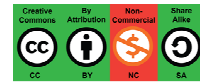




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Custodial Violence in Kashmir by the Indian Security Forces: A Spontaneous Consequence or a Deliberate Counter-Insurgency Policy?

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Abstract

Kashmir has been facing insurgency since more than twenty years. There has been an alarming rise into the cases of custodial violence since the deployment of counter-insurgency security forces in the region. The present study is an attempt to answer the research question that whether custodial violence in Kashmir is an unavoidable consequence of the counter-insurgency operations by the security forces or is it a deliberately selected method of the counter-insurgency policy of the state? The study, through empirical observations, concludes that the magnitude, nature and other attributes of custodial violence in Kashmir do not establish custodial violence as mere an obvious and unavoidable consequence of the counter-insurgency operations. In fact custodial violence has been constantly pursued by the Indian security forces in Kashmir as a deliberately formulated counter-insurgency policy to kill, injure, threaten and humiliate the youth to prohibit them from getting indulged into militancy. The impunity provided by the Indian state to the security forces in Kashmir through inhuman legislations further confirms the aforesaid finding.

Keywords: Insurgency, Human Rights, Custodial Torture, Custodial Deaths.

Introduction

The Valley of Kashmir geographically occupies a key position by touching the borders of Afghanistan, Pakistan, and China (Ray, 1969). Kashmir is situated in the western Himalayas at an average height of 6,000 feet above the sea. Its area has been estimated as 1,800 to 1,900 square miles (Husain, 1974). The total area of the state of Jammu and Kashmir which came into being after 1846 was 80,900 square miles, including 4,144 square miles of POK (Pakistan Occupied Kashmir) and 63,553 square miles of the areas of Ladakh, Baltistan and Gilgit (Dabla, 2012). The whole population of Kashmir, including POK and all type of migrants who live outside the state or other parts of the world is about 15.5 million; 10.1 million in Jammu and Kashmir, 4.5 million in Pakistan occupied Kashmir and 1.5 million in different countries of the world (Wani, 1996). While

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Kashmir Valley has 97 per cent Muslim majority population, Jammu and Ladakh regions have Hindu and Buddhist majorities respectively. The minorities in Kashmir are composed of the Kashmiri *Pandits*, the Kashmiri Sikhs and the Kashmiri Christians (Chatterji, 2011). The Muslims in Jammu and Ladakh region are in minority as they are 41 per cent of the total population of Jammu while 27 per cent of the total population of Ladakh. Above all, the Muslims constitute 99 percent of the total population of POK and 67 percent of the Indian administered Kashmir (Korbel, 2008).

Political Historical Overview of Kashmir

During ancient period, the famous dynasties to rule over Kashmir were, i.e., the Mauriya dynasty (320 to 220 BC) and the Khushan dynasty (200 to 300 BC) (Ratnaparkhi, 2011). During the medieval era, the Lohara dynasty (1103 to 1320 A.D), the Sultan dynasty (1339-1586 A.D.) and the Mughal dynasty (1586 to 1753) were the major reigns to rule over Kashmir (Kaul, 1963). Afghans also ruled Kashmir for 66 years (1753 to 1819) (Sufi, 1974). After the Afgans, the Sikh rule lasted for 27 years (1819-1846) and the downfall of the Sikh rule paved the way for rise of the Dogra dynasty (1846 to 1947) (Widmalm, 2002). The trace of the rise of organized politics in Kashmir dates back to 1930 when the atrocities and the tyranny of the Dogra rulers reached to its extreme level. It gave rise to political consciousness among the educated class and the aware and awakened people started organizing associations and parties against the Dogras (Siraj, 1998). The first such type of association was an unofficial political outfit called the 'Reading Room Party' lead by Sheikh Mohammad Abdullah (Bose, 2011). Due to his organized campaign against the rule of Dogra dynasty, Sheikh Moahmmad Abdullah came to be known as Sher-e-Kashmir (Lion of Kashmir) (Joshi, 2007). Later, he formed the All Jammu and Kashmir Muslim Conference at Srinagar in October 1932 to direct the nascent but growing movement for social and political change. Maharaja Hari Singh was the last ruler of the state when India attained independence in 1947 (Khurshid, 1994).

Unfortunately the state of Jammu and Kashmir became the victim of Pakistan's invasion, who invaded it on October 22, 1947 (Sharma, 2004). Maharaja Hari Singh, being the head of state, requested India to admit the accession and send armed forces instantaneously to hold the attack and save the state of Jammu and Kashmir from Pakistani invaders (Khanna, 2008). The central government of India, under the leadership of Jawaharlal Nehru agreed to provide support and send their armed forces to protect the state. In October 1949, India's Constituent Assembly inserted a special provision in the Indian Constitution, Article 306A, extending such autonomy to Jammu and Kashmir. Article 370 of the Indian constitution was a 'temporary provision' granting special autonomous status to Jammu and Kashmir under Part XXI of the constitution of India, which dealt with 'Temporary Transitional and Special provisions'. Though, it was specified that even this arrangement was an interim system, pending the promised plebiscite (Ganguly, 2003). However, in 1951, Sheikh Abdullah concluded the 1952 Delhi Agreement with Jawaharlal Nehru besides extension of the fundamental rights guaranteed by the Indian constitution to Kashmir and the coverage of the state by the Indian Supreme Court. Article 370 of Indian Constitution was given a character of permanence (Khurshid, 1994). The Article 370 was adopted by the Constituent Assembly of India about two years after Maharaja Hari Singh's signature on the temporary instrument of accession (Bose, 2011). The psychology related to special status for Kashmir

under Article 370 had made Kashmiri Muslims feel that Kashmir was not quite part of India (Kak, 1993).

Rise of Insurgency in Kashmir

Since the accession of Jammu and Kashmir, the Muslims in Kashmir have been reluctant to accept India as the state they ethnically and politically belong to. Reasonably, the Muslims in Kashmir had been agitating against the Hindu regime since the establishment of Dogra dynasty as against their right to self-determination (Chadda, 1997). They observed the rule of a Hindu dynasty over the region with majority of Muslim population as tyrannical and discriminatory (Yasin, 1980). They had been pursuing a continuing campaign to overthrow the Hindu dynasty (Furtado, 2007). Therefore, after the accession of their region to India, they felt like defeated and humiliated. These sentiments of alienation towards Indian state gave rise to the movements for state autonomy and separatism in Kashmir. From 1948 to 1987, numerous agitations, campaigns, protest movements, demonstrations had been witnessed, several of them had even violent consequences (Parashar, 2004). During the elections for state legislature in 1987, the National Conference, lead by Farooq Abdullah, son and successor of Sheikh Abdullah, made an alliance with the Congress Party (Sharma, 2002). The Kashmiri Muslims, already perceiving anguished against the Congress Party allegedly due to its anti-Kashmir policy, considered the alliance as a breach of faith by the National Conference and a sly policy of the Congress Party. It resulted into several demonstrations and protests in the valley during 1988. That eventually resulted into the rise of insurgency in Kashmir (Bhandari, 2006).

The nature of the insurgency movement in Kashmir has been implying intolerance of dissent and use of violence as the principal means of action. Since early 1990s, there has been emergence of several insurgent groups and militant organizations in Kashmir, i.e., Lashkar-e-Omar, Jaish-e-Mohammad, Al-Badr, Lashkar-e-Taiba, Harkat-ul-Ansar, Hizb-ul-Mujaheddin. The most frequent targets of these militants' organizations are the personnel of security forces, the informers, the political leaders as well as the common citizens (Asia Watch, 1991). The killings of political activists and leaders in Kashmir have been a constant tradition and an ongoing process constantly executed by the militants (Roy et al., 2011). The militants frequently murder the political personalities, administrators, informers of the security forces and the sympathizers of the Indian regime; they destroy their properties, warrant their relatives, attack their vehicles, and kidnap their children (Human Rights Watch, 2006). The militants, besides killing the religious minorities individually, have also murdered numerous people into massacres. In these massacres, the religious minorities, especially the Hindus and in a number of cases, the Sikhs are the frequent targets (Tikoo, 2013).

The counter-insurgency operation of India has been based on the policy of suppressing the violent insurgent groups through violence. Various security agencies including the J&K police, the Indian Army, BSF (Border Security Force) and the CRPF (Central Reserve Police Force) have been deployed in the region to combat and counter the insurgency. More than 1, 45,000 CRPF personnel have been deployed in the state which means 17 for each square mile and one for every 25 civilians (Dass, 1993). In 1994 there were approximately 400,000 soldiers in Kashmir, representing 44 per cent of the total number of the Indian Army. Ten years later, in 2004, the approximate number ranged to

600000 soldiers, this roughly means one soldier for every ten civilians in Kashmir (Dabla, 2009). The number of Indian security forces has been continuously increasing in Kashmir. Former deputy chief minister of Jammu and Kashmir, Muzaffar Hussain Baig, told the Jammu & Kashmir Legislative Assembly on August 1, 2006 that there were more than 67,000 security forces deployed in Jammu and Kashmir. Officially the total number of militants operating in Jammu and Kashmir has come down to 1500. It is strange that India needs more than seven lakh soldiers to combat 1500 militants in the region (Sehgal, 2011).

Since 1989, the Indian security forces have infringed and violated the human rights of countless people in Kashmir. The fake encounter killings have been fabricated as justified killings of militants in genuine encounters (Amnesty International, 1999). The Indian security forces are also reportedly engaged in reckless destruction and looting of civilian property and have burnt down the residential neighborhoods in retaliation for militant attacks (Gossman & Iacopino, 1993). The security forces have also systematically violated the rights of arrestees by detaining them for extended periods without any formal charge and legal trail (Asia Watch, 1993). Above all, the security forces are primarily responsible for unacknowledged detentions, disappearances and other human rights violations by using lethal force against peaceful demonstrations and engaging in widespread and arbitrary arrests of persons suspected of sympathizing militancy (Amnesty International, 1993). Besides these above mentioned brutal activities, the security forces have been reportedly indulged into inhuman, illegal and rigorous practices of custodial torture and deaths.

Custodial Violence in Kashmir

In Kashmir, torture has become such a normal phenomenon that it is considered as a routine practice in the process of interrogation. Kashmir can be observed as an illustration of this brutal violation of human rights. Everyone, who visits the police stations or the interrogation centers of the Army camps, acknowledges the severity of the torture executed there (Human Rights Watch, 1994). Undoubtedly, the lethal custodial torture, a routine practice in Kashmir police stations and different joint interrogation centers and the prisons, frequently results in the custodial deaths, a worst crime against the humanity.

Since the beginning of the insurgency in Kashmir, custodial violence can be observed as the central part of the counter-insurgency policy of the security forces. The NHRC (National Human Rights Commission of India) had registered 30 cases of deaths in the custody in Kashmir from 2001 to 2012. It registered 02 cases during 2001-02, nil cases in 2002-2003, 01 case in 2003-2004, 07 cases in 2004-2005, 04 in 2005-2006, 01 case in 2006-2007, 04 each cases during 2007-2008 and 2008-2009; and 02 cases in 2009-2010, 05 cases in 2010-2011 and in 2012 no case was reported.³ According to the annual reports of the NCRB (National Crime Records Bureau), 36 cases of custodial deaths have been registered from 2002 to 2012. However, no case was reported from 2002 to 2004, while 03 cases were registered in 2005; 04 cases in 2006; 20 cases in 2007 and 04 cases in 2008. During 2009 and 2010, not even single case had been reported. But again in 2011, total 05 cases were reported. While again in 2012, none case of custodial torture or custodial death had been reported throughout Jammu and Kashmir.⁴

³. The data is based on the analysis of the annual reports of the NHRC (National Human Rights Commission of India) from 2002 to 2012.

⁴ The data is based on the analysis of the annual reports of the NCRB (National Crime Records Bureau of India) from the year 2002 to 2012.

The data maintained by the national level nodal agencies does not depict any worrying magnitude of the problem, but the regional governmental organizations in Jammu and Kashmir reveal the problem of custodial violence much perturbing. The noteworthy concern is that the J&KSHRC (Jammu and Kashmir State Human Rights Commission) had received 482 complaints of custodial torture and/or deaths from April 2002 to March 2003, which comprised 12 complaints of custodial deaths. During 2003–2004, it again received 575 complaints of custodial violence, among which 15 were regarding custodial deaths.⁵ If the reports of the non-governmental organizations are to be undertaken, these assert much worrying extent of custodial torture and deaths in the region. According to Amnesty International, as many as 2,230 persons had been killed in the custody of the security forces during the beginning seven months of the year 1995 (Amnesty International 2013). The data maintained by Kashmir Watch states that 173 cases of custodial killings had occurred in the state from November 2002 till 2005. Furthermore, 122 cases of custodial killings had been reported in the state and from November 23, 2005 to June 6, 2008. And worryingly, 42 cases had been reported from January 01, 2009 till August 8, 2011 (Altaf, 2013). According to Kashmir Media Service, from January 1989 to August 31, 2013 there occurred 7,003 cases of custodial deaths by the security forces in Kashmir (Kashmir Media Service, 2013). Noticeably, there are enormous variations in the depiction of the magnitude of custodial violence in Kashmir by the central government's nodal agencies and state level governmental agencies, where the state level governmental agencies reveal the problem as much more worrying. Interestingly, the data established by the human rights NGOs and the media agencies divulge the issue as exceedingly perturbing. These variations regarding the assertion of the numerical data confirms the intention of the central level ratified agencies to conceal the real statistics of custodial violence in the region.

Significance of the Present Study

Custodial violence, encompassing custodial torture and deaths, has been a tragic reality of all nations and the regions, though the nature and magnitude of the same may differ. Custodial violence has been generally observed as more frequent and more brutal in the regions experiencing insurgency. The counter-insurgency security forces in these areas are more manifestly condemned by the civil society associations and the human rights activists for numerously executing custodial violence as a deliberate policy of counter-insurgency operations. But on the other side, the pro-regime elements strive to declare them as unavoidable consequence of the counter-insurgency operations where it becomes inevitable for the security forces to arrest, detain and interrogate the suspected militants and/or their supporters. Therefore, it appears as a relevant question of research to observe that whether the incidents of custodial violence in the insurgency-affected areas occur as unavoidable consequence of the counter-insurgency operations or it is deliberately pursued as a counter-insurgency policy to threaten and penalize the militants and their sympathizers and associates or to teach them a brutal lesson.

⁵ The data is based on the statistics depicted in the Annual reports of the J&KHRC (Jammu and Kashmir State Human Rights Commission) from the year 2002 to 2010.

Methodology

The present study has been conducted through adopting various relevant approaches and applying appropriate methods and techniques. The issues such as political-historical overview of the Kashmir conflict, rise of insurgency and the status of human rights in Kashmir are studied through the historical-analytical approach. The primary study dealing with the custodial violence in Kashmir has been conducted by applying empirical-analytical and observational-analytical approaches. While applying case study method, 50 cases of custodial violence in Kashmir, (i.e., 25 cases exposing custodial torture and custodial deaths each), have been empirically observed, examined and analyzed. Initially, the case studies were conducted through random sampling technique. Therefore, the cases of custodial violence uncovered through newspapers and the reports of the NGOs were initially considered. However, later on, a number of cases had also been observed while relying upon the snow-ball sampling technique.

Scheduled interviews of 25 victims of custodial torture have been conducted. To be acquainted with the primary and first-hand information regarding the cases of custodial deaths, the family members (fathers, brothers or wives) of the deceased in 25 cases of custodial deaths have been interviewed. Besides that, the members and the office-bearers of various human rights NGOs working in the region are also interviewed to observe their viewpoints on various attributes of custodial violence in the region. Furthermore, various primary as well as secondary sources of literature, related and relevant to the study, are taken into consideration.

Custodial violence is a broader phenomenon. Usual types of custodial violence include various kinds of physical, sexual and/or psychological torture. The extreme and most brutal form of custodial violence is the death in the custody. In the present study, the male victims of custodial violence have been taken into consideration. To conduct a precise analysis, the term custodial violence has been confined to the physical torture of males as well as deaths of males in the custody of police and security forces. Further, while examining custodial violence in Kashmir from human rights perspective, the time period since 2002, onwards has been considered. Reasonably, in 2002 there had been re-establishment of elected government in Jammu and Kashmir after a prolonged President's Rule. Thus, the thrust of the study is to examine the practice of custodial violence in Kashmir during the regime of elected governments since 2002.

Findings

To make the study more objective and methodological, thrust has been focused on verifying various patterns, aspects and attributes of custodial violence. The variables examined include i.e., the age of the victims of custodial violence, social profile of the victims, affiliation of security forces involved in custodial violence, methods and techniques of custodial violence.

1. Age of the Victims of Custodial Violence

It is obviously significant to be acquainted with the age groups of the persons which are most frequently vulnerable to the custodial violence in Kashmir. Age of all fifty cases investigated in the study has been categorized into 05 age groups i.e. up to 17 years (age group of minors), 18-35 years (age of youth) 36-50 (age group of middle aged) Above 50 (age group of olden). Among total 50 cases, there is only one case in the age group of up to 17 years. In the age group of 18-35, there are 41 cases, while the age group of 36-50

years comprises 07 cases. Further, one case has been examined in the age group of above 50 years.

Table 1. Age of the Victims of Custodial Violence

S No.	Age (in Years)	N	%
1	upto-17	01	02.00
2	18-35	41	82.00
3	36-50	07	14.00
4	Above 50	01	02.00
	Total	50	100.00

The data reveals that the age group of 18-35 is most vulnerable to the custodial violence as 82 per cent victims of custodial violence happen to be belonging to this age group. It corroborates the tendency of Indian security forces to execute custodial violence against the youth in Kashmir as a counter-insurgency policy of terrorising them and teaching them lethal lesson in case of their involvement to the militancy. Executing torture upon the youth in the custody is a deliberate attempt and a major strategy to diminish the militancy through creating panic among the youth not to pursue any affiliations with militants and militancy. The middle aged group of 36-50, the second most vulnerable age group with 14 per cent victims belonging to this age group further confirms custodial violence as a major part of counter-militancy operations. Only minimal number comprising age group of minors as well old aged establishes that the youth and middle aged people are the most vulnerable victims of custodial violence. It works as a two-in-one policy as on the one hand it is a method of teaching the alleged suspects a brutal lesson by capturing and torturing them and on the other hand it is a useful deterrent to prohibit the youth from indulging into insurgency movement by threatening them of dire consequences.

2. Social Profile of the Victims

Table 2. Social Profile of the Victims of Custodial Violence

S No.	Occupation	N	%
1	Private job	13	26.00
2	Student	12	24.00
3	Driver	08	16.00
4	Shopkeeper	06	12.00
5	Labourer	05	10.00
6	Govt. employee	04	08.00
7	Farmer	01	02.00
8	Beggar	01	02.00
	Total	50	100.00

As far as the occupational affiliations and the social profile of the victims of custodial violence is concerned, they are found as associated to various social standings and

occupational activities i.e. Students, car/lorry drivers, government employees, persons pursuing private jobs, shopkeepers, labourers, farmers and even beggars.

It requires to be specifically mentioned here that all fifty victims of custodial violence had been arrested and tortured by the security forces claiming their involvement to the militancy. But the study has found that in all fifty cases of custodial violence observed in the study, none of the person arrested and tortured by the security forces has been convicted by the judicial courts as having any involvement with militancy in Kashmir. In the study, the victims have been found pursuing various private jobs like, private school teachers, or pursuing businesses are found in the study as most frequent victims of custodial violence. It is probably due to their more regular access to outside their homes and localities, especially during the odd hours. They are captured by the security forces during the late evenings in suspicion to their involvement in militancy.

The data reveals that the post-matriculation students and the students affiliated to various colleges are the second most vulnerable victims of the custodial violence. It further verifies the finding of the previous query that the youth of 18–35 age groups, particularly in their early twenties are most frequent victims of custodial torture and custodial deaths. The fact cannot be ignored that the young males studying in colleges, due to their psychologically passionate age, sometimes get sympathizers, helpful or associated to militancy, especially when their religious and regional sentiments are aroused by those fundamentalists who want Kashmiri youth to indulge in militancy.

The drivers of cars, cabs, taxis are also usual victims of custodial violence again due to their roaming on the roads during odd hours, especially during late evenings and mid-nights. Majority of them are captured in suspicion and are tortured in the custody by the security forces in the hope of their confession regarding their affiliation to militants.

Furthermore the daily wage laborers (10 per cent) are victimized by the security forces after arresting them without any formal allegations against them, detaining them unlawfully and torturing them brutally. Moreover, the public sector employees (08 per cent cases) are also seen as suspects by the security forces and tortured usually. The study depicts that the farmers and even the beggars are not exception to the custodial violence, though they are not found as frequent victims. It confirms that the impunity provided to the security forces by the Indian government to eradicate insurgency at cost has negatively persuaded them for the unlawful, arbitrary and inhuman acts of custodial torture and deaths.

3. Involvement of the Security Forces

Various Indian security forces have been deployed in Kashmir to counter and repress militancy i.e. Indian Army, SOG/STF (Special Operation Groups or Special Task Force a special branch of state police) JKP, BSF CRPF, and JKLI (Jammu and Kashmir Light Infantry Regiment). These security forces execute their operations in the region solely as well as joint operations of two or more forces. Therefore, these security agencies have been reportedly found accused of custodial violence as well. It has been observed in the study that out of total 50 cases, Army had been found accused of custodial violence in 19 cases. The JKP has been found accused in 7 cases, whereas the CRPF and the BSF have been found accused of custodial violence in respectively 02 and 01 cases.

Table 3. Security Forces involved in Custodial Violence

S No.	Agency Involved	Number of Agencies	%
1	Army	19	38.00
2	SOG/STF	10	20.00
3	JKP	07	14.00
4	CRPF	02	04.00
5	BSF	01	02.00
6	Army and JKP	01	02.00
7	SOG and JKP	07	14.00
8	Army, SOG, JKLI	03	06.00
	Total	50	100.00

As per the data, the Indian Army has been found as involved in majority of the cases of custodial violence as its involvement has been exposed in 38 per cent of the total number of cases. Reasonably, Army has been the largest counter-insurgency force in the region as approximately eight lakh troops of the Indian Army are deployed in the region. The personnel of the STF and the SOG are established in the study as accused of custodial violence in 20 per cent cases which confirms them as second largest accused of custodial violence in the region. It has been observed that the SOG and STF are formally formulated as more operational groups to counter the militancy. Thus, more active and operational functioning of these groups also results in more frequent practice of custodial violence by them.

The J&K Police has been confirmed as involved in 14 per cent of the cases of custodial violence. The J&K Police is the agency which has been formally assigned the duty to maintain law and order and therefore has been deployed in large number in the police stations. Noticeably, the CRPF and the BSF have not been observed as frequently involved in practicing custodial violence. Both of these agencies have been found accused in only in 04 per cent cases each.

The study exposes an alarming concern that the security forces including the Indian Army and the Special Task Force have been deployed in Kashmir not observe routine law and order problems but to counter the militancy. And these security agencies have adopted the common, probably easier but a brutal method to diminish militancy through custodial violence. More frequent involvement of Indian Army and the SOG as well as the STF in the custodial violence also depicts that the counter-militancy policy formulated for Kashmir is based on the principle of 'End Justifies the Means' i.e. to repress militancy and pro-militancy sentiments through repression. The study further establishes that the impunity provided to the security forces in the region through various legislations such as the AFSPA and the PSA is a tool to promote the instincts of arbitrariness and abuse of power among the security forces which usually results into the unlawful arrests, illegal detentions and custodial violence.

4. Methods and Techniques of Custodial Torture

The most common methods and techniques of torture used by Indian security forces include severe beatings repeatedly for hours at a stretch with rifles and thick sticks all over the body, especially on the thighs and the buttocks, leading to the damage of kidneys

and/or the diseases of Rabdomyolosis. The persons are often suspended uprights or upsides down while being beaten. Keeping wooden rollers on the thighs, with the person lying on the stomach or the back, and trampling upon the rollers sliding up and down, crushing the thigh muscles, or else standing on the rollers and beating on the leg and soles of the feet with sticks and rifles.

a. The Aeroplane Treatment

The suspect is hung upside down. It starts getting severe as the blood rushes to the head. The second stage of torture commences from here, starting with the beating of the soles. Even the stronger men can withstand this ‘aeroplane treatment’ only for a few minutes. Weaker men can put up with it for not more than a few seconds.⁶

b. The Bombay cuff

The hands of the tortured are tied behind his back and a pipe is placed under the knees. He is then elevated just above ground level. It is impossible for anybody to remain in that position, with the body to hold this entirely on the knees, for more than a few minutes.⁷

c. Cog Needle

A thin iron rod is inserted through the umbilicus, tearing the skin and the muscles, or up the anus damaging the muscles, or up the arms damaging the mucus membrane and other parts of the rectum.⁸

d. Bellary Method

It is one of the oldest torture techniques, and still prevalent in Kashmir. A stick smeared with red chilly powder or green chilly paste is thrust into the anus of the detainee.⁹

Other most commonly and frequently executed methods of torture include: praying chilly power into the nostrils and inserting the same into the rectum; dipping the head into the cold water or water mixed with chilly; hanging the body upside down after tying it with a rope;¹⁰ using moving wooden rollers over the body and other limbs like arms and the legs. Furthermore, the victims are forced to take limestone. Victims are also compelled to swallow the urinal of the interrogating officials. Burning polythene is thrown on the body of detainees.¹¹ The person is placed in a sleeping bag and is electrocuted. Stretching

⁶. Interview with *Mehraj Ahmad Bhat*, age 26 years, resident of Cheeramarg Shopian, on October 23, 2013.

⁷. Interview with *Manzoor Ahmad Ganai*, age 33 years, resident of Frisal Kulgam, on October 11, 2013.

⁸. Interview with *Shabir Ahmad Ganaie*, age 32 years, resident of Frisal Kulgam, on October 13, 2013.

⁹. Interview with *Zahoor Ahmad Nagroo* age 26 years, resident of Badroo Kulgam, on July 13, 2013.

¹⁰. Interview with *Gulzar Ahmad Wagay* age 35 years, resident of Frisal Kulgam, on July 11, 2013.

¹¹. Interview with *Ghulam Hassan Wagay*, age 35 years, resident of Badroo Kulgam, on October 21, 2013.

legs beyond 180° and pulling them with ropes. The detainee is forcibly laid on his back. Then a round wooden pole is rolled over his legs and body, by two personnel who stand on either end of it and rolling it up and down. It is terribly painful, and leaves long term consequences for the victims.¹² Detainees are forced to urinate and defecate in the same cells and they are also beaten every day. In other cases, Victim is made naked and hanged upside down by the rope invariably tied to a hook in the roof and further rope is tied on the head of the victim to pull him constantly and excessively. Victims are severely prohibited to sleep for several weeks, and besides that, they are sexually molested as well.¹³

Other frequently used methods include, giving electric shocks to the sensitive parts of the body such as penis and testicles; splashing the sensitive organs with water simultaneously to enhance the impact and application of the current; forcing the person to stand bending forwards and keeping a lighted stove between the legs, thereby burning the legs, thighs and sexual organs; in winters, forcing the person to sit or walk on the snow for hours without any protection to the skin; forcing the person's head into water, sometimes even drain water, until the person gets choked to death (Human Rights Watch 1993).

Table 4. Methods and Techniques of Custodial Violence

S No.	Methods and Techniques	Applied on Number of Victims
1	Electric Shocks	24
2	Wooden Roller	24
3	Stretching Legs Beyond 180°	18
4	Water Torture in different ways	15
5	Sexual Molestation in different ways	18
6	Burning different parts of the body	09
7	Naked for 24 hours and torturing	04
8	Pulling out or removing nails	04
9	Beaten by wooden logs or leather belts	25
10	Hanging in different ways	23
11	Other forms of torture	12
	Total Cases	25

The study reveals that beating by wooden logs and/or leather belts is the most frequently practiced technique of custodial torture. Further, the data reveals that electric shocks and the use of wooden roller are the second most common methods of custodial torture which are cruelly practiced in the region. The data also exposes that stretching legs

¹². Interview with *Sajad Ahmad Bhagat*, age 32 years, resident of Frisal Kulgam, on October 23, 2013.

¹³Interview with *Asif Nazir*, age 26 years, resident of Badroo Kulgam, on October 29, 2013.

beyond 180° and sexual molestation in different ways are the third most frequently practiced methods of custodial torture. Similarly water tortures in different ways are fourth most common techniques of custodial torture in the region. It has also been observed that torture through pulling out nails, keeping naked around 24 hours in different positions is the sixth most frequently practiced techniques of custodial torture.

Reasonably, among security forces deployed in Kashmir, torture has been considered as the easier and effective technique of interrogation and getting confession from the suspects. The consistent and routine practice of these illegal and brutal techniques of torture emerges as the integral part of the counter-insurgency policy of the Indian security forces to eradicate militancy through arbitrary and inhuman torture. The impunity provided to the security forces by the government and the feeble functioning of the judicial institutions further confirm that Indian State has been encouraging the security forces to practice custodial violence so that militancy can be eliminated at any cost any through any means.

Discussion and Conclusion

It has been established as a fact that custodial violence, the brutal form of human rights violation, has been frequently exercised in Kashmir. Worryingly, the problem has been constantly aggravating instead of decreasing. The security forces have been pursuing the constant practice of custodial violence as a part of their counter-insurgency policy. As a deliberative technique of counter-insurgency, the civilians have been illegally arrested, detained and lethally tortured to create a threat of the Indian state and the security forces to prohibit masses in Kashmir from establishing or pursuing any affiliations with militancy. The youth in Kashmir have been particularly becoming the most frequent targets of custodial torture and deaths. It seems that the Indian regime has been practicing the policy of counter-violence to diminish violence in Kashmir. India, proclaiming itself as a soft state has been very rigid, inhumane and oppressive while tackling insurgency in Kashmir.

Various security forces have been deployed to counter the insurgency in Jammu and Kashmir. These include the Indian Army and para-military forces (CRPF, BSF). Along with that, the local police of Jammu and Kashmir (JKP, SOG) have been active in counter-insurgency operations. For suppressing the insurgency in Kashmir Valley, the security forces have been using custodial violence as a part of the policy to counter the insurgency. Therefore, custodial violence has been used as main method for suppressing the insurgency in the region.

It has also been observed that some controversial and unkind laws like, AFSPA and PSA allow extensive powers to the security forces. The AFSPA grants security forces extraordinary powers of search and arrest the civilians without formal warrants and detain them for several months without obtaining formal permissions from the courts. The AFSPA provides that unless approval is obtained from the Central Government, no prosecution suit or legal proceeding shall be instituted against any personnel in respect of anything done or purported to be done in exercise of the powers of the Act. Such provisions that allow all the security agencies to operate with virtual impunity are also the main cause responsible for the custodial violence in Kashmir.

Kashmir is one of the most militarised areas in the world. The Indian security forces use the draconian laws which grant a license of wide range of powers to them. The study examines that it is extremely difficult to prosecute members of the armed forces accused of custodial violence as they enjoy impunity through the AFSPA and PSA. Such security

legislations, authorizing the security forces to shoot and kill the suspects and destroy the civilian property, have increased the possibility of abuses. There are a number of laws in Kashmir to defend the armed forces against any legal actions in case of their involvement into the cases of custodial violence. The armed forces are given protection from prosecution for anything done or purported to be done in the exercise of powers under such laws. The PSA enacted in 1978 and amended in 1987 and 1990, empowers the state government to detain any person without trial for up to one year for a broad range of activities and has been widely used to suppress peaceful dissent. It also confirms that Indian state has been openly backing the policy of security forces to diminish militancy through custodial violence by killing, wounding, threatening and disgracing the youth.

Noticeably, during the throughout history of insurgency in Kashmir, India's security forces have never claimed to have captured any militants alive. The persons frequently arrested and detained are employees in the public as well as private sectors, college graduates, labourers, shopkeepers and farmers, living with their families as other common civilians. They are tortured and killed while arresting them in illegal manners and detaining them for prolonged periods arbitrarily. The security forces frequently exercise inhuman and brutal methods while torturing the detainees in their unlawful custodies. Perturbing concern is that in most of the cases, persons, arrested and tortured in the custody are proclaimed as innocent when prosecuted in the judicial courts. This scenario establishes the practice of custodial violence in Kashmir as a deliberative counter-insurgency strategy executed by the Indian security forces.

The situation sturdily requires sincere attention of the civil society, NGOs, international humanitarian groups and international community as a whole to condemn the adoption of custodial violence as a counter-insurgency policy by the Indian State. The centre and state governments should be pressurised not to provide an open license to the security forces to pursue the policy of counter-militancy through custodial violence. The criminal adjudication system at domestic level needs to act more responsible, dynamic transparent and humane. The governmental human rights organizations have to recognize the relevance of their role to check and minimize the incidents of custodial violence. Moreover, the civil society has to work more enthusiastically to disseminate awareness regarding the human rights of the people, particularly relating to custodial violence.

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