

# The Half-Widows of Kashmir: A discourse of liminality and exception

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## Abstract

*Introduction.* The wives and mothers of men who have ‘disappeared’, who have been picked up and taken into custody by the authorities, or killed, remain in a tragic state of suspense. They are called the “half-widows”. According to human right organizations, the violence that has marred Kashmir has produced more than 80,000 *half-widows*. They have to bear unfavourable circumstances, indifferent society, absence of laws, poor rehabilitation mechanism and unresponsive government machinery.

*Methods.* Exploratory in-depth interviews with female relatives (n=30) of persons detained-disappeared by Indian authorities in Kashmir

*Results.* The female relatives of the men who have ‘disappeared’ are uncertain as to their marital status. In the complete absence of information on the fate of their loved ones, they live in the hope that one day their relative may return home. Economically vulnerable, the absence of any rehabilitation measures renders them emotionally and psychologically traumatized.

*Conclusions.* There is a lack of reliable epidemiological data on the problem of half-widows. The preliminary results show they are a hidden population that suffer in silence. The lack of a structured database is painfully evident as no thorough record has been maintained or comprehensive survey conducted to properly measure and address the problem.

*Keywords:* Kashmir Conflict, Disappearance, Detention, Half-widow, Psychological Trauma and Economic Distress.

Kashmir has a Muslim majority population and was ruled by Mughal-Afghan dynasties. In the nineteenth century, the British defeated the Sikhs in the first Anglo-Sikh war (1845–46). The Hindu Maharaja Gulab Singh (Dogra) ruled Kashmir from 1846–1947 and that period was marked by the alienation of Muslims in Kashmir. The Dogra imposed heavy taxes, capital punishment and terrorised the Kashmiri Muslims (Schofield, 2003).

In 1947, the Kashmiri Muslims revolted openly against the oppression of the Maharaja and the revolt was supported by the tribesmen of Pakistan’s North West Frontier Province (NWFP), which captured several towns and massacred civilians in the valley (Husain, 2009: 1008). To crush the rebellion, the Maharaja sought assistance from the state

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of India, and on October 26th, signed the Instrument of Accession with India on the condition that Kashmir should be permitted to have its own constitution (Bazaz, 2005).

On the same year, India and Pakistan fought the first war relating to the Kashmir dispute and the matter was taken to the United Nations (UN). With the intervention of the UN, a cease-fire was signed between India and Pakistan on January 1<sup>st</sup>, 1949, establishing a ceasefire line (Hussain, 2009:1008). In 1965, the countries fought another war over Kashmir and divided the old Line of Control (LOC) of the state into four political areas: Indian occupied Kashmir, Pakistan occupied Kashmir (POK), Northern area (under Pakistani administration) and Aksai-Chin (under China's control) (ibid, 2009: 1009).

Although in 1972, an agreement was signed to end the conflict (Singh, 2011: 12), there was secessionist insurgency throughout the decade. The local government began to discuss a plebiscite on the issue of independence from India (Pandita, 2003). Ashutosh Varshney (1992), argues that there was a clash of three competing visions of nationalism (Kashmiri, secular and Islamic), which added to middle-class frustration among educated youth who faced unemployment on a large scale. The attainment of higher education levels and the expansion of media increased awareness among society about the politics at local, national and international levels (Ganguly, 1996).

In 1980's, Islamization spread quickly and the names of two thousand five hundred villages were changed to Islamic names. The Kashmiri leader Sheikh Abdullah delivered speeches in mosques and the influence of Saudi Arabia emerged in 1979, through which the message of Islam spread in the Kashmir Valley. The establishment of madrasahs and schools from the early 1980's planted the seeds of Islamic fundamentalism in Kashmir

against the Sufi tradition for which Kashmir was known throughout history.

These developments contributed to the insurgency of 1987, in which a new party, the Muslim United Front (MUF), came into existence. The MUF, with the support of pro-independence activists, Islamic fundamentalists and Kashmiri youth, contested the election for state assembly (Schofield, 2003). The leaders of the MUF wanted a change of political system by democratic and peaceful method and by the process of elections. Many of them were arrested, tortured and disappeared by the security forces and police, creating a spiral of violence in the region and prompting youth to join the insurgency (Akhtar, 1991). Some of them joined the Jammu and Kashmir Liberation Front (JKLF) (Puri, 1993). In 1988, the wide-spread protest in the Valley began along with anti-India demonstrations, resulting in strikes, arrests and torture by the police (Schofield, 2010, Akhtar 1991). The insurgency spread rapidly in the Valley after the Gawkadal massacre on January 20<sup>th</sup>, 1990, in which fifty-three civilians died and hundreds were wounded by indiscriminate firing by Indian security forces. By 1990, simmering resentment led to mass rebellion in favour of freedom (Ganguly, 2001). The insurgents gained popular support for their struggle, rendering the police and paramilitary forces unable to maintain law and order. The demonstrations and the objective of the uprisings in the Kashmir Valley is, basically, an answer to end human rights violations (Jha, 1991).

India perceives Pakistan's proxy-war as aimed only to disturb the peace and order in the Valley. The insurgent people living in the Valley and their supporters have demanded a plebiscite from 1953-1975, and revolted against Indian rule in 1990, and more recently in 2008, 2009, 2010 and 2016. The Valley at that time became a site of open warfare, re-

sulting in widespread militarization (Chowdhary, 2014).

Besides that, various laws reforms were introduced to legitimize warrantless arrests and the illegal detention of suspected people, increasing the number of individuals subjected to physical, sexual and psychological torture, sometimes resulting in death. Likewise, the collective rights such as the right to lands and resources, as well as peace and security in the territories, have been systematically violated (Ariate, 2014). In Kashmir Valley, these laws have created an area of “exception” in which inhabitants are stripped of their basic rights. The Kashmir Valley is in a state of siege, where authority is vested in military power and fundamental rights have been suspended in furtherance of the maintenance of law and order (Hussain & Arbor, 2003).

Half-widows are most victimised by state violence, which has impacted their family, property and liberty.

### Theoretical framework

Conflict, warfare and state repression, as well as symbolic and structural violence, give rise to social suffering, social abandonment and social death (Duschinski, 2010). States justify using violence against its own citizens in the name of national security, and suspending the rule of law. But theorist argue that the State uses violence to protect its own claim to rule of law (Benjamin, 1978).

Violence and law mix with each other at the heart of the state, giving rise to dissolution between legal and the extra-legal through various disciplinary, regulatory and enforcement practices that are practiced differentially across a range of citizenry, creating social (as opposed to spatial) landscapes of cores and peripheries that are shot through with power and violence (Aretxaga, 2003). Agamben argues that exception is mostly common in war and re-

bellions. However, in modern politics, the state of exception is not an “exception” but it has become a rule providing immunity to the sovereign by suspending the judicial order. In *Homo Sacer*, he states that a person cannot be sacrificed or murdered because of crimes but can be killed with impunity (Agamben, 2005). Achille Mbembe coined the new term, ‘Necropolitics’, in which a state can decide who can live and who can die (Mbembe & Meintjes, 2003). The state applies liminality towards its subjects. As per Victor Turner (1967), “the essence of liminality is an unstructured phase of rituals, where participants transit from one social status to another”. He defines liminal individuals or entities as neither here nor there; they are betwixt and between the positions and at the same time being both” (Turner, 1967). While as, Arpad Szakolczai in his book *Reflexive Historical Sociology* argues, that liminality becomes permanent in modern societies, where an individual is recognized as a part of society and is welcomed in that order with a new role, which becomes frozen for him/her (Szakolczai, 2000: 220). In liminal situations, the persons often come to feel nameless, spatio-temporally dislocated and socially unstructured (Thomassen, 2006). The person live, in the state of exception, at the margin, in liminality, for rest of their lives.

Half-widows are trapped on the “threshold” for an endless period of time. Over the last three decades, the half-widows are “waiting” in their liminal status, faced with situations of ambiguities and dilemmas, in what appears to be a liminal phase that has become ‘fixed’. Being almost perpetually frozen in this state, the half-widows are confronted with vulnerabilities and existential questions with no answers (D’Souza, 2016:28).

### Enforced disappearance in Kashmir Valley

Enforced disappearances began with the birth of insurgency in 1989 and remains a

state policy along with extra-judicial killings, torture, and sexual violence. Journalists, human right activists, political activists, students, and militants have disappeared in custody since then (Imroz, 2005).

According to the Association of Parents of Disappeared Persons (APDP), there have been an estimated 8,000 to 10,000 disappearances in Kashmir (APDP 2011) since 1989 while official figures recognize 6,000 cases since the start of the insurgency. In July 2002, the late chief minister Mufti Muhammed Sayeed stated in a National Conference and in the assembly that the number of people disappeared since 2000 where 3,184, asserting that the men had gone to Pakistan for arms training (Noorani, 2003:2592). If there are disputed figures regarding the number of ED victims, there is no accurate number of half-widows. According to Pervez Imroz, a human rights activist and lawyer of Srinagar High Court, the number ranges between 1,000-1,500.

### Case examples

Mushtaq Ahmad Dar, a resident of Tengpora Srinagar, was working as a baker. On 20th April 1997, 20 Rashtriya Rifles cordoned his house. The members of the family were separated in different rooms. The army started torturing him and forcing him to admit that he was a militant, in possession of arms. Mushtaq was interrogated until morning and later taken into detention. The following day, the relatives went to the camp, where the forces denied his detention. His parents visited every detention centre in Jammu and Kashmir, but could not find any clue about him. A First Information Report (FIR) was launched at a nearby police station, and a written petition filed in the High Court and a case was registered at the State Human Rights Commission (SHRC). However, to date, there is no clue regarding Mushtaq's fate. (Independent Peo-

ple's Tribunal, 2010).

Abdul Rashid, a resident of Kupwara District and a farmer by profession, was detained by members of the military 131 battalion on 5th January 1998 at 7 pm. The next day, his wife Halima went to the office of Deputy Superintendent of Police (DSP) who denied having custody of Abdul Rashid. She then approached the military units. However, everyone denied having custody of her husband. She tried to file a FIR, which was denied, and demanded a bribe of 15,000 for launching it. According to her, she went from pillar to post searching for her husband without finding any clue. During this journey, she was verbally abused by many police officers. Halima recounted that she even knocked on the door of the Home Minister, but she did not find any clue regarding her husband either (Independent People's Tribunal, 2010).

Mehraj was an only son, was married and had two children. On the night of the 19<sup>th</sup> of April 1997, army personnel broke the door and entered forcibly into his house. He got caught and the rest of the family was locked up in one room. Mehraj was detained and, to date, there isn't any clue on whether he is dead or alive. Mehraj's parents visited every army camp to try to ascertain the whereabouts of their son. They paid a huge amount in bribes to army officers, but all their efforts bore no fruits. The case file of Mehraj's disappearance is sub-judice in the high court and his parents have lost hope of his return. (Independent People's Tribunal, 2010).

### Ethnographic Findings

This section of the paper is based on the narratives of the half-widows interviewed for this research.

**Crisis of Identity.** The women whose husbands have disappeared often face an identity crisis. They are in a liminal status where

they cannot consider themselves widows, nor even envisage re-marriage. Living in a constant state of uncertainty, their marital status is unknown. *“I was happily married and have two children. One day my husband left for the market and never returned. I waited... then searched... went to the market... local friend’s place... nearby police station to complain... I told my children their father would return, and I still tell them that their father will return. They have lived an entire life believing that one day their father would return... he neither came, nor has my search ever finished.”* (Sakina). Sakina comes from Dardpora Kupwara, also called as the village of widows.

The children of the disappeared also might face identity crisis (APDP, 2011). Women are often stigmatised by their own family and most of them decide not to remarry, because of this stigma and to protect the identity of their children.

**Process as punishment.** After the disappearance of their beloved ones, the first and foremost task undertaken by these women is to register the FIR in a police station. However, the police often refuse to do so stating, following the official version, that their husbands might have gone to Pakistan for arms training. This was the case of Farida (name changed), whose husband was disappeared in 2010. *“They have dubbed my husband as a militant and now I am not eligible for ex-gratia relief.”* Like Farida, other half-widows have gone through the same trauma and have searched for their husbands from jail to jail, camp to camp and even travelled outside Kashmir. The AFSPA is an emergency law issued in 1990 that gives legal cover to the armed forces operating in disturbed areas from prosecution. Although filing a FIR, relatives know that the detention body is exempted from judicial review and citizens have no legal remedy to challenge the detention. Besides that, there is no official record of people in detention by security forces that

can be consulted. This prevents citizens from seeking and receiving information about detainees and prevents people from taking recourse by way of a writ of *habeas corpus* (Kazi, 2012).

**Sexual violence.** While searching for evidence of their husbands’ fate, these women have visited army camps, police stations and jails. These efforts lead to these women being disrespected by a society in which such behaviour is entirely against the norm. Most women have been subjected to sexual harassment during their search for their husbands but remain silent about the ways in which state or non-state actors have abused them (Bhat, 2011). Rubina (name changed), a half-widow of Kaloosa Bandipora, became a victim of sexual violence when she began the search. *“My body is not the site of violation. I am violated to the extent of my husband’s disappearance”*, she said. For half-widows, even their own society is not safe for them.

**Economic hardships.** The absence of their husbands has made these women economically vulnerable. In already marginalised communities, the disappearance of a family’s breadwinner is catastrophic. Families have lost their ration cards, they cannot transfer the name of bank accounts or transfer their husband’s property. These processes either require death certificates or government verification procedures, which cannot be attained where there is a suspicion that the disappeared person may still be alive, working underground. The children and the wives of the disappeared person cannot claim an inheritance from in-laws, under either state law or Islamic law. Thus, the family of a half-widow are dependent entirely either on her parents or in-laws (APDP, 2011).

**Health issues.** A survey conducted by Action Aid International in Kashmir in 2000-2001 showed unusual high rates of depression

and drug use, especially among young people. Testimonial reports show the mental health impacts of 25 years of militarisation (Dabla, 2012) including sleeplessness, fear, nervousness, anger, aggressiveness, depression, drug uses and suicides (Shafi and Hassan, 2013). No specific data on the relatives of disappeared people are yet available.

**Daunting legal procedures.** The official processes that a half-widow endures under the legal justice system are relentlessly complex, protracted, and discouraging, especially for those half-widows who live far away from the cities, those who have young children to take care of, and those who do not possess any form of elementary educational qualification. In most cases, half-widows are able to pursue a legal remedy only if they find a lawyer that agrees to take their case free of charge. They have to file a *habeas corpus* petition in the Jammu and Kashmir High Court in order to seek information from the State as to the location of their disappeared husbands. The State almost always denies possessing any information (APDP, 2011).

### Conclusion

There are no records of the experiences of the so-called half-widows. There are only testimonial narratives of women who have lost their husbands, mothers who have lost their sons, sisters who have lost their brothers. Neither the State nor society recognises their rights. They are alone in the fight to uphold their and the disappeared person's rights.

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