

Full Length Research

Rehabilitation Policy: A Constructive Replication to Fetter Militancy in Jammu and Kashmir

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As the history of conflicts and insurgencies would suggest, no peace process will succeed unless it's armed with well thought and dealt with sincere measures. Given, the conflict of Kashmir was time and again ascertained using the same parameters but they were hybrid of sincerity and maneuvering, resulted in debacle. Surrender and rehabilitation policy has all credentials of positivity as a civilized method to address an unfortunate occurrence. The unfortunate part is that the process of indoctrination is unabated. Such issues need to be addressed in tandem with the aspect of surrender. The matter requires deeper thought and understanding. Any attempt to bulldoze the issue due to political expediency would be counterproductive in short and disastrous in the long term.

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INTRODUCTION

Kashmir¹ is among the modern world's longest running and the most tragic conflicts; its genesis lies in the fateful events in the wake of 1947 partition of the Indian sub-continent and subsequent replications of the European version of the nation state in South Asia.² On the eve of Indian independence in 1947 there were 565 princely

states³, Kashmir being the largest.⁴ With the lapse of British "Paramountcy" over them; they were technically free to accede to either dominion or to become independent.⁵ The choice was straight forward for

1 The valley of Kashmir or Kashmir is among the three regions of the Indian administered state of Jammu and Kashmir, the other two being Jammu and Ladakh. Unless indicated otherwise, Kashmir connotes the Kashmir valley.

2 Seema Kazi, *Between Democracy and Nation: Gender and Militarization in Kashmir*, Oxford University Press, (New Delhi: 2009), pp. 49-56.

3 The Princely States were not formally part of British India since their territory was not annexed by the British Government. In return for their recognition of and allegiance to the British Crown, the latter acknowledged the authority of these rulers over their respective fiefdoms.

4 Seema Kazi, *Law, Governance and Gender in Indian-Administered Kashmir*, Working Paper Series Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi, November 2012, p.1.

5 Sumantra Bose, *Kashmir Roots of Conflict Paths to Peace*, Vistaar Publications, (New Delhi: 2003), p.30.

practically all princely states, except Jammu and Kashmir. Jammu and Kashmir was contiguous to both India and Pakistan.⁶ Hindu ruler Maharaja was contended to continue the "Standstill Agreement" with the both newly born Nations. The crisis climaxed with the entry of several thousand tribes men from North-West Frontier provinces into the town of Baramulla on the road towards the capital Srinagar.⁷ Pleading inability to defend his Kingdom, Hari Singh acceded to India on condition that Delhi send troops to defend his territory, with the understanding that this accession was provisional and conditional on the will of people, being ascertained as soon as law and order was restored.⁸

The decision of the Hindu ruler of a Muslim majority Kingdom to accede to India in October 1947, resulted in hostilities between India and Pakistan, United Nations intervention, and a de-facto division of the province in the January 1949, along the cease fire line.⁹ Jammu and Kashmir's accession to India was secured by concessions to Kashmiri nationalism, most notably Article 370 of the Indian constitution that provided a substantial measure of autonomy.¹⁰ Nehru gave a green signal to UN Security Council resolution of 1948, that the dispute should be "decided through democratic method of free and impartial plebiscite"¹¹, but latter succumbed before national interest and began piecemeal integration of J&K into Indian union. Kashmiri Leader Sheikh Abdullah's articulation of the Independence option that remained unresolved & therefore open to consideration was interrupted as high treason by the Indian establishment, ending in his dismissal and imprisonment.¹² After twenty three years of enforced political oblivion by New Delhi whereby Kashmir's special status became a mere formality. In a 1975 agreement between Prime Minister Indira Gandhi and Chief Minister Sheikh Abdullah, Kashmir was made a constituent unit of India legitimizing the usurpation of the right of self-determination and thereby making India & Pakistan the arbiters of Kashmir's

destiny.¹³ The 1975 Accord did, however, ensure Kashmir's first reasonable free & fair election during 1977, voting in an administration headed by Sheikh Abdullah until his death in 1982.¹⁴ In the 1984 elections, Sheikh Abdullah's son Farooq Abdullah won a decisive mandate in the state Assembly elections subsequently subverted by Mrs. Gandhi's dismissal of his legitimately elected Government. New Delhi's subversion of democracy in Kashmir was followed by Abdullah's mending fences with the congress regime in New Delhi. An alignment that prompted the formation of a broad coalition of political groups under the banner of MUF (Muslim United Front) opposed to both congress in New Delhi and Abdullah's party, the National Conference, in Kashmir.¹⁵

The 1987 election, considered being the most compromised in Kashmir's recent history; the Congress party and National Conference jointly contested the state assembly elections; they were opposed by the Muslim United Front, a conglomeration of political parties.¹⁶ In this election voters were intimidated, ballot boxes tampered with, and candidates threatened. Indeed, several key insurgent leaders, Shabir Shah, Yasin Malik and Javeed Mir, were polling agents for Muslim United Front in the 1987 election. The extensive electoral malfeasance that they witnessed convinced this younger generation of Kashmir that national Government in Delhi had scant regard for their political rights and reckless disregard for democratic procedures, with no other institutional recourse open for expressing their disenchantment with the flawed process, they resorted to violence.¹⁷ By 1989-90 democratic channels to articulate popular grievances in Kashmir were not available. The slogan of Azadi (freedom) symbolized not just popular resentment and protest against the denial of democracy in Kashmir, but also 'Freedom' from Indian rule over Kashmiri land. As simmering resentment transformed into mass rebellion, the response of the Indian state centered on military-backed repression.¹⁸

6 Ibid, p.31.

7 Sumantra Bose, *The Challenge in Kashmir: Democracy, Self-Determination and a Just Peace*, Sage Publications (New Delhi: 1997), p. 26.

8 A.G. Noorani, *The Kashmir Question*, Manaktalas Publications, (Bombay: 1964), p. 31.

9 Basharat Peer, *Curfewed Night*, Random House Publishers, (Haryana 2014), p.13.

10 Sumantra Bose, *The Challenge in Kashmir: Democracy, Self-Determination and a Just Peace*, Sage Publications (New Delhi: 1997) p.31.

11 Alistair Lamb, *Crisis in Kashmir: 1947 to 1966*, Routledge, (London: 1966).

12 Seema Kazi, *Law, Governance and Gender in Indian-Administered Kashmir*, Working Paper Series Centre for the Study of Law and Governance Jawaharlal Nehru University, New Delhi, November 2012, p.3.

13 Sumantra Bose, *India's Kashmir War* (New Delhi: Committee for Initiative on Kashmir 1990), p. 35.

14 Seema Kazi, *Law, Governance and Gender in Indian-Administered Kashmir*, Working Paper Series Centre for the Study of Law and Governance Jawaharlal Nehru University, New Delhi, November 2012p.4.

15 Seema Kazi, *Law, Governance and Gender in Indian-Administered Kashmir*, Working Paper Series Centre for the Study of Law and Governance Jawaharlal Nehru University, New Delhi, November 2012, p.4. Ibid.

16 Sten Widmalm, *Kashmir in Comparative Perspective: Democracy and Violent Separatism in India*, Routledge, (London: 2002), p. 80.

17 For a greater explication of this argument, see Sumantra Bose's; *Kashmir: Roots of Conflict, Paths to Peace*, Vistaar Publications, (New Delhi: 2003), *The Kashmir-India Debacle*, pp.44-50.

18 Seema Kazi, *Law, Governance and Gender in Indian-Administered Kashmir*, Working Paper Series Centre for the Study of Law and

By and large every state has witnessed a glimpse of violence be it between the state and its subjects or amongst the subjects. Precariously laborious state practices have ended some of the tragic conflicts and a small chunk is lingering. Ostensibly, there are plethora of experiments that are accepted as yard sticks to thwart gradually the conflicts. One of the much replicated practices is rehabilitation. Rehabilitation literally means "to restore to its position"-which explanatorily means to retrieve. Rehabilitation covers different connotations, complying with the nature of displacement which impacts the associated ancillaries. Economic rehabilitation envelops those who get trapped into severe economic loss and feel impotent to restore their erstwhile state, to assist them in attaining that, deciphers the meaning of rehabilitation. Rehabilitation pledges an adjective to bring some one or to tinker something back to its deprived or lost status. Conflict zones are adding lot to the application of rehabilitation, because they are baggage of ethnic, religious, social, political and economic deprivations. There are tall stories internally displaced who after gnawing the taste of upheavals aspire to go for erstwhile position. Jammu and Kashmir being the much rapt conflicts demands such initiative to retrieve its wronged ones.

Couple of past Governments has taken initiatives, like surrender policy 1997-2004 to curtail this trust deficit driven process, but associated factors were not cooperating well. The People's Democratic Party - Congress coalition Government attempted to accomplish it, though crossed the first premise of passing a cabinet order; The cabinet decision number 23/3 dated 31-01-04 vide Government Order No. Home- 55/H of 2004.¹⁹ The objective of this rehabilitation is to offer facility to those militants who undergo a change of heart and eschew the path of violence and also accept "the integrity of India and Indian constitution" to encourage them to join the main stream and lead a normal life to contribute towards prosperity & progress of the state as well as the nation.²⁰ During this era, the policy could not excel well in healing these alienated people.

Omar Abdullah led Government achieved substantially the long aspired demand for rehabilitation policy for militants dwelling across border, craving for to return to their homeland. Central Government reached a consensus with Chief Minister for formulating such a

policy.²¹ The state Government approved the Rehabilitation Policy on 22 November 2010 to encourage youth who were still living in Pakistan but want to return "due to change of their heart & have given idea of picking up guns."²² This scheme currently in place-launched in 2004 offers rehabilitation and monetary incentives only for local militants. The Chief Minister was of the view that once the policy comes into effect, new channel would be opened up enabling these youth to resume to their normal life. Government here has come up with it, but its efficacy remains doubtful if the general mistrust between New Delhi and Srinagar is taken as pointer. Besides, so far we have seen the ex-militants being treated very shabbily by the state and its apparatuses. Few cases which narrate promises and actions in juxtaposition- Sara Banoo wife of ex-militant Abdul Majeed Wani from Bandipora North Kashmir set herself ablaze and ended her life, on account of not getting redressal of problems faced by her and family on whole. Nazir Ahmad Shah, resident of Khai Tangmarg Baramulla (returnee) expresses his resentment against aforesaid policy as, "the lack of facilities has perturbed the families of returnees". Another person Rayees Ahmad Dar who had recently returned from Pakistan administered Kashmir via Nepal after 16 years along with his wife, states that the government has turned a blind eye towards their plight.²³ Much hyped incident that roared up both policy makers and its recipients is of Liyaqat Ali Shah hailing from Kupwara, an aspirant to get benefited of Jammu and Kashmir rehabilitation policy was arrested while retuning via Nepal on March 2013.²⁴ Sources at that time asserted, that shah was returning from across border as a part of Rehabilitation Policy of Jammu and Kashmir. He was arrested on suspicion to carve out a terror attack, which latter state administration declared a misinterpretation.²⁵ The recycling of former militants back

Governance Jawaharlal Nehru University, New Delhi, November 2012 ,p.5

19Ministry of Home Affairs, Government of Jammu and Kashmir Home Department,

http://mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/JK-RehabilitationPolicy.pdf(accessed on 10 March 2015).

20 Ahmed Ali Fayyaz, *Promise of Paradise that didn't Come True*, The Hindu, 6 April 2013, <http://www.thehindu.com/todays-paper/tp-opinion/promise-of-paradise-that-didnt-come-true/article4586811.ece>(accessed on 14 January 2015).

21 Asem Mohiuddin, *Delhi seeks ATR from JK Govt on rehabilitation policy for ex-militants*, Srinagar, 10 June 2013,

<http://www.risingkashmir.com/delhi-seeks-atr-from-jk-govt-on-rehabilitation-policy-for-ex-militants/>(accessed on 10 March 2015).

22 Tasavur Mushtaq, *State's Rehabilitation Policy on the Return of Ex-Militants*, An Overview, 27 October 2013,

<http://www.kashmirilife.net/states-rehabilitation-policy-return-ex-militants-overview-47038/>(accessed on 4 January 2015).

23 <http://www.aljazeera.com/indepth/features/2014/06/kashmir-former-fighters-regret-homecoming-201462214440675226.html>(accessed on 14 February 2014).

24 Baba Umar, "Has Liaquat's Arrest Jeopardized Omar's Surrender Policy", Tehelka (New Delhi 4 January 2013),

<http://www.tehelka.com/has-liaquats-arrest-jeopardized-omars-surrender-policy/> (accessed on 12 February 2015).

25 India Today, (New Delhi), 24 March 2013. Read more at:

<http://indiatoday.intoday.in/story/delhi-police-sketch-hizbul-terrorist-arrest-of-liyaqat-ali-shah/1/259235.html>(accessed on 26 February 2015).

into the violent polity is but a sorry reflection on the state's ability to accept and embrace its wronged children.

Vengeance seems to be the sole jargon to demonstrate the agreed pact, the recipients are encompassing through. The text message and the verbal proclamation catches the cryptically worded sense, considering the promises of elevation. The state domiciles who used to leave their habitation in aspiration to get their denied indigenous rights accomplished, got agreed by the beverage of promises and sympathy. But the tranquility, honour and retrieving they came in connection with, proved just a hoax. The paramilitary checks and balances after the primordial scanning leaves them sucked, after meeting the compulsory scrutiny they get caught in meadow of security and intelligence agencies. The socio-economic bridges which were supposed to connect them with antiques and traditional challenges resulted in faux-pas. Nevertheless their heirs and mates are dubbed as non-state subjects, leading to the violation of basic rights. Vis right to entertain associated opportunities of survival and identity leaving them beneath debris.

CONCLUSION

The growing number of former militants opting for amnesty under Jammu & Kashmir Government Rehabilitation Policy is an encouraging indicator. This trends needs to be further encouraged and strengthened and rehabilitation of militants not only expedite but made honorable as well. Rehabilitation of militants qualifies every criteria of being a peace initiative to address the discrepancies meted out by internally displaced or insurgents. Prima facie is to invite such steps to combat the flaws and fallacies resulting in anti-state orchestrating. Any effort to deceive someone after invitation would lead to painstaking consequences here and across.

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