

Kashmiri Women and the Politics of Identity

Submitted by:

Dr. Ayesha Ray
Assistant Professor
Department of Political Science
King's College
Wilkes-Barre, Pennsylvania, 18704

E-mail: ayesharay@kings.edu

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I. Introduction

For any keen observer of Kashmiri politics or those interested in studying the process of democratic accountability in India, Kashmir's provincial elections of December 2008 may be an important turning point in Kashmiri politics for a number of reasons. But what is particularly striking from the perspective of women's issues in Kashmir is the active participation of women in the elections. In fact according to the State Election Officer, Nazir Ahmed Tarrya, the number of female voters has been far greater than male voters.¹ More importantly the overall percentage of female voters stood at 60 percent for this year. The state elections have helped provide the women of Kashmir with a platform to raise concerns about their status in society and many argue that these elections provided the women with an opportunity to "translate their experiences of conflict into policies for better governance."²

But despite this political success, one may argue that the plight of Kashmiri women is one subject which has remained under-scrutinized for many decades. The women of Kashmir, whether Hindu or Muslim, have led a life of relentless suffering; a life dictated by the patriarchal structure of Kashmiri society. Fighting a decadent system and society has been extremely hard for such women and a number of issues warrant examination in assessing the politics of identity surrounding them. It may come as no surprise that Kashmiri women have struggled and continue to struggle against societal discrimination and inequality. Not only have these women been subject to violence by the police, but many have also experienced intense suffering at the

¹ Athar Parvaiz, "India: Kashmiri Women Repose Faith in Electoral Politics", <http://ipsnews.net/>, December 2008.

² Ashima Kaul, "Kashmiri women see a window of opportunity", <http://southasia.oneworld.net/>, December 15, 2008.

hands of militants as well as Indian security forces. A prominent issue in the general literature on Kashmiri women examines definitions about their identity; definitions which portray them as victims of armed conflict. Given the fact that many Kashmiri women are still victims of armed strife, this paper seeks to address major identity issues facing them, the nature of the women's movement in Kashmir, feminist literature on the subject and the role of the state government in addressing their problems. While some findings are revealing from a factual and analytic standpoint, most observations in this paper highlight the scarce attention devoted to women's issues in Kashmir. The inconsistency in debates addressing women's issues in Kashmir has been an indirect result of their situation as well as the result of numerous contradictions present in Kashmiri society. In this paper I argue that *while the identity of Kashmiri women has been shaped, to a large extent, by the rise in armed conflict, and there is a thriving intellectual debate on the issue, their movement has not found much voice beyond the Kashmir valley.*

II. Projects/NGO Work on Kashmir and Feminist Literature on the Subject

For many years, a number of external organizations have closely worked on women's issues in Kashmir. In addition, a large number of Indian intellectuals are prolific writers and discussants on the subject. Scholars like Urvashi Bhutalia, Rita Manchanda and others have also attempted to document the plight of Kashmiri women. Bhutalia's book, *Speaking Peace: Voices from Kashmir* provides an interesting mix of experiences shared not only by Kashmiri women but those who have worked on such issues. Several of the essays certify the involvement of women's groups from outside. Those in the forefront like Sahba Hussain, Neerja Mattoo and Ritu Dewan have worked with Kashmiri women and children for several years. However, as Butalia notes in the preface of her book, the movement has been "tardy" primarily because it is not very well organized. Some of the members have also been divided over the best means to organize the movement and focus on some issues over others.

A major project on Kashmiri women, called the *Violence Mitigation and Amelioration Project* (VMAP) was organized by OXFAM India from 2000-2003. Members of the OXFAM community were interested in studying the case of Kashmiri women because they wanted to know more about the role of such women in societies wracked by conflict. Accordingly, the VMAP undertook a two-pronged approach. First, it spoke to women in different parts of Jammu and Kashmir and conducted a series of interviews. Pioneering such efforts were women like Pamela Bhagat. Second, the group worked with local organizations to provide relief to women who were victims of severe trauma. Their services including organizing awareness camps, and providing counseling to women who had become victims of domestic abuse, or who were victims of atrocities perpetrated by the security forces and/or militants. According to Sahba Hussain, who was a member of this group, the primary activity of group members included traveling through various districts in Kashmir, meeting with local Non-Governmental Organizations (NGOs), visiting hospital, orphanages, and educational institutes to document cases of those who had been mistreated.³

Another prominent group working on women's issues in Kashmir was ATHWAAS. This group was an initiative taken by Women in Security, Conflict Management and Peace (WISCOMP), which brought together Kashmiri women from all walks of life at the *Kashmiri Women's Writer's Meeting* in Srinagar. About 30 women both Hindu and Muslim used the forum to voice years of suffering and pain. The ATHWAAS campaign aimed to build safe spaces for women in Kashmir by reconstructing their lives and supporting the creation of self-help community groups. In October 2002, ATHWAAS organized a participatory rural workshop with the sole purpose of developing leadership among women from the village of Tragpora. As these women had found little redress by the state or other women's groups, they were encouraged to

³ Sahba Hussain, "The Psychological Impact of Violence", <http://www.amanpanchayat.org/>

articulate the needs of those who were suffering. In the next few pages, I discuss a few controversial issues which merit further research.

III. Identity issues

a). Victims and Oppressors

The beginning of tragedy for many Kashmiri women dates back to the insurgency of 1989. In 1987, state elections in Jammu and Kashmir were rigged which resulted in widespread dissatisfaction amongst the Kashmiri youth. Pakistan took advantage of the situation and began supporting the cause of Kashmiri disaffected youth who were calling for the creation of a separate state. Thus began a bitter proxy war against India and the situation soon gave rise to a virulent insurgent movement in Kashmir. Sadly, the worst victims of the insurgency were the women of Kashmir. Rita Manchanda captures the situation and agony of Kashmiri women when she states that “women have been the worst hit in the war on Kashmir. They have been killed in crossfire, shot at in public demonstrations, blown up in grenade explosions or in shelling across the Line of Control (LoC) and have been raped by the militants.”⁴ According to Urvashi Bhutalia, in situations of conflict and particularly those involving religious identities, women are targeted in specific ways. “In times of conflict, particularly religious conflict, it is women who carry the honor of the community on their backs and bodies and defiling their bodies usually through rape is a way of hitting back at the other community”.⁵ What this implies is that in most cases, the woman’s identity becomes objectified as one that can be used to dishonor the “other” community. Thus, rape has often been used as a weapon of war but has taken various forms. Militants in Kashmir have used rape as a weapon to humiliate the Muslim community by violating its women. Other forms of atrocities have included attempts by militants to impose

⁴ Rita Manchanda, *Himal*, May 1995.

⁵ Urvashi Bhutalia, “Gender, Religion and Ethnicity in the Context of Armed Conflict and Political Violence in India”, *The World Bank*, Washington D.C, June 10-11, 1999.

women's dress codes like wearing of the *burqa*. Militant and other fundamentalist groups have also gone to the extent of declaring family planning to be "un-Islamic".⁶

There are, however, writers like Seema Kazi who provide a different perspective by arguing that mainstream analyses of the conflict are limited only to discussions about the relationship between Kashmiri men and the Indian state. Such analyses are undoubtedly one-sided as they ignore the social dimensions of the conflict, and its influence on women. Moreover, it is often falsely assumed that since women do not participate in the conflict directly, their voices and experiences are of little relevance. Kazi makes a very strong argument in support of examining the true identity of Kashmiri women but their experience as victims of armed conflict, deserves far greater attention.⁷ After all, in a democratic country like India, shouldn't Kashmiri women be treated equally with their male counterparts? Granted that such women have lived a life of patriarchal domination, but a denial of their experiences carries the risk of further isolating them from mainstream politics.

In discussing the experience of Kashmiri women as victims of armed conflict, it is necessary to add a disclaimer: atrocities against the women of Kashmir have not been committed just by militants. In fact, Hindu and Muslim women have both been subjects to violence by a second group, namely, the Indian security forces or paramilitary forces belonging to the Border Security Force and the Rashtriya Rifles. These organizations are ideally meant to enforce law and order in riot-affected areas of Kashmir and bring normalcy and peace to the region. Instead, there is significant evidence which shows that rather than improving the lives of Kashmiris, Indian security forces have unleashed a brutal regime of terror. Interestingly, there is an important distinction to be made between the way in which security forces have used rape as a medium to abuse Kashmir women. While the militants have used rape as a common way to humiliate members of the "other community", Indian security forces have used rape primarily as an

⁶ See relevant article.

⁷ Seema Kazi, "Armed Conflicts and Women in Kashmir", <http://www.lolapress.org/>

instrument to punish those who were in any way connected to militants. During the height of militancy and as part of the counter-insurgency operations, Indian security forces cracked down heavily on militant organizations including anyone who was suspected of harboring terrorists. To cite an example:

“ S. about fifty, a resident of Ludna, Doda told Human Rights Watch that on October 5, 1998, the Eighth Rashtriya Rifles came to her house and took her, her husband and her eight month old grandson to their base in the village of Charote, some fifteen kilometers away. They began beating me. They said we had been feeding the militants. They used electric shocks on my feet. I was raped. They stripped off my clothes and said they would kill me. The captain who raped me said: “you are Muslims and you will be treated like this.”⁸

One of the worst document cases of human rights violations by Indian security forces are the 1993 Shopian and Kunan Pushpora incidents. In the Shopian case, two young women were gang raped while in the Kunan Pushpora incidents, approximately 60 women were gang raped by Indian army personnel. The Kunan Pushpora carnage was the most brutal assault on Kashmiri Muslim women by Indian security forces. The victims were old women as well as young girls, most of whom now remain unmarried and carry the stigma of the incident. Numerous interviews with these women showcase the nature of the assault and the inhuman treatment meted out them in the aftermath of the incident.⁹ In one such interview, a victim, Zaina Begam, recalls the horrors of that dreadful day. She says, “my husband was dragged, beaten up and carried away. They came back, ransacked the house, made noises and drank from bottles. They hit me hard. I was unconscious. There was a big commotion in the village. I thought it was the end for all of us. The police arrived the next day and took statements. Nothing has been done. We are suffering.”

⁸ “Behind the Kashmir Conflict: Abuses by Indian Security Forces and Militant Groups Continue”, <http://www.hrw.org/reports/1999/kashmir/doda.htm>

⁹ “Testimonies of Young and Old Women of Kunan Pushpora in Kashmir”, <http://www.kashmir.demon.co.uk/rape/>

Episodes of this nature have been frequent but an alarming trend is that by inflicting such atrocities against the local women of Kashmir, Indian security forces have transformed themselves from protectors of human rights to violators of human rights. In their over-zealousness to quell militancy, these organizations have resorted to cruel and barbaric acts of violence against women; a method, they believe, works as a means to instill fear in the hearts and minds of the Kashmiri populace.¹⁰ A Human Rights Report published by the US State Department in 1999-2000, documents how paramilitary forces in Jammu and Kashmir have exercised a free hand in abusing Kashmiri women. Not only the security forces, but the police is culpable too as the rape of women in custody has become part of a broader pattern of custodial abuse. Despite evidence of such abuses by security forces, the National Human Rights Commission has remained a silent spectator.

A third agent which has done little to relieve the suffering of Kashmiri women is the government of Jammu and Kashmir. The state government of Jammu and Kashmir has an abominable record of providing succor to those whose lives have been destroyed by conflict. The lack of adequate institutional and economic support from the state government continues to be a major grievance amongst Kashmir's local populace. This lack of state support for Kashmiri women has taken multifarious forms. First, the state government of Jammu and Kashmir has routinely dismissed media allegations against security forces as "baseless" and has refrained from instituting a methodical judicial inquiry into such incidents. Reports produced by Amnesty International indicate that in most incidents of sexual assault, medical evidence available points to signs of sexual intercourse and violence which do constitute prima facie evidence of rape.¹¹ Yet, the state government is not willing to accept adequate responsibility! Second, while the state government has prosecuted and punished a number of security personnel for rape in

¹⁰ The major militant outfits involved in the high incidence of rape are Hizbul Mujahideen, Harkat-ul-Ansar and the Lashkar-e-Toiba. Amongst the security forces, the BSF, Rashtriya Rifles, CRPF and other paramilitary forces have been prominent in committing acts of violence against women.

¹¹ Amnesty International's Annual Report on India, <http://www.amnestyusa.org/countries/india/> , April 28, 2004.

few cases, such cases were not properly investigated. In fact, since 1997, reports of rape from Doda and other border areas have marked a sharp increase.¹² Third, a few unidentifiable groups called “militias” wearing no uniforms and having no accountability have been used by the state government as informers to watch and report on the activities of the militants. However, such groups have acted more as members of paramilitary “renegade” organizations to attack members of militant groups. They are also being clandestinely used to support the Indian government’s anti-terror policies.¹³

A lackadaisical attitude displayed by the state government towards the physical and emotional well-being of Kashmiri women has raised questions among non-government organizations about the ability of the government to improve the lives of these women by protecting their natural right to freedom and dignity. Criticism against the state government’s approach towards dealing with women’s rights have arisen only because in many instances (as discussed above), the state has been a silent spectator to human rights abuses perpetrated by the security forces. According to a US State Department Report, the Indian government has allowed its occupation authorities in Jammu and Kashmir special powers to search and arrest without warrant. The conclusions of this report are indeed quite true because under the *Jammu and Kashmir Disturbed Areas Act* and the *Armed Forces Special Powers Act (AFSPA)*, Indian security forces have extraordinary powers which include the authority to shoot suspected lawbreakers and those disturbing peace. The AFSPA also grants the Indian military wide powers of arrest, the right to shoot to kill, and to occupy or destroy property in counter-insurgency operations.¹⁴ As a result of such over-arching powers, Indian security forces have unleashed a reign of terror not just in Kashmir, but in other conflict-ridden states of India such as Manipur. For example, in 2004, there were widespread protests over the rape and murder of Manorama Devi, a native

¹² <http://www.hrw.org/reports/1999/kashmir/doda.htm>

¹³ “India’s Secret Army in Kashmir: New Patterns of Abuse Emerge in the Conflict”, <http://hrw.org/reports/1996/India2.htm>, Volume 8(4), May 1996.

¹⁴ Meenakshi Ganguly, “India: Repeal the Armed Forces Special Powers Act”, Human Rights Watch Report, November 19, 2007, <http://www.hrw.org>

resident of northeast Manipur. The Indian government set up a five-member review committee to investigate the matter and the members submitted a report by 2005, arguing in favor of repealing the AFSPA. But as of 2007, the Indian cabinet has not acted on the recommendations.¹⁵ Indian scholars often ignore the fact that in giving the security forces extra constitutional powers in dealing with the insurgency movement, the state government has failed to develop a full-proof system of checks and balances to prevent security forces from misusing their power. This is why, given the unchecked nature of powers assigned to the paramilitary forces, and the unwillingness on part of the state government to deal with the issue seriously, Indian security forces continue to maintain a pattern of human rights abuse.

Further evidence also suggests the need to demonstrate that instead of improving the situation of Kashmiri women who find themselves as victims of violence, the state government, in a few cases, has gone ahead and sanctioned laws which make it even harder for these women to protect their basic individual rights. One such example is the controversial *Kashmiri Bill on Women's Rights*. The *Permanent Resident Bill* passed by the Jammu and Kashmir Assembly in March 2004, sought to disqualify Kashmiri women and their status as permanent residents of the state if they married a non-resident. The bill also deprived women of the right to own and inherit immovable property, or to receive government and other privileges in the event that they were married to a "non-state subject".¹⁶ Such a law had tremendous implications in that it denied many Kashmiri women the right to obtain or continue working in a government job, own land and property, pursue higher education and contest or vote in municipal and state elections.¹⁷ By denying women the right to citizenship and property, the state joined the ranks of society and religion as an instrument of oppression. The only institution in Jammu and Kashmir which did come to the aid of these women was the State High Court. In October 2002, in what became a historic judgment, the J&K High Court overruled the existing law and according to the court's

¹⁵ Ibid.

¹⁶ Aarti Dhar, "Outcry against J&K Bill on Women's Status", *The Hindu*, March 7, 2004.

¹⁷ Pamela Bhagat, "Women in Kashmir, Citizens at Last", March 24, 2003, <http://www.southasian.org/>

new verdict, daughters of Jammu and Kashmir were allowed to retain their status as permanent residents of the state. This was good news because prior to the court's intervention in the matter, Note III, Section 6 of the Kashmiri Constitution had generated tremendous controversy as it stated that "the wife or widow of the state subject of any class shall acquire status of her husband as state subject of the same class so long as she resides in the state and does not leave the state for permanent residence outside the state."¹⁸ Even though the High Court verdict reversed this clause, provisions within the Kashmiri constitution revealed a very limited scope for improvement in women's rights.

b) Kashmiri Women and their Experiences of Terror

In analyzing issues of identity, the question whether Hindu and Muslim women have both shared similar experiences as victims of armed conflict, requires further discussion. One thing appears certain. Muslim women in Kashmir were engaged in a women's movement for a much longer period of time as they were forced to experience the pain and humiliation of partition. In contrast, Hindu Kashmiri Pundit women have come under attack much more recently but for different reasons. Yet both Hindu and Muslim women share a strong resilience required to fight an unjust system.

In recent years, several newspapers released reports listing numerous instances of attacks on Hindu women who were trying to break away from their traditional roles. For instance, women who refused to wear the "bindi" became victims of vicious acid attacks and domestic abuse. In understanding the type of abuse suffered by Hindu and Muslim women, in December 2002, Hindu Pundit women from Jammu and Muslim women from the valley participated in the "Dialogue of Understanding-Issues in Peace Making."¹⁹ This meeting was held in Jammu and was

¹⁸ Aasia Jeelani, "High Court Judgment-Boon or Doom for Kashmir?", Voices Unheard, newsletter of the Kashmiri Women's Initiative for Peace and Disarmament., 2002.

¹⁹ "On Regaining Kashmiriyat", <http://www.boloji.com/>, April 28, 2004.

organized by the *Center for Dialogue and Reconciliation*. Discussions during the meeting revealed that Hindu and Muslim women seemed to share similar experiences when it came to being victims of terror and violence. For instance, when Kashmiri Pundit woman talked about the increase in social violence, their Muslim counterparts concurred. These women, however, did disagree over the cause for abuse.²⁰ Sketchy reports in newspapers and those published by the Amnesty International point to the fact that while Kashmiri Pundit women have been killed in large numbers, irrespective of their age, profession, and political commitments, the killing of Muslim women has been selective and those attacked are ones who have been opposed to secession.²¹ But since there is not enough evidence to support the situation, it makes it difficult to address differences in the experiences of Hindu and Muslim women with any authority.

Still, it seems that militant organizations and fundamental groups have adopted similar sets of rules for both Hindu and Muslim women. For instance, soon after issuing a diktat to Muslim women to wear the burqa, the *Lashkar-e-Jabbar*, asked non-Muslim women in Kashmir to wear *bindi* on their foreheads and the Sikh women to don saffron colored duppattas for identification and exempted them from wearing the burqa.²² What is critical to this discussion is that while Hindu and Muslim women may have shared different experiences as victims of armed conflict, they are united in their critique of government policy which has done very little to improve their situation. These women are tired of being viewed as objects of violence and believe that it is time to take control over their own lives and enjoy equal opportunities (as citizens) such as rights, privileges, jobs, and a chance for leading a more meaningful life. More importantly, women are asking the state to do more than it has done; there are many serious questions the state government needs to address. For instance, how does the state intend to address the needs of men, women and children who have been victims of abuse and violence for over a

²⁰ Ibid.

²¹ Dr.M.K.Teng and C.L.Gadoo, "Human Rights Violations in Kashmir", <http://www.kashmir-information.com/> , p.7.

²² PTI Report, <http://www.expressindia.com/fullstory/> , May 9, 2004.

decade? ²³ What kinds of government-sponsored programs can the state develop to involve Kashmiri women in an open dialogue about their role in society?

Interestingly, the shared experience of Hindu and Muslim women as victims of a patriarchal system, characterized by a clear delineation of roles between men and women in such a society raises yet another important issue: a dichotomy between the public and the private. Indian activists and experts on the subject such as Rita Manchanda who have been working for the cause of Kashmiri women argue that in cases where the cultural space for women in the public arena is highly constrained, women's political mobilization manifests itself in domestic activism.²⁴ What Manchanda refers to is the "stretching" of their roles; a term that implies ways in which such women have tried to ensure peace within their community and family, while simultaneously trying to cement the gap between their communities and the local government. Many of the different roles were forced upon women in the wake of their husbands becoming objects of political repression. These women moved out of their homes in search of their men. However, by doing so, they also emerged as "agents of political resistance."²⁵ Women's traditional roles as mothers, daughters and wives remains part of the private sphere. Yet in the public sphere when such women are seen as forces of political resistance, it can result in a clash between the two roles and raise questions about the dichotomy between the public vs the private.

One such example is that of Parveen Ahangar who combed all the hospitals, administrative offices, interrogation centers and shrines in order to find her son Javed Ahangar who had reportedly been picked up by the security forces. She even went to the extent of filing a writ of *habeas corpus* in court. But once she went to the courts, Parveen Ahangar had stepped out of a traditional role and 'politicized' her position in society. Javed Ahangar's case is one of many custodial disappearances. Estimates put the number of missing at around 2000 of which 700 have been documented. Parveen Ahangar's gallant efforts at finding her son did culminate in

²³ Urvashi Bhutalia, "Faultlines and Bridges", *The World Chronicle*, 2002, <http://www.newint.org/chronicle02/south.htm>

²⁴ Rita Manchanda, *opcit.*

²⁵ *Ibid.*

the establishment of the *Association of Relatives of Disappeared Persons in Kashmir*.²⁶ This organization brought together 300 families of missing individuals and has been able to file the documented cases in a petition in the Jammu and Kashmir High Court. Most women whose husbands are missing have been deprived of various rights like those of inheriting property and others. The government has also been slow to provide relief and rehabilitation to these women. Evidence from the lives of Kashmiri women suggests that those women who moved out of their traditional roles, became leaders in women's movements. However, what scholars tend to ignore is that by moving into the public domain, these women did relinquish their traditional roles while in fact, they continued their duties as wives, mothers and sisters. But the society had "constructed" this difference in their roles. In examining their role and identity issues further, I turn towards a discussion of women's movements in Kashmir.

IV. Women's Movements in Kashmir

In general, the absence of a robust women's movement in Kashmir is quite conspicuous. A few local organizations have taken up the cause of women's issues but such organizations have suffered from inherent weaknesses. Organizations such as *Dukhtaran-E-Millat, Daughters of the Faith*, (hereafter DM) and the *Muslim Khawateen Markaz Council, Council of Muslim Women*, (hereafter MM) have struggled for the rights of Kashmir women but their efforts have been hampered because of a variety of reasons which are discussed below.

In 1989-90, there was widespread upsurge in women's participation in the Kashmir valley. This was a direct result of disenchantment with the state government's policies. For many women who took to the streets for the first time protesting against the policies of the state government, it was an empowering moment. Gradually, the DM and the MKM emerged at the forefront of this struggle. *Burqa*-clad women activists of the MKM became a familiar sight in the

²⁶ Suchita Vemuri, "Kashmir-drenched in women's tears", *Women in Action*, Volume No.2, 2001. <http://www.isiswomen.org/pub/wia/wiawcar/kashmir.htm>.

public domain because of their blatant challenge to local authorities. These women were often seen blocking the way of security forces in a bid to allow militants to escape.²⁷ The then President of the MKM, 'Bhenji' won recognition when she rescued a badly wounded JKLF Chief Hamid Sheikh.²⁸ However it was Asiya Andrabi, the leader of the DM who left a strong impact on the lives of Kashmiri women. She instilled courage in the minds and hearts of grieving mothers and wives by holding frequent demonstrations against the unrestrained behavior of security forces.

But despite DM's radical efforts, the most controversial and troubling aspect of these movements is that they lacked a secular character. For instance, DM's activities soon took on a separatist form. The DM had fought for several years to make Kashmir a part of Pakistan but in a rather provocative statement issued in December of 2000, the DM stated that it would appeal to terrorist outfits such as the *Lashkar-e-Taiba* and *Al Badr* "to declare war against political merchants who wanted to sell the blood of 75,000 Kashmiri martyrs."²⁹ This statement, while echoing the sentiments of the members of the DM, revealed a rather dangerous trend. Muslim women's groups like the DM and MM were fighting to mobilize women in their support but were simultaneously offering sanctuary to militants – the very same men who were the cause of their suffering in society. By appealing to militant groups, these women were not only allowing atrocities against them to continue but were also sending conflicting messages to other women in Kashmiri society. For example, when the anti-Indian movement started in Kashmir in 1989, Asiya Andrabi was one of the first to offer her support to the movement.³⁰ Members of the DM were expected to embrace a fundamentalist code of life. And those who did not subscribe to the rules of the DM (such as wearing the burqa) faced humiliation in the form of green paint and

²⁷ Rita Manchanda, *opcit*, p.52

²⁸ *Ibid*.

²⁹ "Kashmiri Women Separatists Warn Against Compromise", <http://www.cnn.com>, December 9, 2000.

³⁰ Geeta Pandey, "Taking the Jihad to Kashmir's Women", <http://bbc.co.uk/> May 30, 1996.

acid attacks. Others were forced to join the ranks of the militants by working as spies, guides and informers.³¹

An objective observer would ask: aren't such groups meant to protect their women from the state and the militants? In searching for answers to this question, there emerges a serious contradiction between the aspirations of some Kashmiri women who have tried to liberate themselves from tyrannical rule and the means employed by them to achieve those ends. One could perhaps argue that local Kashmiri women's movements represent the voices of not all, but only a section of Kashmiri women. In fact, the militant character of some of these movements has proven detrimental in uplifting the status of all Kashmiri women in society. Women's movements in Kashmir have suffered from further weaknesses. Many Kashmiri women are always in fear of being ostracized from their community. As Kashmiri society is a rather patriarchal one, stipulating responsibilities to women often emerges from their traditional roles. And so when women disobey the "orders" given by men, they become victims of abuse and humiliation within their community and are completely segregated. Second, many of these groups are politically marginalized. Their political character has weakened over the last few years. Third, active participation by non-governmental groups (NGOs) which can mediate between these organizations and the state has been minimal. Fourth, women's organizations face serious funding problems, finding it hard to garner necessary resources to boost their movement. Finally, many such groups are limited to the Kashmir valley and have had very little engagement with people outside the valley.³²

V. International Humanitarian Law on Women's Rights and Its Relevance

To highlight the extent to which women's rights in Kashmir have been routinely violated by the security forces, it is necessary to look at some of the relevant international laws on the

³¹ P.K.Kothari, "Women Bear the Brunt", *Kashmir Sentinel*, Volume 5(21), 1999, <http://www.kashmirsentinel.com>.

³² For more see, Kalpana Sharma, "Dialogue of Pain", *The Hindu*, February 10, 2002.

subject. The government of India is party to the *International Covenant on Civil and Political Rights* (ICCPR). Article 6 of the Covenant prohibits derogation from the right to life. According to this article, even during the time of emergency, “no one shall be arbitrarily deprived of his life.”³³ The article also prohibits torture and other forms of cruel and inhuman treatment. However as discussed in this paper, the Special Task Forces, the Border Security Force and other paramilitary forces have routinely violated these basic norms of international humanitarian law.

Article 3 common to the four Geneva Conventions is also pertinent to the issue of women’s rights in Kashmir. Article 3 clearly states that “violence of life and person, in particular murder of all kinds, mutilation, cruel treatment and torture, taking of hostages, outrages upon personal dignity in particular humiliating and degrading treatment are prohibited by law”.³⁴ In the Kashmir conflict, torture, hostage-taking and rape are part of a daily routine and this law has been constantly violated.

In addition to these international covenants, the *UN Declaration of Human Rights* also enumerates the rights of individuals. The declaration proclaims that all human beings are born free and equal in dignity and rights.³⁵ The Universal Declaration of Human Rights protects the Muslims in Jammu and Kashmir against the infringement of their rights but it also envisages protection of Hindus and other ethnic or religious minorities in the state against extermination, slavery and religious persecution. Once again the state government in Kashmir has done little to uphold these civil liberties or suppress militancy in the region.

A fourth document that relates to women’s rights is the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, adopted in 1979 by the UN General Assembly. This is often regarded as the international bill of rights for women. The Convention defines discrimination against women as “...any distinction, exclusion or restriction made on the

³³ International Covenant on Civil and Political Rights, G.A. res.2200A (XXI), 21U.N. GAOR Supp. (No.16), <http://www1.umn.edu/humanrts/instreet/>.

³⁴ <http://www.unhcr.ch/html/>

³⁵ <http://www.un.org/overview/rights/>

basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."³⁶ By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women which include: to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.³⁷ This Convention provides the grounds for realizing equality between women and men by ensuring women an equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. States parties should agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.³⁸

How are these laws relevant to the situation of Kashmiri women? And, does India have any law that comes close to emulating the principles espoused by international humanitarian law? In the past, India developed laws such as *The Terrorist and Disruptive Activities (Prevention) Act* (TADA) and the *Prevention of Terrorism Act* (POTA) which directly pertain to protecting citizens against acts of violence. However, there are a number of loopholes in these laws. For instance, under TADA, 59,509 people were arrested without charges and the overwhelming majority of the TADA detainees were Muslims.³⁹ TADA has also been used to harass journalists. Because of its arbitrary nature, TADA was soon replaced by POTA in 2002. But POTA too has been

³⁶ Text of the Convention is available at: <http://www.un.org/womenwatch/daw/cedaw/ceadw.htm>

³⁷ Ibid.

³⁸ Ibid.

³⁹ Keya Acharya, "Terror Laws Turning Ordinary People Into Terrorists", <http://southasia.oneworld.net/>

misused by those in power for protecting the rights of people with political connections!⁴⁰

Given the flagrant abuse of such laws, the government of India desperately needs to revamp its own security system and overturn redundant laws which have been plaguing India's judicial apparatus for decades. For instance, trial procedures have not been revamped to tailor the threat of crimes committed by the terrorist and hardly any special anti-terrorist organizations have been instituted within the police department or within the security structures of the state.⁴¹ Due to the prevalence of international laws on such subjects, the Indian government also needs follow international humanitarian principles more strictly if it wants to be seen as a serious upholder of human rights of the people of Kashmir.

In conclusion, I would argue that a great deal needs to be done by the state and other political activists to ameliorate the condition of women in Kashmir. As long as the Kashmiri women's movement does not strengthen and widen its base and as long as the state feels compelled to protect its agents, the women of Kashmir will never be free from the diktat of a conservative society and will continue to suffer physical and emotional abuse by militants and security forces. The situation of Kashmiri women will not improve just by intellectual debates on the subject or by a movement. Until the state government becomes more pro-active in improving the status of such women, social activism and women's movements will face innumerable hurdles in achieving equality and respect.

⁴⁰ Ibid.

⁴¹ M.K.Teng and C.L. Gadoo, *opcit.*

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