

Documenting violence against the children of Jammu & Kashmir amid armed conflict: A review of reports

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Abstract

Alike women, children also fall in the realm of vulnerable sections, globally. Similarly, the violence being afflicted on the women has been extended to children as well, again globally, be it directly or indirectly, intentionally or unintentionally. Children of the Jammu and Kashmir, alike the children from other war-torn places, also get exposed to the violence through the ongoing armed conflict in the state. The armed conflict, apart from killings, has come out with issues of multifaceted nature which have routinely affected the vulnerable sections of the state, more specifically women and children. The solution, still unseen, has given the job of documenting human rights violations to some of the human rights organizations. These organizations have been involved in documenting, litigating, campaigning and advocating the cases of violence so as to present the reality of Jammu and Kashmir to the international community. As the central point, the present study relies upon few local, national as well as international reports, with an endeavor to throw light on the situation of children in the J&K state. It revolves around the orbit of the four rights formed by UNCRC in the year 1989 and presents the systematic as well as structured violence committed on the children of J&K in different themes. The study entails the instances of violence committed on the children of J&K state and also exposts in detail the impact on their mental health. In the end, the present study focuses on the ways to mitigate violence on the children and the need to design well-tested remedial measures in order to alleviate the issues the ongoing armed conflict has inflicted them with.

Keywords: Armed Conflict, Children, Jammu and Kashmir, Human Rights, Violence.

Introduction –the narrative

“Violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation.” (WHO, 2002) In simple terms it can be referred to as the state wherein there is absence of individual as well as collective security, peace, justice and development. Violence, as has been documented in the war and conflict

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zones, mostly penetrates the system of peace and justice. Usually, violence strikes down the important faculties like morality, ideology and culture, most specifically it breaks down social, economic, sexual and psychological aspects of people. Violence actually targets the vulnerable groups, most specifically women and children become its victims. Millions of children around the world are affected by armed conflict. It has both direct and indirect impact on the physical, mental, social and behavioral well-being of children (Shenoda, Kadir, Pitterman, Goldhagen, 2018, pp.1-2). In fact, both acute as well as chronic effects of armed conflict result into violation of child rights and that result in the elevation in morbidity and mortality of children globally. In many ways, the rights of children get undermined in any conflict hit area (Berry, n.d, p.6). Children, in armed conflicts around the world, are regarded as the unintended victims of violence. Approximately 350 million children, around the world, are living in the areas affected by conflict (Kirollos., Anning., Flylkesnes., & Denselow, 2018, p.9). In almost all the cases of conflict hit areas, Survival, Protection, Development and Participation, the four fundamental rights of children get violated. Since children are one of the vulnerable sections of society, they are subjected to severe human rights violation and deprived of basic necessities of life such as food, access to basic health care, education etc. Hundreds of thousands of children are thought to be involved in armed conflict as combatants. They are recruited in several agencies as child soldiers where they are subjected to exploitation and are threatened with death, deprived of food, use of drug or forced to be part of armed conflict in other ways. Thus, they develop risk of physical, mental injury, sexual abuse and sexually transmitted diseases.

Jammu & Kashmir, an armed conflict hit area with 700,000 troopers, is considered as the most militarized zone in the world. J&K, alike other war zones, is no exception to get exposed to all the forms of violence. The militarization, as per the JKCCS report on children (2018), forms an impediment to the social and psychological development of the children in J&K. The same report argues that the Jammu and Kashmir Armed Forces (Special Powers) Act, 1991 (AFSPA) provides impunity to the armed forces and this act has contributed well in ending the accountability of human rights abuses as a result the violence against the civilians including children of J&K remains continuous as well as under-reported.

Since the onset of insurgency in the year 1989, Kashmiris have been witnessing as well as victims of the violence through the ongoing armed conflict. The children of J&K, apart from getting exposed to the violence, have also been the victims of the present armed conflict in Jammu and Kashmir. Due to the present armed conflict, many children have lost their parents either one or both. And that is the reason the concept of orphanages in Kashmir was introduced. This statement gets corroborated with the report of Save the Children (2012) in which it reveals that Kashmir alone

has 215,000 orphans out of which 37% are due to the ongoing armed conflict (as cited in Maqbool,2012).There have been instances wherein those children who lost their fathers either experience psychological imbalance (mental trauma) or join militant ranks. Girls, on the other hand, in most cases face early marriage. In both the cases, the children suffer. As always found, the rights of the children laid out in the United Nations Conventions on the Rights of the Child (UNCRC) get violated and same is the case with Indian Administered Jammu and Kashmir. It has been recorded that 80% of women and children are the victims of armed conflicts around the world. And same is the case with the state of J&K as in; the children of the state are not different to it as they also have been the targeted groups of state violence. The Indian People's Tribunal (IPT) further describes the plight of Kashmiri children as,

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. (Tramboo, 1999, p. 3)

Therefore, the purpose of this study was to brief about the situation of the children of J&K affected by violence through ongoing armed conflict and thus provide a platform for policy makers, law enforcement officials to devise strategic plans in order to mitigate the negative consequences of ongoing armed violence on the children.

Objectives of the study:

1. To understand the impact of armed conflict on the physical, social and behavioral well-being of children of J&K.
2. To explore the effects of armed conflict on the developmental needs of the children.
3. To determine the magnitude of the violations of the fundamental rights of the children.

Research Methodology

In this study the researchers tried to assess the impact of armed conflict on overall well-being of the children of J&K through review of literature on the aforementioned aspects. The literature was searched on several databases published in English between 2000 and 2019.The keywords that were searched in order to obtain relevant literature included children, armed conflict, survival, health, sexual violence, juvenile justice act, torture, human rights violation etc. In addition to it several measures were taken so as to guide the quality of literature review. Peer reviewed research articles

along with reports of some notable organizations such as World Health Organization (WHO), Amnesty international (AI), Médecins Sans Frontiers (MSF), Asian Centre for Human Rights (ACHR), Jammu Kashmir Coalition of Civil Society (JKCCS), Public Commission on Human Rights (PCHR), UNICEF and United Nations were taken into consideration which were international, national and local in origin. Besides the studies that were analyzed were both qualitative and quantitative in nature focusing on numerous implications of armed violence such as deterioration of physical, social and emotional well-being of children, contamination of their basic rights and developmental needs that are mostly affected at large magnitude. Thus, for this study total 20 publications were considered, out of which 10 were reports and the rest were research papers and articles.

Hence, the literature for the current study which included reports, research papers and articles enabled us to confide the consequences of armed violence on different aspects of the children.

Literature review

Armed conflict is a global phenomenon which poses numerous challenges on the affected population. Among the population, children are worst sufferers, being vulnerable sections of society. As a result of it, they are subjected to numerous atrocities thus leading to human rights violation. Hence several studies have been conducted which have revealed the repercussions on the affected lot. Thus, the major losses incurred to children through ongoing armed conflict in J&K have been, in the form of findings, enumerated as follows:

Survival – *the non-existing thought*

The immediate effect of armed conflict is disruption in food supplies which has a profound effect on whole population particularly on children. Not only this, but during armed conflict, there occurs a shift in normal patterns of living and hence puts brunt on breast feeding while making lactating mothers feel less confident and under fear which again becomes the reason for starvation and inadequate nutrition to children during conflict (United Nations, n. d, p.3). Hamilton., & Abu El-Haj (as cited in Gow., Vandergrift., & Wanduragala, 2000) have put impetus upon the survival of children as “the most fundamental challenge for any system which wishes to mitigate the suffering of children in war is to ensure their very survival”. As per the data available in the report on children by Jammu Kashmir Coalition of Civil Society (2018), every year, since 2003, 26 children have been killed. Since 2003 to 2017, 318 children in the age group of 1 to 17 have been killed and the statistics by the same report reveals that 144 children alone have been killed by Indian armed forces and JK Police. In the year 2018 alone, 31 children were killed. Therefore 349 children have been killed until 2018. Due to the frequent use of Explosive Devices at

encounter sites by Indian armed forces, 110 children have been killed. The surprising factor is that there has been no age distinction of the victims and looking at the figures, we get 121 children killed are below 12 years followed with 154 children killed who are between 13 to 17 years. The youngest victim among all is 10-month-old baby who was killed in 2010. In all the violence against children, 72 happen to be girls.

As documented by JKCCS, there are many instances wherein children have become victims of various forms of violence through armed forces, thus, gives the impression upon the violation of the survival as one of the rights given by United Nations Convention on the Rights of Child (1989). The survey conducted by JKCCS (2006) itself in district Baramulla and Bandipora reveals that 5106 people were killed and disappeared since 1989 to 2005 out of which 392 were children. This report further reveals that out of those 392 children killed, 43 were females. The killings of children have taken place in both the regions and the data provided by JKCCS reveals that out of the 318 children killed, 214 killings of children have taken place in Kashmir whereas Jammu region has witnessed 96 killings which clearly say that the survival of children in the whole J&K has grim picture. Article 6 (Survival and development) of United Nations Convention on the Rights of the Child (1989) states that: "Children have the right to live. Governments should ensure that children survive and develop healthily". If we go by this, we carve out that there has been no adherence to this as a result the children are being forfeited of this right completely and the survival of the children of J&K seems non-existing factor.

Health – *the recognized casualty*

Violence also leads to devastating impact on children's health whether it will be direct or indirect. Direct effects include death, injury, disability, trauma depending on the nature of combat and age group affected. Indirect effects relate to the destruction of infrastructure required by children for their optimal survival and development, environmental exposures, and other downstream effects on social determinants of health, such as worsened living conditions and ill health of caregivers (Guha-Sapir & Van Panhuis, 2002, pp.15,19). For example, the conditions created by armed conflict compromise key public health functions, including vaccine delivery, health surveillance and disease outbreak investigation, resulting in increased rates of infectious disease transmission (Shenoda, Kadir, Pitterman, Goldhagen, 2018, p.7). Similarly, attacks on both government and non-governmental health facilities and mobile clinics are increasingly prevalent (Franco, Suarez, Naranjo, Baez, Roza, 2006, pp.7-8). These attacks violate the Geneva Conventions and result in the death of patients and health workers and increasing barriers to care because of people's fear of being injured or killed while seeking treatment. During armed conflict loss, grief

and fear also takes toll resulting into mental health issues ranging from stress, anxiety, depression, Post-Traumatic Stress Disorder (PTSD)(Guha-Sapir & Van Panhuis, 2002, p.15).Children become witness to all the forms of adversities during armed conflict. They get exposed to numerous atrocities which undermine their confidence and fill them with fear. Therefore, children who have experienced traumatic or other events during conflict can suffer from severe anxiety and nightmares(Shenoda, Kadir, Pitterman, Goldhagen,2018, p.8). They may cease playing and avoid being in groups, lose their appetite and withdraw from contact. They, at times develop aggressive behavior thus affecting their overall mental health. The psychological well-being of the children of J&K constantly remains vulnerable due to the ongoing armed conflict. It can be understood with the fact that when any child witnesses the killing of her/his father or rape of her/his mother, her/his psychological state gets upside down altogether. One of the examples can be shared here; a victim of Kunan-Poshpora mass rape in the narration of her story says,

My children who were in the room started crying. Then three army men pushed me down on the floor, tore off my clothes and raped me one after another in the presence of my children. When my children cried and raised alarm the army men aimed guns at them and threatened to shoot them if they did not stop crying. (JKCCS, 2015, p. 85)

As documented in the Médecins Sans Frontieres report (2006), it has been revealed that, due to the present armed conflict, children are suffering from fear and most of the children are found having issues in attending school. Armed conflict comes with many issues, hazards as well as transformations, and the most impactful community, among all, is of children's.Article 39 (Rehabilitation of child victims)of UNCRC (1989) states that: "Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child." Every state, therefore, must have proper measures in order to protect the psychological well-being of children.

Education – *the vulnerable model*

As other human faculties get affected, education too comes into the radar of violence which signifies the right to education, at most of the times, gets violated. More precisely the children face barriers to get access to education. In other words, safe places for children such as schools, playgrounds are increasingly targeted by combat groups that cause the total or partial destruction of such facilities (UNICEF, 2018, p.3).Therefore, indiscriminate crossfire, looting and direct targeting results into reduced school enrollment, high dropout rates, lower educational attainment, poor schooling conditions, and the exploitation of children(Shenoda, Kadir, Pitterman,

Goldhagen,2018, p.2).According to UNICEF (2018) it has been revealed that in Philippines, armed combatants of Marawi lead to destruction of more than 20 educational institutions thus hindering education in more than 20,000 children (p.3). Other interferences to the normal operation of the facility may also be reported, such as the occupation, shelling, targeting for propaganda of, or otherwise causing harm to schools or medical facilities or their personnel. Because of the conflict more than 400 schools, according to the same report of Public Commission on Human Rights (2005), were gutted and as a result 60% of children between the ages of 10 and 14 were deprived of education.

The core issue lies in the occupation of armed forces in the educational institutions. Due to the huge militarization, hundreds of educational institutions were converted into the military camps in the early nineties (Jammu Kashmir Coalition of Civil Society, 2018). The report of Public Commission on Human Rights (2005), has presented the list of 46 schools and educational establishments, covering only 6 districts of the valley (Srinagar, Anantnag, Baramulla, Kupwara, Budgam and Pulwama), occupied by the armed forces. One can well imagine the status of the schools of the remaining districts of the state. More than 18 schools in district Baramulla alone, as reported by JKCCS in their report on children, have been occupied by armed forces followed with other districts that too have schools occupied by armed forces. Moreover the same report establishes the fact that not only the schools have been occupied but they also have been used as interrogation centers, military bases and military posts. IPT has expressed this situation as,

The army constantly enters school premises, takes the teachers, principals to task, and humiliates them in front of students by parading them. The schools are virtually turned into army camps which the army has occupied for years. The schools are therefore hardly functioning. There is no schedule for conducting examinations and declaring results. The students have to bear the brunt on all fronts. Many lose their homes as the army burn houses where they suspect the presence of militants. Thus, the student community in the valley has been deprived of having education in a free and fair atmosphere. (Tramboo, 1999, p.7)

JKCCS (2018) further comes up with the fact that during 2003 to 2017, 186 students were killed in the various incidents of violence and JK Police has killed 136 students which is highest number among the total killings. Among all the student killings, Kashmir division shares 87% and Jammu as 13% which vividly signifies that Kashmir division has remained most affected.

Torture – the unending story

Like other human rights violations, torture in Kashmir remains systematic and at the same time underreported. It is used as one of the indiscriminate and humiliating

punitive measure widely. In fact, it is one of the controlling tactics used by combatants so as to develop fear psychosis in target groups particularly in women and children (Association of Parents of Disappeared Persons [APDP] and Jammu Kashmir Coalition of Civil Society [JKCCS], 2019, p.84). Khan & Margoob (as cited in APDP and JKCCS, 2019) have conducted the study in which it was revealed that out of the six traumatic exposures, each child had faced at least one traumatic event with 4% who had been beaten up or tortured (p.114). In addition to it the other instances of children being subjected to torture has been attributed to, of considering them as adults by the armed forces. IPT in Jammu & Kashmir has summed it up in these lines: "The young teenagers and students are often taken for interrogation. Many of them are found missing after interrogation." (Trambo, 1999, p.4) In the last fifteen years (2003 to 2017), as revealed in the report of Jammu Kashmir Coalition of Civil Society (2018), seven children have lost their lives due to the torture by the armed forces. Article 37 (Detention and punishment) of UNCRC (1989) says: "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." Thus, it becomes evident that the children of J&K are turning more vulnerable to the state led atrocities, particularly torture followed with no mechanisms of accountability as well as prosecution of perpetrators existing in the state.

Sexual violence – *the everyday nightmare*

As observed in the most conflict-ridden areas, sexual violence remains no exception and same is the case with Kashmir. Kashmiris have also witnessed sexual violence. In every armed conflict hit area, sexual violence remains highly under-reported. Rape, sexual slavery, forced prostitution, forced pregnancy; forced sterilization / abortion, sexual mutilation and sexual torture are some of the forms of sexual violence, (Cohen, & Nordas, 2014). It has been recorded that children too aren't safe from getting sexually abused and among the rape victims, mostly young and minor girls get sexually assaulted by Indian armed forces. The systematic, yet unaccountable, rape and murder of a minor girl in district Kathua by the J&K Police Personnel impresses upon the fact that children of J&K, at most of the times, become the primary targets of state violence. Rape and sexual assault of children at the hands of armed forces is common in Jammu and Kashmir and most of the times it forms as a collective punishment against the dissenting population. The sexual violence committed on the children leaves disastrous impacts upon their psychology. Some of the instances are like, one teenage girl was raped and murdered by armed forces in 2009 in Shopian, and in another case 16-year-old girl from Bandipora fell victim of

rape by an Ikhwani and as a result, she committed suicide (JKCCS, 2018). It should be noted that there are many cases of sexual violence against the children of J&K but it has always been observed and seen that most of the times, the survivors of sexual violence refuse to speak so as to not get prey of reprisals at the hands of perpetrators and not face social stigma. Not only girls, as per the same report by JKCCS, but boys between the ages of 9 to 19 were also sexually assaulted through sodomy. With this, therefore, the sexual violence committed against the children of J&K ultimately remains underreported as well as underestimated.

Juvenile Justice – *the hopeless hope*

The children of J&K share an interesting tryst with the Juvenile Justice Act (JJA). That is, it is clearly set yet ambiguously implemented which turns the children of J&K more hapless and at the same time helpless. There have been many instances wherein provisions of law regarding the protection of children were violated. The report of (JKCCS, 2018) has given the data of such cases wherein violation of these laws was witnessed. A minor namely Rayees Ahmad Mir from Delina, Baramulla district of Kashmir was detained under the Public Safety Act (1978) when he was minor. Many cases like these signify that juveniles aren't being treated according to their statuses (age). As per the report of Asian Center for Human Rights (2011), all juveniles, in all the cases in conflict with the law and especially minors detained under PSA have, up to date, been tried in normal courts and have been jailed with other detainees and criminals. The juveniles of the valley are not seen differently as a result they are treated as adults which puts them into more vulnerability. Same has been replicated in the JKCCS report on children (2018) however JKCCS believes that the juveniles are becoming victims of injustice because of not having Juvenile Justice Boards in the state. The detention leaves serious impact on the social as well as psychological well-being of the children. Many at times it has happened that juveniles attained adulthood whilst being under the custody because they were not presented and tried in the due course of time, irrespective of the fact that they were juveniles at the time of detention. The situation of the girl juveniles is worse than the male juveniles as there is no separate juvenile home for the female juveniles. (Asian Center for Human Rights, 2011)

Article 40 (Juvenile justice) of UNCRC (1989) says: "Children who are accused of breaking the law have the right to legal help and fair treatment in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings." Comparing both the facts stated above and the Article 40 of UNCRC; there is found incongruity. In more simple words, there is no replication of this

article in the present scenario as a result the children with the law remain vulnerable to the remedial model needed and they carry the hopeless hopes.

Conclusion

Children are the future of every society. In fact, they are the world, if taken into a progressive ideology. They are the only who lead nations right after turning into youth-hood. They lead nations if they are possessed with a progressive as well as conducive atmosphere. Thinking in the same manner seems impossible because if we go by the figures available, around 350 million children around the world are facing conflict. Looking at the statistics of children affected by the armed conflict around the world, the future progress of the world nations seems occupied with bleak chances. Conflict hit areas have badly affected the overall development of people, particularly children. The thrust must be laid upon the thought that when children become the victims of any armed conflict or even become exposed to armed conflict; world nations altogether come at the verge of extinction. In armed conflict hit area, violence on children is predictable but at the same it is preventable if due measures are taken at the right time.

Since the onset of insurgency in the Jammu and Kashmir state, its people have been witnessing all forms of violence, to say more aptly, their identity has been changed from human being into a victim. The case of the children in the J&K state comes as a serious one because of the present circumstances they are experiencing. In the actual sense, violence through the ongoing armed conflict has affected the very survival of the children of the J&K state. The health of the children has turned into a recognized casualty which bears the whole brunt of the violence. Like other conflict-hit areas, the children of J&K also face psychological issues because of the indelible marks of violence left on their existence. The children of J&K have seen their schools getting ablaze which has, unintentionally, created exacerbated crackdown on their educational development.

Through the examination of few reports on children, the authors come across a very grim picture pertaining to the development of the children of J&K. The issue lies with the huge "*militarization with impunity*" in the state which serves as an impediment to the overall well-being of the children.

Taking both UNCRC and the children of Jammu and Kashmir into consideration, the result comes different in the sense that India, despite ratifying to this convention, is found non-adhering to it in the practical sense because the rights of the children of Jammu and Kashmir continue to get violated in a more systematic manner. It is noted in the reiterating sense, the violence, through the ongoing armed conflict, committed on the children of J&K has affected their important faculties such as survival, health and education. It has had devastating impact on the overall growth and survival of

children which needs to be alleviated on immediate basis. There is a dire need of adherence to the law and most importantly the articles mentioned in the UNCRC (1989) so that the children of J&K shall regain the power to dream for big flights towards their progression and development.

Recommendations

The authors, after examining few reports, have crafted some recommendations with the motive to have the mitigation in the violence against the children of J&K. The authors are of firm belief that the recommendations, if acted upon firmly, will inevitably, improve the life of the children and will ultimately help in mitigating the violence committed against them. The recommendations will also help in reforming the existing policies & programs as well as designing new contributive policies regarding the children of Jammu and Kashmir.

- Lobbying, advocacy and information dissemination on children's rights will help in creating awareness.
- Promotion of accountability for violations of children's rights can mitigate the violence on the children of J&K.
- Acceptance as well as implementation of the internationally agreed standards of child protection must be ensured in all the regions of J&K.
- Child protection policies must be well promoted and campaigned upon.
- Need of revisit to the existing policies on children, and if possible due changes in accordance with the present situation and findings must be given a chance.
- Children-focussed programs and schemes during and after armed conflict must be developed on priority basis.
- Authorities must put in place the strong mechanism of investigating and putting to account the perpetrators of the crimes against the children of J&K.
- Well designated as well as tested psycho social support must be provided to the children affected by violence.

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