

Delineating the Impact of conflict on Children in Kashmir

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Abstract:

Violence has plagued the Kashmir region for a long. Every aspect of the human life has been affected by the protracted conflict. Although much has been written on the impact of conflict on Kashmir, one aspect that has not been touched in detail are children in conflict. The psychological impact of the conflict on children in Kashmir wherein the doctors have warned of an emerging “epidemic of psychological disorder” in children, as they are more vulnerable to the ongoing trauma. This psychological trauma due to the conflict has led to grave drug abuse and addiction among children in order to escape the stress and hard situations around. Although, there are no specific state laws that deal regarding the rights of the children in conflict but there have been international legal instruments available if implemented would safeguard the rights of the children in conflict. Therefore, this study is an attempt to highlight the impact of conflict on children and will also highlight the legal framework available for the children specifically in armed conflict zones.

Introduction:

When we talk of Kashmir conflict, we get entangled with many numbers of issues and every issue needs proper treatment and the will for resolution of its longstanding sufferings and grievance. Kashmiris have been victims of the oppression for the sins which they have never committed. As Kashmiri population in general has been suffering in one or other way due to the on-going conflict from more than two decades now. From the beginning of Kashmir conflict, gross Human rights abuses were reported in different forms be in the form of innocent killings, enforced disappearance, detentions, torture, fake encounters, half widows, widows, orphans, rapes, molestations, etc..., and more tragically there has hardly ever any accountability from the state institutions against the perpetrators of abuse. Although every section of Kashmiri society irrespective of gender, age, etc..., has been affected due to violence but here author specifically would like to bring in to the discussion, the plight of Kashmiri children who are also known as the “children of conflict”, as they get born and grow up under the shadow of fear and terror in the conflict-ridden Valley which people were thought of the paradise on the Earth and now has become the world’s most beautiful Prison.

Children of Kashmir have been always silent victims of oppression by different means and they do not grow up with good moments of childhood but with the memories of crying and wailing of people around for their lost dear and near ones. One of the report issued by the Research Section of Kashmir Media Service, states that, “Indian troops and police personnel martyred 452 children from January 2000 till May 31, 2011 and the killing by the paramilitary forces have rendered 107,418 children orphaned since 1989” (Kashmir Media

Service, 2011) In the words of a report by (International Human Rights Association of American Minorities, 1990) that says,

“Constant disturbances in the valley have changed the entire life pattern of inhabitants, especially children. The entire concept of childhood has undergone a radical change in the valley. The children do not go to kindergarten or learn nursery rhymes or play with the toys, as normal children would do. Neither are they brought up under the loving tender care of their parents in a free atmosphere. Instead their memories of childhood consist of an atmosphere surcharged with fear, terror, constant violence, unrest and constant insecurity”.

Literature Review

Psychological Impact of Armed Conflict on Children in Kashmir:

In the armed conflict zones around the world, Children are seen as one of the worst hit and their most of the sufferings remain invisible to the outer world for quite long time till their growth and development gets obstructed. As the children remain mere a mute spectator to the happenings around him and he feels helpless at times. The first impact is that on the Psychological conditions which may prove one of the deadliest cause on the overall development of a children and it is this psychological impact which slowly and gradually but surely act as silent killer in many terms for the children in conflict zones and thus hinders lives of children to lead a normal routine life. Studies like, (Michael, 1998), show that Conflicts create extensive emotional, psychosocial stress associated with attack, loss of loved ones, separation from parents, and destruction of home and community. Many children develop problems such as flashbacks, nightmares, social isolation, heightened aggression, depression, and diminished future orientation. Millions of children are deprived of education, which armed conflict disrupts and damages. Many conflicts destroy large numbers of schools and devastate formal systems of education. The chronic stresses associated with armed conflict may lead to problems such as aggression (Boothby, 1996), depression (Macksood & Aber, 1996), truncated moral development (Ferguson & Cairns, 1996), changed attitudes and beliefs, and diminished hope for the future (Cairns, 1996). Similarly, Children in war zones experience multiple, chronic stressors, and damage increases exponentially as a function of the number, frequency, and severity of the risk factors to which a child has been exposed (Garbarino & Kostelny, 1996).

It is also proved that the extreme and often prolonged circumstances of armed conflict interfere with identity development. As a result, many children who have had severely distressing experiences – cannot conceive of any future for themselves. They may view their lives very pessimistically and suffer from serious depression. According to one of the study by United Nations (1996), the ways in which children respond to the stress of armed conflict will depend on their own particular circumstances. These include individual factors such as age, sex, personality type, personal and family history and Cultural background. Other factors will be linked to the nature of the

Traumatic events, including their frequency and the length of the exposure. In older children and adolescents, responses to stress can include anxious or aggressive behavior and depression. Moreover, sudden changes in family circumstances, such as the death or disappearance of parents, can leave youth without guidance, role models and sustenance.

Coming to the Kashmir Scenario

As Children in Kashmir are concerned they have been the victims on many counts since the inception of the conflict, UNICEF has estimated that Kashmir has as many as 100,000 special or orphaned children. However an independent study titled "Orphaned in Kashmir- The State of Orphans in Jammu and Kashmir" (2011) by a UK-based child rights organization, Save the Children, has revealed that estimated population of orphans in Jammu and Kashmir is 2, 14, 000 and 37% of them are orphaned due to the ongoing armed conflict. The study revealed that 40% of children felt confused, had a deep sense of lack of control over events, and are in despair and skepticism about the future, 32% children, said that their anxiousness was triggered by sudden loud noises or seeing fatigue/battle uniforms (George, (2011)). In this study among the orphan children in attending schools, a large number said that the main distraction in school was that they had worries about their families (28%), noise of explosions during conflict (19%) and the intimidating presence of security forces (13%). Another study (Madhosh, et al 1999) stated that in Kashmir, Children also experienced frequent psychic disorders ranging from minor neurotic troubles to major psychotic ailments. In 1990, 1762 cases of psychological problems i.e. sadness, despair, dejection, despondency, weeping, disturbances in sleep, etc. were treated, which rose to 17,584 cases in 1994, while the average number of new patients treated per day rose from six in 1990 to 59 in 1994. It was also found that, Fear of life being ended anytime created carelessness and aggression among them. In an article written by Puri, B. (2005) in *Frontline* magazine, it was revealed that at least 55% of children in Kashmir Valley were fearful and suffered from depression as well as sleeplessness. In one of the research projects by Dabla, (1999), the survey revealed that 84.66% child respondents lived with their mothers, 4% with their uncle, 9% with mothers' father, and 2% with their father's father. These children faced problems like economic hardships, psychological setback, denial of love and affection, and apathy by relatives and friends. Total dropouts among child respondents were 57% during 1989-1999; 27% at primary level, 48% at middle level, and 25% at the matric (high School) and above level. Children who were not going to school were engaged in domestic work (3.65%), handicrafts (37.80%), automobile workshops (3.65%), non-governmental service (3.65%), and business houses (3.65%). These child workers felt that they got lesser wages and were exploited regularly.

According to a study (Dabla, 2012), the conflict situation for 20 long years has played havoc with the past and endangered the future of children. They have suffered in all fields, especially education, health, economy, culture, family life and so on. The study further revealed that six prominent groups of children have emerged in Kashmir who can be called 'prime victims of violence'. (i) Orphaned children [estimated number 97,800]; (ii) Disabled children [2,000 – 3,000]; (iii) Mentally deranged and Physically diseased children [about 3,000]; (iv) Children of compromised-surrendered militants [6,000 – 10,000]; (v) Children of imprisoned LOC youth [4,500 - 5,000]; (vi) Child victims of violence [in thousands].

Another Major concern: Child Detentions in Kashmir.

Moreover, another study done by the Asian Centre for Human Rights bought out a report, *Juveniles of Jammu and Kashmir: Unequal before the Law & Denied Justice in Custody*. The report came up with stark revelation on the grim human rights situation in the state, the fact finding report says that the juvenile justice system is rotten and needs a complete overhaul. It states how young children, boys and girls are treated almost like adult criminals (Asian Centre for Human Rights, 2011). According to a study done by *Asian Centre for Human Rights (2011)*, Prisons in J&K currently have a large number of juvenile prisoners and/or prisoners who have been arrested as minors but who have subsequently attained adulthood during their detention and are charged as adults in contravention with India's national laws and international obligations. Further it says, across India, school certificates are used to determine the age of a juvenile but that is not the practice in Jammu and Kashmir (J&K) as the J&K Police in all cases argue that those detained are adults. Here, as an example two cases of Child detention are mentioned to know the extent up to which the establishment can go may be understood by the following case of minors

Case 1st

Amnesty International (2011), Public commission on Human Rights (2011) and Greater Kashmir (2011) reporting another case of a minor; **Fazian Rafiq Hakeem, a 14-year old** school-going boy has been detained who was detained without charge or trial by the Jammu & Kashmir police under the controversial Public Safety Act (PSA) and was shifted to Kot- Balwal Jail in Jammu overnight after PSA was slapped against him and that is some 300 Kms far from his home. The family of Faizan produced his birth certificate, which shows the boy is

minor as his age is 14 years and nine months only. The certificate issued by Principal of his school that mentions the date of birth of the boy as 18-05-1996. According to Amnesty International, it has inspected the original records maintained in the school register. It verifies the date of birth of the child as 18 of May 1996 and making him less than 15 when he was arrested,” the statement added , earlier the authorities have given conflicting versions regarding his age. When he was charged, the police originally claimed that Faizan Rafiq Hakeem's age was 27, later he appeared to them as 20 as before being slapped with PSA, the 14-year old was charged with almost a dozen cases, including attempt to murder, for his alleged role in two different cases of law and order in the town

Case 2nd

(*Greater Kashmir, 2012*) reports about the detention a minor. The 12-yearold named **Faizan Sofi**, a 6th class student was arrested by Jammu and Kashmir Police for waging war against India? Pointing towards the authorities, on the detention of Faizan, Director of Human Rights Law Network, *Colin Gonsalvez* said; “*How can you book a 12-year old youth for waging war against India? How can you book him on such a severe charge when he is just holding a stone in hand? He cannot wage the war by pelting a stone. The maximum stone can do is that it can cause damage.*” As **Faizan** was arrested and was subsequently booked under harsh sections of Ranbir Penal Code (RPC) and Crpc: section 121 (waging war against the State), 307 (attempt to murder), 147 (rioting), 148 (rioting, armed with deadly weapon), 149 (member of unlawful assembly), 152 (assaulting or obstructing a public servant when suppressing riot), 427 (mischief causing damage) and 435 (mischief by fire or explosive substance with intent to cause damage).

Children and Legal Instruments

There are not any specific law made by the state which can safeguard the human rights of the children in Kashmir instead there are many draconian laws implemented by the establishment which state are even imposing on the minors of this region without any Charges and trail like one of such infamous act is Jammu and Kashmir Public Safety act.

Coming to international level, there are number of International legal Instruments available for the children that guarantees rights of children in General and during the conditions of Armed Conflicts in Particular. Although Kashmir is also a conflict zone and many of these conflict laws may be applied to Kashmir but as such there is no such of international laws of conflict. Few of these instruments are:

International Humanitarian Laws

The United Nations Convention on the Rights of the Child United Nations standard minimum rules for the Administration of Juvenile Justice (The Beijing Rules), 1985. United Nations rules for the protection of Juveniles Deprived of their Liberty, (1990) and other such instruments.

(Article 1) Definition of the child: The Convention defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. The committee on the Rights of the Child, the monitoring body for the Convention, has encouraged States to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18.

Article 19 of CRC says that "state parties shall take all appropriate legislative, administrative social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of parent(s) legal guardian(s) or any other person who has to take care of the child".

Article 20 says, "A child temporarily or permanently deprived of his or her family environment, or in whose own best interest cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state.

Article 27 points out, "State parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development".

Article 37 (Detention and punishment): No one is allowed to punish children in a cruel or harmful way. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release.

Article 38 (War and armed conflicts): Governments must do everything they can to protect and care for children affected by war. Children under 15 should not be forced or recruited to take part in a war or join the armed forces. The Convention's Optional Protocol on the involvement of children in armed conflict further develops this right, raising the age for direct participation in armed conflict to 18 and establishing a ban on compulsory recruitment for children under 18.

Article 39 directs, "States parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment.

Conclusion:

Kashmiri children are being traumatized and are under captivity both physically and mentally at a stage when they need to live without any fear and to be free to live the best childhood but these children of lesser Gods are being punished in their homeland for the sins, they have never committed and tragically there are hardly any hues and cries from any quarter of the world community against these barbaric acts by those who claim to be the civilized and saviors of humanity.

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