



Enforcement of Anti-Terrorism Laws in Jammu and Kashmir (J&K): A Socio-Economic Study

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Abstract- Terrorism could be understood as the use of violence or force or threat so as to create fear among the people. The persons whether individual, group or any organization performing such activities are termed as terrorists. It has become a global disease found in almost every society. There is hardly any country which is not threatened by it. Their activities may either be small or large in operation, but the motive behind each is to defeat the peace. Different countries faces terrorism in different aspects. Therefore, terrorism can also be defined as depending upon the demography of the country facing it. Almost every nation in the world is facing the problem of terrorism. This problem is not confined to any single issue. It affects several other issues related to the Politics, Social integrity, Education, Trade, Globalization, Employment, Education, Disturbance in financial market, Danger to life, Enforcement of fundamental right, Violation of human rights, Uncertainty of Constitutional machinery, Social and geographical infrastructural development, Tourism, Trade and commerce (Intra-state as well as Inter-state), Business activities and development, Organizational setup problem such as corporations, institutions, companies, etc., International relations, Livelihood, Psychological consequences, Infrastructural development, Livelihood, etc.. Right from the post-independence time the whole Jammu and Kashmir is facing this serious threat, comparatively much more in the valley. Thus to curb it, anti-terrorism laws are enforced but the after effects are not such as expected. Here it is an attempt to study the socio economic impact of terrorism in the Jammu and Kashmir, an integral part of Union of India.

Keywords: Anti-terrorism laws in Jammu and Kashmir, Impact, Jammu and Kashmir, Terrorism.

I. INTRODUCTION

Terrorism could be understood as the use of violence or force or threat so as to create fear among the people. The persons whether individual, group or any organization performing such activities are termed as terrorists. Terrorism is a world-wide problem which is a threat to almost every country. Last few decades have faced its dynamic and worst consequences. Every society all over the world is facing this issue. Terrorism is carried out by the groups, termed as terrorist groups, which use almost same ideologies and ways to strategize their aims and objectives, such as political goal, religious goal, etc. The activities practiced by these groups as a result effects many aspects of an individual, society and of nation also in the whole world. Due to such practices, acts and doings, the researchers are attracted now days towards the issues related to it and to perform the studies for the understanding, reasons, consequences and needs to be resorted to overcome this huge problem. Their activities may either be small or large in operation, but the motive behind each is to defeat the peace. It can be political, social, nuclear, cyber, religious and many more.

Significance of Study

Terrorism is considered as the global phenomenon which almost every society is facing. There is hardly any day in the whole world in which such anti-social activity is not practiced. Specifically talking about the research, it could be termed as the helping component for observing the degradation of the state's welfare as well as functioning along with the worsening of the life of people of the state. With the disturbance of the situation the basic key essentials for the survival and living of human life is being violated to a large extent. Incompatibility of laws governing and failure of constitutional machinery can be termed as the most grounded issue due to which all the other issues and conflicts regarding the welfare of the state are hampered.

II. REVIEW OF LITERATURE

Different countries faces terrorism in different aspects. Therefore terrorism can be defined as depending upon the demography of the country facing it. A study by Barth, Li, McCarthy, Phumiwasana, and Yago propounding the effects of terrorism in the economic growth of a State.¹

Here it is an attempt to study the effects of terrorism in the State of Jammu and Kashmir, an integral part of Union of India. Right from the post-independence time the whole state of the Jammu and Kashmir is facing this serious threat, comparatively much more in the valley.

There are many forms of terrorism. One of them includes the terrorism with the political ends, which the individual results for gaining the political power or political gains. The violence is spread all over so as to disturb the society and hamper the socio-culture norms, beliefs and values.² Terrorism means the indulgent of actions creating the fear of death among the society and pressure upon the authorities. That is why it is considered as the most multiplex phenomena of the present society.³

It has various faces but to show only few. The terror groups act most of the time nowadays hiding behind the name of politics, religion, etc. Terrorism is no doubt regarded as the most violent threat against the state. Sometime it is being based on religious ground while most of the time it has the foundation of the political motive. Threat, terror and fear are being used as the tools of the terrorism so as to widen its scope and increase its impact whether physically or psychologically. Therefore its ultimate object is to sway the pressure on the authorities in order to achieve their goals which cannot be achieved by ordinary means.⁴

In 2017, a coverage by Economic times, it was observed that among the hoteliers in Kashmir there is a huge decline in the tourists due to such unrest in valley. Besides of the vacation season the hoteliers are observing a dire situation which is striking their earnings. As explained by the president of Kashmir Hotel and Restaurant Owners Federation, JavedBurza, the politics over it also another factor worsening it more. The killing of the Burhan Wani, a militant, has also turned the situation and unfortunately the people of valley have no other option rather to leave their homes and travel to other places for employment opportunities for the survival.⁵

In 2014 it was observed and analyze the disturbed economy of the state of Jammu and Kashmir. It is seen in the research that the economy of the state is been shaken from the increase in the anti-social activities from last two decades. As we all know that Kashmir is known as heaven on earth, the Kashmir, a large number of tourists visit every year which plays an important role in state's economy as well as for the livelihood of the valley people. But due the increase in militancy day by day, the tourism has got a great impact. The number of visiting of tourists are decreasing very drastically which is ultimately hitting the earnings of the valley people.⁶

Analyses from Special Conflict Report, The Carter Centre (2002), the special report provided one of the key reason regarding the conflict of the Kashmir. It is observed that the inadequacy to come to the mutual solution is specifically ripping apart the Kashmir.⁷

Shaheen Akhtar (2010), the author here specifically taking into consideration the increasing of terrorism in the valley. It is seen that Terrorism in Kashmir has led to appropriation of the armed forces to face the situation. As from last two years, it has been increased to the extent that there is neither a day when a terrorist is not killed. Therefore it is observed that there is actively increase in number of terrorists. Such may

¹ James R. Barth, Tong Li, Don McCarthy, TriphonPhumiwasana, and Glenn Yago, Economic impacts of global terrorism: from Munich to Bali (Oct. 02, 2018, 6:18 PM) http://www.milkeninstitute.org/pdf/econ_impact_terrorism.pdf.

² Michael, S., Terrorism a Socio-Economic and Political Phenomenon with Special Reference to Pakistan, Journal of Management and Social Sciences, Vol. 3, (2007) at 35 (Sept. 30, 2018, 11:09 AM) <http://pakistanisocietyofvictimology.org/Userfiles/Terrorism-%20A%20socio%20economic%20and%20political%20Phenomenon.pdf>.

³ Magureanu, Virgil, Declinulsauapoteozaputerii?, RAO International Publishing Company, Grupul Editorial RAO, Bucuresti (2003).

⁴ Terrorism in the context of globalization FLORIN STIBLI Faculty of Economics, West University of Timisoara, Romania, Vol. 9, No. 1 (2010) at 1.

⁵ Hakeem Irfan, Kashmir sees sharp decline in tourists this year due to political situation, Economic times Bureau, April 15th, 2017 (Jan. 17, 2018, 7:43 PM) http://www.economicstimes.com/news/politics-and-nation/kashmir-sees-sharp-decline-in-tourists-this-year-due-to-political-situation/amp_articles/58187469.cms.

⁶ Ajazul Islam, Impact of Armed Conflict on Economy & tourism: A study of the state of Jammu & Kashmir, IOSR, Journal of Economics & Finance, Vol. 4, Issue 6, July-Aug (2014) at 55.

⁷ Special Conflict Report, The Kashmir Conflict: Historical & Prospective Intervention Analyses, The Carter Conflict Center, Conflict resolution program (2002).

be due to invasion or by the volunteering of the youth within the state or by any other reason resulting into humiliation of the state more and more.⁸

RekhaChowdhary (2014), in a case study on Kashmir, a province in the State of Jammu and Kashmir, the author concluded that terrorism is deeply rooted in the soil of Kashmir. The reason of such rooted terrorism in the state of Jammu and Kashmir, specifically in Kashmir is result of legitimacy of militancy. The way how this was plotted in the people of Kashmir is through the lane of religious-political movement. With the majority of Muslim population in Kashmir province, the deep roots of such militancy is plotted. The researcher founded that with the exploitation since the independence, it was politically very easy to manipulate the people and the result is that the valley people has accepted the legitimization of such terrorism.⁹

Ajazul Islam (2014), observed and analyze the disturbed economy of the state of Jammu and Kashmir. It is seen in the research that the economy of the state is been shaken from the increase in the anti-social activities from last two decades. As we all know that Kashmir is known as heaven on earth, the Kashmir, a large number of tourists visit every year which plays an important role in state's economy as well as for the livelihood of the valley people. But due the increase in militancy day by day, the tourism has got a great impact. The number of visiting of tourists are decreasing very drastically which is ultimately hitting the earnings of the valley people.¹⁰

Anshu Sharma (2014), the observations from the research scholar explains the changing of credo by the extremists are influencing the situation of valley. The internal conflict between the extremists and the Government of India is observed as the result of insurgency. It is a tug of war right from the period of 70's and with the end of 1989, where a huge number of people are supporting the extremists came forward which led the state in the primitive mode in political stability, economic development and ethnic potential.¹¹

Shobna Sonpar (2015), attempted to highlight the growth and evolution of terrorism as a result of democratic regime. The researcher propounded that the beginning of militancy in 1989 was the eventual result of democratic policy of India right from 1947 for Kashmir. When the arrow was out of the bow, the Counter-insurgency policies were framed and projected by the Union Government which led to psychosocial infertility among the valley people. The results that we are observing are the target killings, disappearances, torture, sexual abuse, etc. which have directly impacted the mental stability of the valley people. Therefore a change in psychological thinking is seen which led to hate rate among the people of Kashmir and the growth of terrorism.¹²

Coverage by Economic times (2017), in the coverage among the hoteliers in Kashmir, it is also shown that there is a huge decline in the tourists due to such unrest in valley. Besides of the vacation season the hoteliers are observing a dire situation which is striking their earnings. As explained by the president of Kashmir Hotel and Restaurant Owners Federation, JavedBurza, the political dilemma is worsening the situation day by day. It is after the killing of the militant Burhan Wani, the situation had taken an unfortunate turn that now the valley people are forced to look into other business and employment opportunities for their survival.¹³

Abdul Hamad Khan (2017), an observation by the researcher on the changed situation of the state of Jammu and Kashmir presented a detailed view. The researcher analyzed that right from the independence, the valley people who fought against the forces of Pakistan, with the year 1989 are welcoming and supporting them as well the terrorists. The research talks about such drastic changes that are observed in the valley. The reasons propounded could be the unrest in the valley in different instances resulting into the demand of referendum demanded by people of Kashmir right from the last decade. It is also observed that there is a change in internal dimension of the people of Jammu and Kashmir. Such is due to the religious and regional influence.

⁸Shaheen Akhtar, War on terrorism & Kashmir issue, Institute of Regional Studies (IRS) (2010).

⁹RekhaChowdhary, Terrorism and Movement: A case study of Kashmir (2014).

¹⁰Ajazul Islam, Impact of Armed Conflict on Economy & tourism: A study of the state of Jammu & Kashmir, IOSR, Journal of Economics & Finance, Vol. 4, Issue 6, July-Aug (2014) at 55.

¹¹Anshu Sharma, Insurgent Attitude of Jammu & Kashmir state, research scholar Jammu, International Journal of Humanities & Social Science Invention, Volume 3, Issue 11, November (2014).

¹²Shobna Sonpar, Transforming Conflict Changing Society: Psychosocial Programming in India, Jammu and Kashmir, Institute of social Studies Trust, New Delhi, India, Springer International Publishing, Switzerland, (2015).

¹³Hakeem Irfan, Kashmir sees sharp decline in tourists this year due to political situation, Economic times Bureau, April 15th, 2017 (Jan. 17, 2018, 7:43 PM) http://www.economicstimes.com/news/politics-and-nation/kashmir-sees-sharp-decline-in-tourists-this-year-due-to-political-situation/amp_articles/58187469.cms.

Moreover it concluded that with the political touch to above mentioned influences the situation of the state is reached at a stage that autonomy is being demanded and rights in total absolute from rest of the nation.¹⁴

A.S. Chonker (2018), provided for the unique way so as to alter the objectives of the terrorism. The researcher talks about certain tools, which can be used for enhancing and for transportation of their objectives. As the roots of terrorism are cemented very much due to change in the ideologies of the people resulting to become terrorists or to aid terrorism. The ideologies of such could be targeted and the problem of terrorism could dwindle. The basic act which is changing the ideologies is the instigation religious sayings every day to each and every individual with the operations by forces to overcome such huge challenge also results into deaths which further influences the new people to volunteer for the terrorism and the revenge cycle starts its paddle. This is drastically changing the ideologies rapidly. Therefore such change in the ideologies rigorously touch the sentiments of the youth and as a result the ideologies are atomically recasted.¹⁵

UNHC report on situation of Human Rights in Kashmir (2018), a report on the position and situation of Human Rights in Kashmir clearly shows the international interest to curb the problem of terrorism, subject to the condition that basic human rights should not being violated. Although a strong reply have been given to this report on behalf of the Indian Government but the violations are presented in a large number. The unrest in valley right from 2016 after the killing of Hibur Mujahidin Commander, BhuranWani by the Indian forces, the Indian army with the local armed forces of the state are trying to control the situation in the valley. In the report the UNHC observed that with such operations and attempts to curb the terrorism as well to control the terror affected areas, a huge amount of human rights violations are being practiced from last 2 years. Such unrest is not only reflecting the human rights violation but also the fundamental rights violations which includes the sexual violence, civilian casualties, displacement of valley people, excessive use of force, torture, disappearances, restriction of freedom of expression, violation of right to education, employment degradation, diminishing of livelihood, etc.¹⁶

Anti-Terrorism Legislations for Jammu and Kashmir

In India various legislations have been incorporated time to time upon curbing terrorism. The prominent example is the Armed forces Special Power Act. Particularly it is enacted for providing bundle of powers to the armed forces to deal with the disturbed area situation in a state or any of its part. Not only these there are other laws also aiming towards the curbing of such terror activities such as TADA, POTA, UAPA, CrPC, IPC etc. the primary aim of these legislations is that to administer, control and providing the sort of actions against those who eventually or intentionally take part in such activities and dis-order the public tranquility. But recently opting these legislations are criticized a lot. The questions are raised upon the applicability, abuse of use of power and socio-economic & socio-legal disability. Such moreover rapidly changing as well as decreasing the quality of standard of life as well as the economic growth on both the individual level as well as the as the state level.

As discussed above these are the legislations specifically enacted for the curbing of terrorism. Some of them were enacted for the whole of the nation while some are region specific.

- In India
- In Jammu and Kashmir

After independence, in India various legislations were enacted so as to overcome this problem. It started with the Armed Forces Special Powers (Assam and Manipur) Act, 1958 granting a wide range unrestricted powers to armed forces to shoot, to search, to seize as well as to kill without any prior authenticate order so as to maintain the public order. But such region specific law was not supposed to cover this nationwide as well globally increasing problem. Thus for this purpose a series of legislations were enacted such as following:-

1. Terrorist and Disruptive Activities (Prevention) Act¹⁷
2. Prevention of Terrorist Activities Act¹⁸
3. Unlawful Activities Prevention Act¹⁹

¹⁴ Abdul Hamad Khan, Changed Security Situation in Jammu & Kashmir, the road ahead, IDSA, New Delhi monograph series, No. 61, May (2017).

¹⁵ A.S. Chonker, Centre for Land welfare studies, Senior Fellow Claws, Issue no. 130, March (2018).

¹⁶ Report on the situation of Human rights in Kashmir, Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018 & General Human Rights Concerns in Azad Jammu and Kashmir & Gilgit-Baltistan, Office of the United Nations High Commissioner for Human Rights, June 14th (2018).

¹⁷ Act No. 28 of 1987.

¹⁸ Act No. 15 of 2002.

¹⁹ Act No. 35 of 2008.

Various region specific laws were also enacted due to the urgency of such region. Specifically there are three region specific laws in India, such as:-

1. Armed Forces Special Powers (Assam and Manipur) Act, 1958,
2. Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, and
3. Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.

Some of the other legislations are also there such as Indian penal code and Criminal procedure code, defining various criminal acts specifically tends to anti-social activities and procedure for adjudication, arrest and prosecution, respectively of these activities.

In Jammu and Kashmir a special law was introduced to handle the disturbance in the valley named “The Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (AFSPA). Previously it was enacted for two states as “Armed Forces Special Powers (Assam and Manipur) Act, 1958” and “Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983”, dealing with the social disturbance in these areas. It is a legislation providing various special and unrestricted powers to be vested in the armed forces to handle the situation in a particular territorial limits which is treated as “disturbed area”. Section 3 of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, provides for the power on defining an area as disturbed area. It says that if in the opinion of the Governor of the state or Union Government any state or any part of the state is disturbed and such a situation is there as the danger can be prevented by use of armed forces. It further provides two situation where this act can be applicable. As the Section 3 provides:-

“If, in relation to the State of Jammu and Kashmir, the Governor of that State or the Central Government, is of opinion that the whole or any part of the State is in such a disturbed and dangerous condition that the use of armed forces in aid of the civil power is necessary to prevent—

(a) activities involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(b) activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution of India,

the Governor of the State or the Central Government, may, by notification in the Official Gazette, declare the whole or any part of the State to be a disturbed area.”²⁰

More-over it provides various powers to be vested in the armed forces when such area is declared as “disturbed area”. These are such as Section 4²¹ provides if the commissioned officer or warrant officer or any other officer as prescribed in the Act, is of opinion that

- a. To maintain public order and after giving such warning, if he consider, he may fire or use such force necessary upon such person or persons to maintain the public order,
- b. To destroy any arms dump, shelter, etc., from which possible attack can be made or likely to be made,
- c. To arrest any person who has committed any cognizable offence or likely to commit it,
- d. To stop, enter, search and seize any vehicle or property without any warrant. ²²

The Present Scenario

Right from its applicability it has been in force in the valley. Specifically talking, its field applicability is only in valley, i.e., limited to certain districts in Jammu and Kashmir. As we all know Jammu and Kashmir when have a statehood, was divided into three provinces, i.e., Jammu, Kashmir and Ladakh, neither in Jammu nor in Ladakh is practically used till now. As in Ladakh there not even a single incident from post-independence of India. But the Jammu region have faced various terror attacks and many times Section 144²³ has been imposed but still AFSPA has not been practically imposed. Or it may be imposed in Jammu region also still no report or official notification is there till now. This creates another issue of research in the future.

The after-effects of AFSPA particularly towards socio-economic status has been studied and attempt has been made to it in this paper by opting empirical approach. The researcher has opted the questionnaire method and the representative were among the 3 districts of the Kashmir region (Shopian, Srinagar and Pulwama) selected on simple random basis of at-least forty five (45) from each district. The representatives

²⁰ Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, Section 3.

²¹ Armed Forces (Jammu and Kashmir) Special Powers Act, 1990. Section 4.

²² Ibid.

²³ Code of Criminal Procedure 1973.

were asked with different questions related to terrorism, anti-terrorism laws, social as well as economic status, the solutions they could think of for peace, and many more. The following table shows the percentages of the effected socio-economic issues due to applicability of anti-terrorism laws.

Table 1. What Causes Terrorism?

S. No.	Options Given	Response (In %)
1.	Poverty	5.2%
2.	Illiteracy	12.3%
3.	Unemployment	10.1%
4.	Religion or Caste	72.4%

Table 2. How Anti-Terrorism Laws affects the common man?

S. No.	Options Given	Response (In %)
1.	Loss of employment opportunities	60%
2.	Loss of tourism and trade revenue	66%
3.	Violation of human rights	86.6%
4.	Psychological effects	93.3%

Analyzing the above data it can be seen that it is acceptable that unemployment is the major cause for increase in terrorism. Moreover to overcome such problem anti-terrorism laws have been implemented and aftereffects of such laws can be analyzed from table 2. The options given to the representatives have been responded well by the representatives and the data gathered is shown in the table. In Table 2 the most significant outcome is the psychological impacts upon common man. Thus what is significant upon this response is that due to such psychological impact the people are resulting their conscious towards hate rate to the authorities and protests have been carried out. Such results into the joining into terror groups by the common people. The responses particularly obtained from the representatives upon economical factor is that due to such operation of anti-terrorism laws as the tourism gets a huge hit which is the main source of most of the valley people. Not only this this impacts the trade also and shortage of basic amenities of the common people. The seasonal labor is impacted the most as almost half the year the white layer of snow stops everything in valley and rest of the year such operations when in force the whole area is incapable of carrying the usually course of the business and employment. Thus the Anti-terrorism laws enacted for the curbing terrorism are aiding the state to overcome this anti-social trouble but along it creating various new issues affecting the common man to a huge extend. This draws another question of emerging of a new kind of state-sponsored terrorism also as **THE INDIRECT OR UNINTENTIONAL PSYCHOLOGICAL AIDED STATE-SPONSORED TERRORISM.**

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