

Reign of Terror: The Indian State and Militancy in Jammu & Kashmir

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“That the government is considering charging me with sedition me [sic] has to do with its panic about many voices, even in India, being raised against what is happening in Kashmir. This is a new development, and one that must be worrisome for the government.”¹ ~Arundhati Roy

Introduction

Burhan Wani’s death in July 2016 by Indian government forces, sparked deadly violence in Indian Occupied Kashmir (IOK) as thousands of people attended Wani’s funeral despite restrictions. The ensuing violence can be attributed to the policies being pursued by the Indian government over the years and its failure to integrate the Kashmiri Muslim population.

The year 2015 witnessed a re-emergence of militant activities in IOK. In a July 2015 interview, a top Indian army commander had expressed his concern about the recruitment of educated Kashmiri youth into terrorist organisations. Lieutenant General D S Hooda, General Officer Commanding In Chief, Northern Command warned both the center and state governments to take heed of the fact that “alienation and lack of opportunities” was driving local Kashmiri youth towards

militancy. According to him, “Frankly, it is something that we need to introspect. For us, government here and national government, the parents and society, as to what are the reasons that the youth are going into this direction and is there some way to stop this.”²

Although the roots of the Kashmir problem can be traced back to the 1947 partition between India and Pakistan, and India taking the issue to the UN Security Council under Chapter VI; it has since evolved into a multi-faceted issue with its root being the demand for self determination. The contemporary conflict in IOK can be divided into three distinct phases i.e. the 1980s, characterised by discontent over Delhi’s governance; the 1990s that witnessed the rise of Pakistan-backed militant groups; and finally the post 2001 period that saw a gradual but dramatic reduction in the activities of militant groups in Kashmir.³ A number of factors influenced this development including a “normalisation” of politics in Kashmir, splintering of important militant organisations and fencing along the Line of Control (LoC).

Following the resumption of the India-Pakistan composite dialogue process in 2004, the activities of militant groups in IOK were curtailed even further. Militancy in IOK saw a downward trend between 2001 and 2013. During the same time both India and Pakistan acknowledged that the number of militants crossing from Azad Jammu Kashmir (AJK) decreased⁴ considerably. Notwithstanding the

overall decrease in violence, however, the year 2013 saw a sharp rise in fatalities involving the armed forces. The 2014 election in Kashmir was also marred by violence.

This paper is an attempt to trace the early and recent history of the Kashmir conflict especially between the 1980s and 2016. It analyses the reasons behind the resurgence of recent violence in IOK. Notwithstanding the early involvement of the Pakistan backed insurgents in increasing violence in IOK, Indian government policies have had a significant impact on militancy and have contributed to increased violence in the region.

History

During the 1947 partition India laid claim to Princely States including Hyderabad and Junagadh on the basis of Hindu majority as well as their geographically contiguity to India. India remained adamant that partition was based on these principles. However it did not apply the same principle to the Jammu and Kashmir State, which had a Muslim majority population, under a Hindu ruler who was in favour of remaining independent. When Partition took place, the Muslim majority population of Jammu and Kashmir favoured joining Pakistan, even as the Hindu Maharaja sought to retain his independence. In July 1947, when the Maharaja ordered the Muslims to surrender their arms communal violence erupted. In the Jammu province,

Hindus and Sikhs massacred hundreds of Muslims.⁵ In August 1947, on the eve of Partition, Poonch revolted against the Maharaja's rule and in September 1947, the Muslim population liberated the area from the State Police. In October 1947, the Muslim population in Kashmir revolted against the Maharaja who fled from Srinagar to Jammu on October 26, 1947, and appealed to India for help.⁶ India claims that the Maharaja signed the 'Instrument of Accession' on October 26, following which the Indian forces landed in the State supposedly on October 27, 1947.⁷ The signing of the Instrument of Accession, its timing, terms and conditions, the timing of the landing of Indian troops and consequently India's relationship with Kashmir became controversial. Consequently India's relations with Kashmir also became unstable and remain so even today.⁸

This instability can also be attributed in part to how the Kashmiri and Indian leadership interpreted the terms of the instrument of accession. Whereas the latter regarded the instrument as a provisional formality, the former treated it literally. This difference in opinion and approach ultimately led to a confrontation between the Sheikh Abdullah-led National Conference and the Government of India.⁹

In 1949, India incorporated Article 370 into its Constitution, giving special constitutional status to the Indian Occupied State of Jammu and Kashmir. The constituent Assembly of

India or its successor parliament had no constitutional right to abrogate or modify Article 370 and the right belonged solely to the Constituent Assembly of the State. Ironically the incorporation of article 370 did little to ease the pressure on the state to adopt more provisions of the Indian Constitution.¹⁰ In 1952, for example, the two sides entered into the “Delhi Agreement’ whereby the Indian flag assumed primacy, fundamental rights became applicable to Indian Jammu and Kashmir and the jurisdiction of the Indian Supreme Court also extended to the state.¹¹

Even as discontent with the state increased, Abdullah became the supreme leader of the valley. His popularity finally led to his announcement that Kashmir would not “become an appendage of either India or Pakistan.”¹² To allay the growing discontent in Kashmir, the central government continued to pay periodic lip service to the idea of regional autonomy. In August 1953, however, the Abdullah government was finally dismissed and Sheikh Abdullah was arrested.¹³

By the 1950s, the Indian Government had also distanced itself from its commitment to hold a plebiscite. India argued that Pakistani forces had not been withdrawn, and also that elections affirming Kashmir’s status as part of India had been held. Even as India argued that Pakistan had not fulfilled its commitment under part I A of the August 13, 1948, resolution requiring it to withdraw its troops, it maintained that “it was not legally obliged to

hold a plebiscite or a referendum under the provision of the Indian Independence Act of 1947.”¹⁴ Moreover India also argued that “its offer to ascertain the wishes of the people of Kashmir was an extralegal offer and could not be held valid for all times and under all situations.”¹⁵ In 1956, Jammu and Kashmir was proclaimed a state within the Indian Union thus diluting the autonomy it had been given. As discontent with the government continued to grow so too did external dynamics. China’s entrance into the Kashmiri equation during the 1960s further complicated the problems in Kashmir.¹⁶

Sheikh Abdullah’s consequent release in 1964 did little to change the situation in IOK. The same year articles 356/357 of the Constitution were made applicable to Indian Occupied Jammu and Kashmir.¹⁷ Abdullah was arrested once again in 1965. A 1974 agreement secured the release of Sheikh Abdullah and he assumed power as the new chief minister of the state. His death in September 1982 paved the way for the succession of his son Farooq Abdullah with the support of the Indian National Congress. According to renowned analyst Balraj Puri,

“The Kashmir problem appeared resolved and, for the first time it was no longer on international agenda of disputes. It required extraordinary genius to recreate the Kashmir problem. Those who decided to dismiss the government of Farooq Abdullah on July 2, 1983, succeeded in sowing afresh the seeds of the problem... The

charge against Farooq was that he was 'hobnobbing' with the opposition parties."¹⁸

The 1980s & the 1990s

The March 1987 election in the wake of the Rajiv Gandhi-Farooq Abdullah accord of November 7, 1986, has been termed the "initial spark behind the genesis of indigenous insurgency in the region."¹⁹ According to observers, the 1987 elections were rigged in favour of Abdullah's party and proved to be a turning point in the history of Kashmir. Political parties including the Jamaat-e-Islami, the People's Conference and the Ittihad-ul-Muslimeen all lost the election and subsequently became part of the separatist alliance, the All Party Hurriyat Conference, campaigning for self-determination of the Kashmiri people. Another significant development that took place was the participation of key militant leaders fighting against Indian rule in the 1987 polls. In the words of APHC Chairman, Abdul Gani Bhat, "Kashmiri youth participated in the 1987 elections with great enthusiasm and seriousness and after due thought. But the poll results fired them with anger. They decided to fight violence with violence."²⁰

The year 1988, saw widespread violence and protests in Kashmir. In July 1988 three bomb blasts rocked Sri Nagar. Many members of the Muslim United Front quit the assembly. The same year also saw the creation of Hizbul Mujahideen. In December 1988, the daughter

of Union Home Minister Mufti Muhammad Sayeed was kidnapped and five Jammu Kashmir Liberation Front leaders were released in exchange for her release. Sumit Ganguly thus describes the year in Kashmiri politics;

“However a fundamentally qualitative change in the scope and extent of violence occurred during 1988. The violence went from being spasmodic to being orchestrated and deliberate. The targets of violence were carefully chosen and the objectives of the perpetrators well exceeded the limited goal of removing the Congress- Farooq Abdullah regime. The Kashmir insurgency in an incipient form had begun. Violence and instability in the valley became endemic in 1988.”²¹

The violence prompted the Indian government to appoint Jagmohan in January 1990, dismissing Farooq Abdullah and imposing governor’s rule. According to Jagmohan’s memoirs, there were almost forty-four organised militant groups operating in and around Kashmir resulting in considerable violence in the valley. Jagmohan responded by pursuing a policy of repression and the imposition of the Armed Services Special Ordinance of 1990.²² Two military divisions and thirty-four paramilitary battalions were stationed in Kashmir. The overwhelming military presence in the valley was second only to the terror of AFSPA and Disturbed Area Act that were imposed in 1990. These

laws were imposed in addition to the 1978 Public Safety Act and the 1987 Disruptive Activities Prevention Act. In August 1990, numerous JKLF and other opposition leaders were arrested even as the insurgency continued to grow unabated. Jagmohan's policy proved to be costly for Kashmir in that it did little to curb the insurgency, the violence spiraled out of control and amongst its first victims was the tourist industry in Kashmir which provided the livelihood of a majority of Kashmiris.²³

Between 1990 and 1993, when communal strife was gaining momentum across India, the demolition of Babri Mosque and the ensuing communal disturbances helped increase local support for militants in Kashmir.²⁴ Pakistan backed insurgents also entered Kashmir in large numbers during this time. According to estimates the number of mujahideen increased from under 1000 in 1990 to around 10000 by 1993. The APHC or Hurriyat was created in 1992 in opposition to the central government and the National Conference. The Hurriyat was similar to the MUF in 1986-87 and refused to take part in elections owing to the electoral malpractice that the MUF had suffered in the past. Parliamentary elections in both 1996 and 1998 saw the emergence of the NC as a winner.²⁵ Both the elections were however marred by complaints of malpractice and also coercion by security forces. Although the NC government's rise to power helped end seven years of Governor's rule in Kashmir, its

consequent decision to align itself with the BJP government in the Centre further eroded its already weak position in the state.²⁶

Terrorism and violence in Kashmir increased once again during the 1998-2000 period until July 2000, when the HM announced a unilateral ceasefire. Its consequent insistence that Pakistan also be made part of talks with Indian government led to the ceasefire being called off in August 2000. According to AG Noorani's analysis, the ceasefire was doomed to fail because it "demanded surrender instead of seizing a fine opportunity for initiating a process of peace and conciliation in which India would have retained an upper hand. India's interest would have remained secure, and it could have pulled off a settlement that would have established peace on the subcontinent."²⁷ When Majeed Dar, Hizbul Mujahideen's top field commander in Kashmir, announced a unilateral ceasefire against Indian forces led to in-fighting within the HM and Dar was expelled from the organisation for his moderate views and signs that he was getting ready to participate in the political process.²⁸ After the assassination of Dar in 2003 by the Save Kashmir Movement, HM slowly started withering. As the insurgency came to a standstill the local population suffered the fallout from the conflict as well. Frustration also started to creep into the HM ranks. Hizbul Mujahideen became confined to a few isolated pockets, with its militants based in mountain sanctuaries rather than in villages it formerly

controlled. According to commentators, even as Kashmiri fighters became increasingly disillusioned, Pakistani security establishment started to raise groups such as Lashkar-e-Taiba and Jaish-e-Muhammad to keep the conflict going in IOK.²⁹

Between 2001 and 2003 violence increased in Kashmir once again, showing a slight decline in 2003. According to critics, Pakistan backed infiltrators may have played a role in increasing the violence but violence in Kashmir was not “a wholly cross border enterprise”³⁰ as portrayed by the Indian media. For example, out of the 14536 militants killed during the 1990s only 2538 were foreigners and of the 2020 militants killed in 2001 only 625 were foreigners.³¹

In 2003, fresh elections for the state assembly were held in IOK. Though the turnout was better when compared to previous elections, their legitimacy was marred once again by the decision of APHC to not participate. The elections were however acclaimed as being free and fair as they saw the ouster of the ruling party that had been in power for almost two decades. Moreover, relative peace was achieved in 2003 when the Indian and Pakistani governments under Vajpayee and General Pervez Musharraf respectively agreed to a ceasefire agreement. According to Indian media sources, there has been a visible decline in infiltration attempts from across the border in IOK since India and Pakistan agreed to a ceasefire agreement in 2003.³² The

homegrown insurgency in Kashmir however still continued to vex the Indian government. Critics have attributed the growing militancy in IOK youth to economic factors also. Economic mismanagement by successive state governments and political nepotism led to a situation whereby consumers were forced to utilise more than two third of their earnings towards basic necessities such as food and clothing. These economic divisions ultimately drove the youth towards militancy that they saw as an escape from this economic malaise.³³ The government's response to the growing militancy has been characterised by increased crackdown on the local populace in an effort to curb the violence in the valley. It also continues with its efforts to prevent both local and foreign journalists from reporting these growing atrocities.³⁴

The Issues

Ironically the civilian population in IOK has suffered the most in this conflict involving Indian security forces, Pakistan backed militants and indigenous Kashmiri Jihadist outfits. New Delhi has deployed thousands of soldiers and paramilitary troops in IOK following the imposition of a de facto martial law since 1990.³⁵ The forced disappearances in IOK are only a small part of a series of human rights violations attributed to the Indian government. Other atrocities attributed to the Indian government include extra-judicial killings, torture and illegal detentions. The Indian government has granted special

powers to the armed forces in IOK that have rendered international human rights conventions almost obsolete. According to an ICRC report in 2005 “electrocution, beatings and sexual humiliation are used routinely to extract ‘confessions’ from detainees.”³⁶ Human Rights watch reported that Kashmiri women have also been subject to human rights abuses especially rape being routinely used as a “weapon of war.”³⁷

Draconian laws including the Armed Forces Special Powers Act (AFSPA) and the Public Safety Act (PSA) both provide immunity for any acts carried out under them.

AFSPA allows members of the armed forces in IOK to shoot to kill or arrest suspicious people. Similarly, the PSA allows the detention in custody without trial for up to two years. The AFSPA also provides immunity from prosecution or a trial before a court. For initiating an action against a member of the armed forces, permission is needed from the central government, under Sec 45 of the Code of Criminal Procedure, which is of course never granted. Many of those arrested under AFSPA or PSA are never released from detention centers. They are held ‘incommunicado’ leading to enforced disappearance, tortured or subject to extra-judicial killings. PSA also applies to juveniles. Opposition to AFSPA manifested itself in the form of street protests as well as media and civil society campaigns. The protests gained impetus particularly after the discovery of

mass-graves in Kashmir in 2009. According to a spokesperson of the International People's Tribunal on Human Rights and Justice, "If independent investigations were to be undertaken in all 10 districts, it is reasonable to assume that over 8,000 enforced disappearances since 1989 would correlate with the number of bodies in unknown, unmarked, and mass graves."³⁸

The Indian government has stationed an estimated 700,000 military and paramilitary personnel in IOK to combat "Pakistani-sponsored" militancy. However, the military personnel far outnumber the militants. According to recent reports the number of such militants is estimated somewhere between 150 and 200, and moreover that they "may or may not have been trained in Pakistan."³⁹ Although geo political reasons may well be used to explain the heavy presence of the military, the fact remains that the Kashmiri populace has remained the target of Indian forces over the last two decades. Forced disappearances and encounter deaths of civilians at the hands of the security forces are normal occurrences in the valley. The discovery of thousands of unmarked graves in IOK lends further credence to the fact that thousands of innocent civilians suffered torture at the hands of the military. Examples include individuals such as Parveena Ahangar, founder of the Association of Parents of Disappeared Persons (APDP) after her 15-year old son disappeared in 1990. According to

Praveena, “He was just 15. He had just passed his matriculation exam and joined college. He used to go to his uncle’s house after dinner to study and sometimes to stay over. That night at three o’clock, the security forces burst into the house. He was taken away, not even allowed to put on his clothes ... I still have the shirt and trousers he was going to wear.”⁴⁰

Her appeals to various government organizations, including the judiciary, remained ignored. The APDP was set up in 1994 to protest the disappearance of hundreds of innocent civilians. Since then its membership has increased manifold with hundreds of women now participating from almost every district in IOK.⁴¹ There are also numerous reports every day about the murder of innocent children by the security forces. For example, in 2010, an eleven year-old boy was shot dead by the Police.⁴² Local journalists were beaten and prevented from covering unrest in IOK. More than 100 people died between June and October 2010 during clashes between security forces and anti-government protesters.⁴³ Even as Indian security forces in IOK continue to kill innocent civilians in staged gun battles and pass them off as separatist militants to earn rewards and promotions⁴⁴, the Indian security establishment believes the potential for renewed conflict in IOK remains high. According to the report published by the International People’s Tribunal on Human Rights and Justice in IOK along with the Association of Parents of Disappeared

Persons, the alleged perpetrators of crimes are “awarded, rewarded and promoted.”⁴⁵

Contemporary Kashmir

In 2008 and 2010, Indian forces killed some two hundred mostly civilian protestors. The hanging of Afzal Guru, convicted over the 2001 Indian parliament attack, also intensified anger and sense of isolation of the Kashmiri youth. Violence in IOK showed a significant increase during both 2014 and 2015.⁴⁶ The major reason for the increased violence is the sudden enthusiasm among local youths for militancy. According to a senior military official, it remains unclear whether the latest round of violence was because of infiltration by militants. He also said that a significant number of Kashmiri youth were joining militant outfits. The army however did not report any infiltration during this time.

A far more worrisome fact for Indian security forces since 2013 has been the significant rise in collateral damage⁴⁷ to its men in IOK. Although the actual number of clashes between forces and militants decreased, the losses suffered by security forces increased compared to previous years. The military attributes these losses to changing tactics of the militants especially their resort to Fidayeen attacks.⁴⁸

The number of militants killed during 2015 was 63 compared to 119 during 2014.

Militants caused the deaths of at least 61 armed personnel, and 15 civilians during 2013.⁴⁹ During 2011 and 2012 the number of armed forces casualties was 47. Ironically the overall violence in IOK was actually at its lowest level since 2002, but fatalities involving Indian security force personnel witnessed a dramatic increase.⁵⁰

According to the Army, mostly unemployed youth are being lured into militancy. However, the ruling People's Democratic Party feels even government employees and educated youth are now joining militant groups.⁵¹ Former Chief Minister Farooq Abdullah blamed the Centre's politics for "radicalisation" of the Kashmiri youth. Many others blamed the state government of joining hands with BJP for the increase in the militant recruitment. The rise to power of Narendra Modi's Hindu nationalist Bharatiya Janata Party (BJP) in 2014 has exacerbated the already fragile situation in IOK. Modi announced, "a radical restructuring of the relationship between Kashmir and the rest of India," whereby it seeks to repeal article 370 and also repatriate 100,000 Hindus who were expelled from IOK during the early 1990s.⁵² Tension also increased after a court upheld a law prohibiting the slaughter of cows in IOK.⁵³ As a result separatist groups in the state put out a call asking people to slaughter cows instead of the traditional sheep and goats even as some leaders urged people not to hurt religious sentiments.⁵⁴ The pursuit of such policies by the BJP government is further alienating the disenfranchised masses

and resulting in more locals joining militant organisations.

Conclusion

Wani's popularity and his ultimate death at the hands of Indian forces is a manifestation of the general atmosphere of violence in Indian occupied Kashmir. In the absence of political engagement to resolve the Kashmir dispute, Wani's ideology is becoming increasingly popular as a legitimate tool among the Kashmiri youth. The ideology was reflected clearly in the outpouring of sentiment over Wani's killing. As a consequence of its policies in IOK, and its failure to acknowledge political realities, New Delhi is now faced with the challenge of fighting the ideology that Wani and numerous other disillusioned Kashmiri youth are now adhering to.

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