by the objective of relooking into the counter insurgency strategies that are being applied to the northern eastern states and Jammu and Kashmir, so that the maximum restraint could be exercised to curb human rights violation during the*

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*counter insurgency operations. This will ultimately pave the way for regaining the faith of people of the valley on the state mechanism, which in turn will boost up the peace and prosperity of the state.*

**Key words:** human rights violation, Kashmir, Indian Counter Insurgency strategies

## **INTRODUCTION**

The quality of a nation's civilization can be largely measured by the respect for the protection and promotion of human rights.<sup>2</sup> Human rights are the rights inherent to all human beings and help to protect the people all over the world from severe political, legal, and social abuses<sup>3</sup>. Human rights protection is a universal concern and it cuts across all ideological, political and cultural boundaries. It is for this reason that linkages between institutions relating to the protection of human rights are very much important.

Before the World War I, very little was done regarding the protection of the human rights, but after the devastation of the human lives led by it compelled the world community for the establishment of some international institutional mechanisms through which the protection of the human rights will be guaranteed and all these initiatives got its final shape after the horror full event of the World War II. The result was the Universal Declaration of Human Rights (UDHR) adopted by the UN General Assembly on 10 December 1948. It was the time when the international community vowed to never allow the human rights violation to happen any more. The Charter was the first international instrument which in unequivocal term proclaimed "Universal respect for, and observance of human rights and fundamental freedom for all without

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<sup>2</sup> Talwar, Pooja. *Violation of Human Rights by State*. Unpublished PhD Thesis, JMI, New Delhi, 2002.

<sup>3</sup> <http://plato.stanford.edu/entries/rights-human/> (Accessed on 12/01/2014).

distinction as to race, sex, language or religion”<sup>4</sup>. This was the turning point in the international arena as it constitutes a code of human rights and set an international standard for the protection and promotion of the human rights.

In India the genesis of the human rights is found in ancient Indian scriptures. We can get the early exposition of human rights and freedom from the Vedas. They offer guidance and inter alia on religious and social obligations. Right after the independence, India has also tried hard for the protection and promotion of the human rights. The constitution of India was laid on secular and democratic lines and a sound mechanism was established for the protection of the human rights. Chapter 3 and 4 of Indian constitution have been assigned conclusively for the human rights.

But the proper institutions wholly responsible for looking after of human rights were not immediately installed within the country and it was after some four and half decades of the Indian independence when it became possible. The institution came under the name of Human Rights Commission. It resulted from the culmination of a number of national and international factors. Internal conflicts in Punjab, Jammu & Kashmir and the North Eastern states escalated in 1980s and early 1990s which were dealt with by the government with a heavy hand. The media, civil society organisations and the general public increasingly expressed concern about security forces and police actions in tackling insurgency, terrorism and the culture of impunity within the government as the basic human rights were being ignored in the name of national security.<sup>5</sup> The international community also continued to pressurise the government of India to fulfil its international

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<sup>4</sup> <http://www.un.org/en/documents/charter/chapter9.shtml> (Accessed on 25/12/2014).

<sup>5</sup> Tiwana, Mandeep. Needed: More Effective Human Rights Commissions in India. CHRI News, Summer 2004.

obligations to establish mechanisms for protecting human rights.

Therefore the National Human Rights Commission (NHRC) of India was established on 12 October 1993. This became possible only after the ratification of the Protection of Human Rights Act, 1993. Its statute is endorsed by the General Assembly of the United Nation in Resolution 48/134 of December 20, 1993. As per the act, the human rights commissions were authorized for inquiries into instances of human rights violations by public servants, research, supporting efforts to increase awareness about human rights and inspecting police lock-ups, prisons where people are detained to make sure that the institutions are functioning in compliance with human rights provisions<sup>6</sup>. Presently the Commission is an embodiment of India's concern for the promotion and protection of human rights.

### **Human Rights Commission**

Human Rights Commission deals with the protection of the citizens against the discrimination as well as with the protection of the other human rights. They are generally designed to hear and investigate individual charges of the human rights violation or discriminatory acts committed in violation of existing law. Most human rights commissions are collegial bodies comprised of members who, in most cases, are selected by the executive. In many cases the commission enjoys statutory independence and is responsible for reporting on a regular basis to the legislative body.<sup>7</sup>

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<sup>6</sup><http://www.childlineindia.org.in/national-human-rights-commission.htm>  
(Accessed on 23/01/2015)

<sup>7</sup> See National Institutions for the Protection and Promotion of Human Rights, *UN Document E/CN.4/1991/23 (1991)*.

## **Human Rights and Insurgency**

Human rights are the rights that are universal in nature i.e. inherent to all human beings, irrespective of the nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status.<sup>8</sup> Human rights are legally guaranteed at both international as well as at national level that protect individual's fundamental freedom and human dignity against actions and omissions primarily by the state agents. Human rights are very much essential for full development of the human personality and for human happiness. The Lexicon Universal Encyclopaedia describes the term human rights as follows:

“Human Rights are basic political and social conditions variously defined, to which every individual is entitled as human being. Originally they were called natural rights or the rights of man, and included the rights to life, liberty and pursuit of happiness as cited in the U.S. Declaration of Independence. Over the years the concept of human rights has been broadened to include rights to social benefits such as social security, rest and leisure and education.”<sup>9</sup>

It emphasises the point that human rights should be respected and protected. Therefore it becomes the obligation of the states, which the International Human Rights laws have always stressed, to protect and promote human rights and fundamental freedom of individuals or groups. And the same has been ensured by the member countries by adopting the appropriate measures including legislative, judicial, administrative as well as educative measures.

A comprehensive definition of insurgency provided by the pamphlet entitled as *Guide to the Analysis of Insurgency*,

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<sup>8</sup><http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx> (Accessed on 27/01/2015).

<sup>9</sup> *Lexicon Universal Encyclopaedia*, Lexicon Publications INC, New York, pp. 297-298.

published by Central Intelligence Agency of USA. It states: Insurgency is a protracted political-military struggle directed toward completely or partially controlling the resources of a country through the use of irregular military forces and illegal political organizations. Insurgent activity—including guerrilla warfare, terrorism, and political mobilization (such as propaganda, recruitment, front and covert party organization, and international activity) is designed to weaken government control and legitimacy while increasing insurgent control and legitimacy. The common denominator of most insurgent groups is their desire to control a particular area. This objective differentiates insurgent groups from purely terrorist organizations, whose objectives do not include the creation of an alternative government capable of controlling a given area or country.<sup>10</sup> Terrorism forms the broader strategy of the insurgents to achieve their target. The traces of both insurgency and terrorism can be seen in antiquity. Terrorism aims at the very destruction of the human rights, democracy and the rule of law. It has a direct impact on the enjoyment of human rights, in particular the rights to life, liberty and physical integrity. Insurgent acts can destabilize governments, undermine civil society, jeopardize peace and security, threaten social and economic development, and may especially negatively affect certain groups. All of these have a direct impact on the enjoyment of fundamental human rights.

The terms Human rights and insurgency are very much opposite to each other and cannot go together. The birth or evolution of the insurgency and terrorism is very much disastrous for the human rights.

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<sup>10</sup> Central Intelligence Agency, *Guide to the Analysis of Insurgency*, Washington, D.C.: Central Intelligence Agency. 2009, p.2.

## **Insurgency and Human Rights in India**

India since its independence has been embroiled in a number of low intensity conflicts throughout its territory. These conflicts mostly revolve around the perceived concepts of succession with the aim of creating separate independent sovereign states.<sup>11</sup> Many terrorist incidents are the products of these clashes. Insurgency poses a great threat to the national security of India. The insurgent attacks are on political institutions, cultural values, security forces, civilians as well as on government infrastructure. The regions that are most affected by insurgency activities are Kashmir and North Eastern states. Insurgency has severely affected India's journey towards success, development and prosperity. Insurgency related violence in various parts of India has taken a large toll of human lives. Major share of the India economy goes on defence and counter terrorism.

Insurgency has provoked a harsh response from the Indian government. New Delhi remained firm and consistent in meeting the challenges to national unity with an iron hand. The counter insurgency operation were framed in order to protect the entire country from the wrath of the terrorist activities and to bring peace and prosperity in the country. But in the course of such operations large human rights violations take place, which in turn fuels insurgency and terrorism and thus the actual aim of counter insurgency operations remained unachieved. Presently thousands of the complaints of human rights violation are pending in different offices, but no one pays any heed for their reparation. Governments has repeatedly paid a deaf hear to those complaints. This made the people or victims to have the feelings of aliens in their own country, which later on forced them to find some other ways by which their grievances can be redressed.

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<sup>11</sup> Jamwal, *op.cit*, pp. 9.

India has been a great advocate of human rights that has been witnessed by numerous Indian scriptures. Right from its independence, there has been great stress for respecting the human rights, though the formal and independent institution who was assigned to work in totality for the human rights got its inauguration in 1993. From then, the human rights commission have contributed greatly to human rights in India. But the commission's efficiency to work efficiently suffers because it can only make the recommendations which includes payment of compensation to the victim or to her/his family, disciplinary proceedings against delinquent officials, the registration of criminal cases against those responsible, instructions to take particular action to protect human rights. So the commission can only make recommendations without the power to enforce them and the government often ignore those.

### **Insurgency and Human Rights in Jammu and Kashmir:**

The Indian Independence Act 1947 paved the way to independence and partition of India. It leaves the only choice to the princely states to join either with India or the newly created Pakistan. They were not allowed to remain independent.<sup>12</sup>The accession was made mostly on the bases of factors like communal interests, geographical location etc.<sup>13</sup>All the princely states responded to the call and made the papers of accession sign with the side of their respective taste except three princely states i.e. princely state of Hyderabad, Junagarh and Jammu-Kashmir. Maharaja Hari Singh, the ruler of the princely state of Jammu and Kashmir tried his best to remain independent, but the tribal invasion from the side of the Pakistan shattered his dream of remaining independent which led him to go for the

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<sup>12</sup> Hassan, Khalid Wasim. *History Revisited: Narratives on Political and Constitutional Changes in Kashmir (1947-1990)*. 2009, pp.2.

<sup>13</sup> Burke cf. Naqash, Nisar A. and G. M. Shah. *Kashmir: From Crisis To Crisis*. New Delhi: APH Publishing Corporation, 1997, pp.64.

accession with the Indian union which was associated with holding the referendum in the valley soon after the return of the normalcy in the valley<sup>14</sup>, the recognition of which was made by Pandit Jawaharlal Nehru, the then Prime Minister of India<sup>15</sup>. This signing of the accession with the Indian union did not go well with Pakistan and led to an open war between India and Pakistan and the outcome of the war was that India was successful in occupying the most valuable parts of the valley. After that, there were sporadic periods of the violence over the demand of the referendum, but there was no organised insurgency movement<sup>16</sup>. The inauguration of the insurgency movement can be traced from the elections of 1987<sup>17</sup> which were allegedly rigged in favour of the Pro-Indian local political party National Conference led by Dr Farooq Abdullah<sup>18</sup>. So the insurgency movement started with in part of those who lost the election unfairly.<sup>19</sup> Pakistan came out with the full support to this movement in the form of arms, recruits and training.<sup>20</sup>

The state of Pakistan fully manipulated the dissatisfaction and its Inter-service Intelligence has allegedly encouraged and aided the insurgency movement in the state<sup>21</sup> so that it can become more and more violent which will weaken the influence of India on Kashmir<sup>22</sup>. They do it so, so that they can keep the Indian troops distracted. The insurgency movement was started with the aim of liberating the state from clutches of the Indian rule and in order to achieve that same

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<sup>14</sup> Abdullah, Sheikh Mohammad. *Flames of the Chinar* 1993, p. 95.

<sup>15</sup> Bhattacharjea, Ajit. *Sheikh Mohammad Abdullah: Tragic Hero of Kashmir*. 2008, p. xiv.

<sup>16</sup> Swami, Praveen. *India, Pakistan and the Secret Jihad*. 2006.

<sup>17</sup> Altaf, Hussein. "Kashmir's Flawed Elections" 03 March 2010, *BBC News*. (Accessed on 29/01/2015).

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Hasan, Syed Shoab. *Why Pakistan is boosting Kashmir militants*. 03 March, 2010, *BBC News*, (Accessed on 29/01/2015).

<sup>21</sup> Swami, Praveen. *India, Pakistan and the Secret Jihad*. 2006.

<sup>22</sup> Karnad, B. "A New Strategy for the LOC and Low-intensity warfare in Kashmir", 2001. pp.141-159.

target, they chose path of terror which ultimately results in the violation of the human rights. The people of the valley during the insurgency movement saw the human rights violation in a number of ways. The militant outfits targeted government property as well as those people who were the well-wishers of Indian rule in the State. Their methods of human rights violation include kidnapping, murder, abuses, extortion etc. Apart from the security forces, the person remains on the target of the militants who has a soft-corner for India or the one who speaks against the oppression done by the militants. Hindu civilians were subjected to abuses, rape, arson and murder, which lead most of them to leave their homes<sup>23</sup>. Right after the insurgency movement started in 1989, there was an increase in the militant activities which was also associated with high rate of human rights violation. The whole valley was under the clad of the fear. Everyone started to live in fear and the days when people used to live a happy life in the state seems to be dream for the contemporary generations.

### **Counter Insurgency Strategies and Human Rights**

Since its independence, India is facing the problem of the insurgency and terrorism in many parts of the country. The insurgency firstly occurs in the North Eastern states followed by the Punjab and then in Jammu and Kashmir. The insurgency activities were directed mainly against the security forces, governmental infrastructure as well as against the supporters of the government, to seek territorial control. In all of the insurgency cases, there has been an external support. These terrorist activities which the insurgents carried were having a direct impact on the human rights, posing a serious threat to their life, liberty as well as property of the citizens.

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<sup>23</sup> Dixit, Ashish Kumar. *Human Rights Abuses In Jammu And Kashmir*, IJMSS 02(02), February, 2014, p.177.

The government has always tried to ensure the protection and the safety of the human rights, which is also the fundamental obligation of Government.<sup>24</sup> Different counter insurgency policies were framed by the government for the eradication of the insurgency in the country, by which the threat of terrorism could be checked and the protection of the human rights will be ensured. The Indian army has been involved in the counter insurgency operations. Mostly fighting experience with insurgents in the North East i.e. with Nagas and the Mizos set the broad outline of the Indian Counter Insurgency strategy<sup>25</sup>. Later on, as the time passes, the counter-insurgency strategies were made more scientific. The first priority among the doctrines of counter insurgency was the limited use of the force.<sup>26</sup> The second doctrine includes the isolation of the insurgents and this doctrine was based on the Malayan Model which at the time of British rule has recommended the isolation of the Malayan communist guerrillas from their sources of support in the general population, but the only modification in this model was that cordon and search operations were used afterwards rather than resettlements.<sup>27</sup> The third doctrine of countering insurgency is to dominate the affected area by encircling it with many layers of the troops. This aspect makes the forces able to fight the unknown man power as well as of the weapon power of the terrorists in the affected area. By this method, the chances of use of heavy firepower from the side of the forces also become less.<sup>28</sup> The fourth element of the doctrine is to conduct counter insurgency operations with more than adequate force levels. The final important element of the army doctrine of the counter insurgency operations is limited to

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<sup>24</sup> Office of the United Nations High Commissioner for Human Rights Fact Sheet No. 32, p.1.

<sup>25</sup>Rajagopalan, Rajesh. *Insurgency and Counterinsurgency*, 2009. (Accessed on 10/12/2014).

<sup>26</sup>Bhashyam. Kasturi, *Indian Army's Counter-Insurgency Operations in J&K*. 2012, p.1.

<sup>27</sup> Rajagopalan, Rajesh. *op.cit.* (Accessed on 10/12/2014).

<sup>28</sup> *Ibid.*

restoring the normalcy and after then it should be left for the politicians to find a political solution for the issues that are underlying the insurgency.<sup>29</sup>The Indian Army Doctrine of 2004 states that the army should respect and protect human rights, inspire a sense of security among the people and any violations by the security personnel should be admitted as well as corrective actions should be taken in a transparent way. Minimum force should be used and the property damage should be avoided. The operation against the women related terrorist cases should be conducted in the presence of the women police. Human Rights Security has got its epitome position in the doctrine that can be guessed from the point that the security of the human rights has been prioritized even at the cost of the operational success<sup>30</sup>. The 2006 Doctrine further emphasises the use of overwhelming force against foreign and hard core terrorists, while providing a chance to the local militants to shun violence, surrender and join the mainstream as per the laws of the land.

Though the counter insurgency strategies were framed to check the terrorist activities so that the safety and unity of our nation as well as the safety of human rights will be ensured. But the steps taken against the insurgency have themselves posed a serious challenge to human rights and the rule of law. The forces have led to the torture and other ill treatment to common people during the counter insurgency operations. The institutions which are supposed to check the human rights violation has been harassed by the security forces. The officials, who keep a vigil on the human rights, are often harassed with the repressive measures. The human rights violations on behalf of the security forces are grave and alarming. Surprisingly the protectors of the humans are acting as their persecutors.

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<sup>29</sup> *Ibid.*

<sup>30</sup> Indian Army Doctrine, 1st edition Oct 2004. <http://ids.nic.in/doctrine.htm> (Accessed on 15/01/2105).

## **Counter Insurgency Strategies and Human Rights Violation in Kashmir**

Right from the accession of Jammu and Kashmir with India, the Indian forces were deployed mainly for safe guarding the line of control (LoC) and the international border (IB). But the things started to change from 1989, when the militancy started in the valley. The reason responsible for the uprising of the militant movement was the unfulfilled promises from the part of Indian government and the immediate reason was rigging of elections by the central government. The starting of the militant movement coincided with the end of the Soviet war in Afghanistan where Pakistan was actively assisting the Taliban's against the Soviet regime. So the uprising in the valley was fully utilized by Pakistan. Pakistan came in the full support to this uprising and directed the Taliban militant outfits towards Kashmir which poses a serious threat to the security of India which was already engaged in suppressing other security threats to the country in Punjab and North-Eastern states.

As the Indian forces were having the earlier experience of combating the insurgency in the northern states as well as in Punjab, therefore they didn't find it so difficult. They applied the same tactics in Jammu and Kashmir also. The first step used by the Indian army was to stop infiltration along the international borders and LoC by killing and intercepting the insurgents from crossing the borders.

But within the state, the most important strategy used by the Indian security forces was the presence of the physical domination in each and every village as this has earlier availed the benefits for the army in Nagaland. Accordingly the grid system was launched for containing or localising the terrorist challenges that made the command and control easier. Under the grid system each node at any given time would have a

platoon ready to move soldiers- the quick reaction team (QRT) which would mutually reinforce other nodes.

Another strategy for counter insurgency employed by the Indian government was the employment of surrendered militants in counter insurgency operations. This policy was introduced in the year 1995 and these surrendered militants were employed in the forefront of the offensive operations. They were organised into a Special Operation Group, earlier known by the name of *Ikhwanis*. This policy bore the fruits as they were instrumental in killing, catching and unearthing of the arms, weapons, ammunition and hideouts of the militants. This group has been remained at the forefront in the counter insurgency operations that suppressed the insurgency movement to a large extent. But at the same time the same group has led to an era of terrorism and brutalities in the valley. They are involved in large number of human rights violations including torture, fake encounters, kidnapping, extortion killing of innocent people etc.<sup>31</sup> All have been done under the cover of the security forces, as the higher authorities are allowing them to let loose the reign of terror in the state. Unlimited cases of their brutality have been recorded by various human rights organisation, but surprisingly the heads of the security agencies remain unmoved and this inhuman process is still going on there.

Another Counter terrorism strategy is of search and cordon operations. This is entirely based on the tip offs provided by the spy (locally known as *Mukhbiris*) to the Indian forces. These operations are based on the force and the entire brigades are utilized for these operations. This is the tactic of area saturation in which villages were cordoned and searched. People are asked to assemble outside the villages while their homes are checked. The checking is mainly done for the search of the militants as well as for weapons. This type of operation

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<sup>31</sup> Imroz et al. *Alleged Perpetrators - Stories of Impunity in Jammu and Kashmir*. IPTK, 2012, pp. 9-80.

also has become one of the main sources of oppression as well as a source of human rights abuse in the valley. During the search and cordon operation, the Indian forces are alleged of humiliating as well as carrying out excesses against civilians.<sup>32</sup> There are numerous cases both written and unwritten of these excessiveness in the form of torture, rape, arson etc. An example of human rights violation done by the security forces during the cordon and search operations is of Kunan-Poshpora villages in Kupwara, where the villagers alleged that army raped the women aged between 23 to 100 women repeatedly in the nights on 23-24 February 1991.<sup>33</sup> The complaints of the locals always go unheard from the side of the higher authorities and if any complaint was filed by any authorities, the guilt official's escape from the trap of the law easily under the cover of the AFSPA (Armed Forces Special Powers Act) which provides them the impunity from the jurisdiction of law. This act has always emboldened the security persons to go for the human rights violations, as on their legal part they are sure of their safety. The AFSPA has not only been condemned at state levels or at national level, but has been internationally criticised as well. The United National Human Rights Committee has expressed concern over the nature of impunity provided by the act. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions (2006), the Committee on the Elimination of Discrimination against Women (2007) and the Committee on the Elimination of Racial Discrimination (2007), have all called for an end to the AFSPA.<sup>34</sup> Meenakshi Ganguly, Senior South Asia researcher for Human Rights Watch said that "The Indian government's responsibility to protect civilians from attacks by militants is no excuse for an abusive law like the AFSPA" as "Fifty years of

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<sup>32</sup> *Rape In Kashmir A Crime Of War*, Human Rights Watch. pp. 1-2.

<sup>33</sup> <http://www.kashmirheadlines.in/Home/details/6991> (Accessed on 15/01/2015)

<sup>34</sup> *India: Repeal Armed Forces Special Powers Act*, Human Rights Watch, 2008. (Accessed on 01/01/2015).

suffering under the AFSPA is 50 years too long – the government should repeal the AFSPA now”<sup>35</sup>. But the government of India has always ignored these numerous appeals.

For making the long lasting solution for the counter insurgency threat, the need of framing such a force was felt that could effectively tackle the terrorism threat in the valley. In this regard the establishment of a new force came into being under the name of Rashtria Rifles (RR). The RR though proved efficient enough to suppress the process of insurgency in the valley, but at the same they laid behind the tales of suppression and brutality on the common people of the Kashmir. The RR is responsible for arbitrary arrest, illegal detention, assault and torture of the common people. Torture during detention is a common practice which includes severe beatings with truncheons, rolling a heavy log on the legs, hanging the detainee upside down, and use of electric shocks.<sup>36</sup>

The other aspect to counter insurgency is the formation of the village Defence committees (VDC) that comprised of the ex-servicemen and other healthy persons who were having the capability to defend the village settlements from the terrorists. But the base of these Village Defence Committees was laid on the communal bases as its members are exclusively Hindus. The Indian forces continued to arm these VDC's, but without any official accountability. So it is quite sure that any tension between the two communities i.e. Hindus and Muslims might ignite a wider communal conflict.

*Sadbahavana* is another tool applied by the Indian army in the state with the purpose of wining the hearts and the support of the local people, though earlier its aim was to prevent the insurgency in the Ladakh region, but later on it was diverted to the developmental work around the conflict

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<sup>35</sup> *Ibid.*

<sup>36</sup> *Rights Abuses Behind Kashmir Fighting*, Human Rights Watch, 1999. (Accessed on 01/01/2015).

ridden areas by way of providing planning, technical solutions as well as supervising the developmental projects.

So in the process of insurgency and counter- insurgency operations, Kashmiris are, as well said by Arundhati Roy “sandwiched between security forces and militants.” As the militants in the valley acted irresponsibly and go through every extent of ruthlessness and at the same time the government of India fails in delivering its primary responsibility of respecting the human rights in the state. This process brought misery to the five-million people of the Kashmir valley. It is well known that militants supported by Pakistani ISI are involved in the human rights violations in the valley right from the beginning, but one must be surprised to see the role of the security forces in the human rights violation as they were supposed to be the protectors of the common people. In 2010, for the first time after the insurgency started in Kashmir, the statistics presented to the Indian government's Cabinet Committee on Security showed that the number of civilian deaths attributed to the Indian forces was higher than those attributed to terrorist actions.<sup>37</sup>

Under the security forces, people should have felt the sense of security of their lives and property, but unfortunately the trend is reverse. The human rights record of the Indian security has been unspeakable because of the grave human rights violations such as arbitrary arrests, torture, rape, and extra judicial killings have been extensively documented by the human rights organisation such as Human rights watch, Amnesty International and PUCL (People’s Union for Civil Liberties). International Human Right Groups i.e. Amnesty International and Asia Watch have alleged that India did not permit representatives of the Amnesty International for fourteen years to investigate cases of alleged violation of human

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<sup>37</sup> Dixit, Ashish Kumar. *Human Rights Abuses In Jammu And Kashmir, 2014, p.176.*

rights.<sup>38</sup> These human rights organisations have alleged that the Indian security forces have killed hundreds of Kashmiris through the indiscriminate use of force and torture, encounters, firing on demonstrators, custodial killings and detention. Civilian's suspect of having information about the militants, many of them being innocent are routinely detained, tortured and sometimes killed in the custody. Methods of the torture used were always very severe which include severe beating, electric shocks, burning with heated objects; crushing of the leg muscles with roller etc.<sup>39</sup>. The enforced and involuntary disappearances reported in between 1989-2009 made by the Indian military and paramilitary forces in Kashmir are more than 8000 and more than 70,000 deaths through extrajudicial or "Fake encounter" executions, custodial brutality and other means.<sup>40</sup> In between 1989-2014, the women widowed numbers 22,791, children orphaned numbers 107,509, women molested or gang raped numbers 10,129.<sup>41</sup>

### **A Need to Relook into the Counter Insurgency Strategies**

The counter insurgency strategies of the Indian government were framed with the prime aim of combatting terrorism and insurgency. The Indian forces though to a large extent were able to curb terrorism but that success was accompanied by large scale of human rights violation done by the security forces while combating terrorism. Human rights abuses and the indiscriminate use of force coupled with wide-spread arrests and allegations of torture alienated the population and spurred the militancy. Therefore, the need of the hour is to re-look the counter insurgency strategies and adopt such a scientific and

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<sup>38</sup> Khanna, V N. *Foreign Policy of India*, New Delhi: Vikas Publishing House Pvt Ltd. 2007, p.270.

<sup>39</sup> *Rights Abuses Behind Kashmir Fighting*, Human Rights Watch, 1999. (Accessed on 01/01/2015).

<sup>40</sup> Chatterji et al. *Buried Evidence*, 2009, p.10.

<sup>41</sup> <http://www.kmsnews.org/news/> (Accessed on 01/02/2015).

holistic approach so that the operations would boost up the confidence of the local population on the system of the government and in return it will bring the much required peace in the valley. A few suggestions that will work for checking the human rights violation in the valley are given below:

- 1) The Indian forces successes against terrorism has never been clear, but are always associated with uncomfortable trade-offs in the form of grand human rights violations. This trend needs a break and it is only possible if there is the revocation of the Armed Forces Special Powers Act (AFSPA). This act has always remained a source of encouragement for the forces to go for the human rights violation as it immunised the security personnel from the prosecution. So the demand of the time is that this draconian law should be repealed under the cover of which human rights are trampled daily and the perpetrators are remaining untouched. Secondly within the valley the normalcy has been returned and the implementation of the law has lost its relevance now. The revocation of AFSPA law from the valley will open the doors for creating the smarter and more effective counter terrorism capabilities that will largely base on the technology, psychological operations, political persuasion and conflict resolution rather than to kill and torcher senselessly<sup>42</sup>.
- 2) There is a wide gap between theory and practice, whatever is preached in the written doctrines of the Indian forces are not always practised. The Indian forces have routinely departed from the prime doctrine of people centric approach i.e. winning of the hearts and minds of the common people while countering insurgency to a highly dynamic and coercive approach which eventually becomes anti-people centric. So the

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<sup>42</sup> Bhaumik, Subir. *Counter to the spirit of counterinsurgency*. The Hindu, June 14, 2014 (Accessed on 15.01.2015)

demand of the time is that strict provisions should be made so that the written charters of the counter insurgency strategies as well as our constitution should be strictly practised by the security persons on the ground level i.e. respect for the human rights.

- 3) The internal security of the whole valley should be left in the hands of the state police, and for their assistance a specifically trained and highly skilled forces that observe the basic doctrine of using “minimum force” should be deployed, but at the same time there should be no demand on their side for any other legislation like that of AFSPA for their deployment.<sup>43</sup>
- 4) The village Defence Committees (VDCs) should not be recruited along communal lines. The existing VDCs that are communally based should be disbanded and their weapons should be seized unless they are brought within the proper supervision of the security forces. Members of VDCs responsible for human rights violation should be prosecuted.<sup>44</sup>
- 5) Borders should be made watertight to prevent infiltration by moving the major portion of the security forces from the populated areas to the boarders. The benefit by this process will be that there will be a way of encountering smuggling of the weapons and movements of the militants as well.
- 6) The anti- insurgency operation should be carried out without any collateral damage and the common people should not be harassed or humiliated rather they should feel a sense of security. Every possible action should be taken to save the property of the civilians during the operations. This will also boost the confidence of the locals on the security agencies.

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<sup>43</sup> *Ibid.* (Accessed on 15.01.2015)

<sup>44</sup> <http://www.hrw.org/reports/1999/kashmir/reco.htm>. (Accessed on 23/01/2015).

- 7) Any violation on behalf of the security persons should be admitted by the security authorities honestly and the perpetrators should be punished and the victims should be compensated.
- 8) There should have been coordination among different security agencies operating within the valley in maintaining law and order.
- 9) Backing to the corrupt politicians should be stopped so that a fair and honest government formation takes place which will in turn lead to the economic prosperity of the state and the same in turn will accommodate the unemployed youth of the valley. When the youth will be employed, this will naturally decrease the trend of the militancy in the valley.
- 10) Terrorism and insurgency should not be looked at only from the barrel of gun perspective, rather the root causes should be pin pointed and addressed accordingly. A holistic approach is needed to adopt to solve the root sources or causes of terrorism that is very much of political nature.
- 11) Both centre and state Human Rights Commissions should be made more powerful and their recommendations regarding the human rights violation should be applied in true sense. National as well as International Human Right Groups should be given a free access in the state.
- 12) The minimum qualification requirement for the force recruitment should be raised from the existing standards as well as there should an improvement in the training of the security forces about how to counter terrorism, how to save and respect human rights. Such a policy will avail the benefits in the long run.
- 13) The process of the fake encounters should be stopped and the security personnel involved in the fake encounter should be severely punished, so that it could

be a lesson for other security forces not to indulge into such heinous crimes in the future.

- 14) Steps should be taken for the economic development, so that the people can give off the clad of disappointment regarding the policies of the Indian government. The economic soundness of people of the valley will stop the diversion of the youth towards joining the militant groups and will ultimately pay the way for the peace and prosperity of the state.

## **Conclusion**

India right from its birth as an independent nation has been fighting the menace of insurgency, usually supported by the neighbouring countries. And this process of insurgency seems unending. The government of India has adopted various counter insurgency strategies to weed out the threat of insurgency. While executing these counter insurgency doctrines on ground level, the insurgency though was checked to a large extent, but it at the same time resulted in human rights violations. The counter insurgency operation in Kashmir has resulted in grave human rights violations, which sowed the seeds of discontent among the people of the valley and distanced them from the Indian rule. The counter insurgency operations at times oiled the insurgency in the valley. So the requirement of the day is to redress the counter insurgency strategies. In this regard the first and for most thing is to apply the doctrines of the counter insurgency on the ground level very strictly and the security person found of violating the principles should be brought to book. The revocation of the draconian law i.e. AFSPA and further empowerment of the Human Rights Commission will make a sound impact for the safety of the human rights in the valley. Further the economic uplift met will mould paths of the youth from joining the insurgent groups. Addressing the very problem should be in politically

rather than militarily. All these aspects in collectively will make an effect in the form of regaining the faith of people of the state on the system of Indian government and the worm of insurgency will ultimately die in the long run.

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