III WOMEN AND THE ARMED CONFLICT IN KASHMIR
CHAPTER III

WOMEN AND ARMED CONFLICT IN KASHMIR

Recent years have seen a resurgence of violence all over the world. While scholars disagree over its reasons, it is generally agreed that the major victims of violence happen to be the excluded and marginalized social groups, in particular, women. Feminist scholarship has recently attempted to unravel, in several excellent studies, the experiences of women affected by ethnic, secessionist, communal and community oriented conflicts. Urvashi Batalia and Ritu Menon have, for example, brought to light the pain and sufferings of women affected by the violence following the partition of India.1 Similarly, Julie Peteet, Lila Abu Lughod and others have studied the impact of violence on women in west Asia, in particular, Lebanon, Iraq and Palestine.2

If the data provided by Uppsala University, under its ‘conflict data program’, is to be trusted, about one-sixth of India’s citizens live in

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1See for example: Menon Ritu and Bhasin Kamla, Borders and Boundaries: Women in India’s Partition. New Delhi: Kali For Women. 1998.

2See for example: Therese Saliba, Carolyn Allen, and Judith A. Howard, Gender, Politics and Islam. Orient Longman Private Limited, New Delhi, India, 2005
areas of armed conflicts. The Upsala university conflict data program defines armed conflict in the following words:

"An armed conflict is a contested incompatibility that concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths in one calendar year."^4

Kashmir has been described as the most militarized corner in the world due to the presence of more than half a million troops. Since 1989 there has been an active militant insurgency backed by a popular sentiment of 'Azadi' in Kashmir. According to a Human Rights Report compiled in 2005, there were in the valley 35 lacs troops posted in the valley, whereas the population there was about 57 lacs. In other words, there was a soldier against five to seven civilians. Since 1995 Indian armed forces have armed and trained local auxiliary forces made up of surrendered or captured militants to assist in counter insurgency operations. These forces do not wear uniforms and operate outside the normal command structure of the Indian Army and other armed forces. Nevertheless they are considered agents under

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international law. They are generally referred to as renegades or third force. The Indian army, and its local agents, have committed, and sponsored/supported widespread human rights violation in Kashmir.\(^5\)

The root causes of separatism, according to Chenoy and Chenoy, are not only economic, but are a complex mix of denial of rights, injustice, violence and human rights violations.\(^6\) In her view the reality and perception of denial of rights and justice leads to a sense of collective victimhood and narratives of oppression identified with a community. This collective victimization heightens identity consciousness. It also, as she holds, leads to an alienation from the state in larger `national community'.\(^7\) There have been periods when violence did declined sharply in the valley, as people suffered from conflict fatigue, but these were intermittent events, and have always led to renewed cycles of violence.\(^8\)

Increasing evidence show that women experience conflict in a different way to men, something that is confirmed by those working in the field. Almost every instance of an armed conflict undoubtedly

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\(^6\) Chenoy and Chenoy (ed.), Maoist and Other Armed conflicts, p. 65

\(^7\) Ibid., p.66

\(^8\) Ibid., p.52
affects the entire society, but not to the same measure. Since women are particularly vulnerable, they tend to suffer more than men in almost every instance of armed conflict. War exacerbates the inequalities that exist in different forms and to varying degrees in all societies. Unfortunately, Kashmir has seen a lot of violence in recent years, and while it continues to affect all the people of Kashmir, women bear the scars of violence deeper than men. While scholars have been trying to understand the nature of violence in strife-torn Kashmir, they have made very little effort to unravel the impact of violence on women. My work makes a small effort in that direction, and seeks to reveal how the incessant and ever-increasing violence in Kashmir has changed the lives of women forever. It also makes an effort to draw out the experiences of the female victims of violence in the state -- their pain, sorrows and sufferings.

One reason why women are the ‘prime targets’ in instances of violent conflicts is that they are viewed as markers of community identities, and in targeting women, the perpetrators, actually target the community as a whole, its honour, its symbols and prestige. In

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10 Over 9,994 women have been raped and molested, and 22,755 women widowed, cited from www.kmsnew.org
Kashmir, the media and the human rights bodies have brought to light instances of large scale molestation and rape of women by both the security forces and the militants. There have also been instances where the family and/community have ‘eliminated’ women who had been molested in the armed conflict. For women, therefore, it is not just the state and the militants, but also the community and members of the family who are potential perpetrators of violence against them. Besides rape and molestation, instances have come to light where women were faced with enforced prostitution, sexual slavery and impregnation or termination of pregnancy without, of course, the protection of the rule of law. In almost all such instances, the state has been a mute spectator, failing to provide any sense of protection to women.\textsuperscript{11}

Where women are not direct victims of violence, they are still affected by it, nonetheless. Violent conflicts in Kashmir have led to the destruction of many homes, and for many women, the loss of the bread earner in their families. Kashmir has seen, since the resurgence of violence, a proliferation of female headed households. Owing to deaths in the conflict but also occasionally as a result of desertion and

\textsuperscript{11} Walikhana Charu, \textit{Women Silent Victims.}, p.2
abandonment by men, the number of female headed household is regularly increasing in Kashmir. Forced by circumstances, these women are thrust into new responsibilities, and are forced to sell their labour to sustain their children. The resurgence of violence in the last several decades has turned many married women into widows and, worse still, half-widows.
Violence on the body of women

The modern state is a gendered state. The processes, values and institutions associated with its construction are gendered as well. Yuval Nira Davis, points out that, the burden of representation on women of the collective identity and future destiny has also brought about the construction of women as the bearers of the collective honour. Kumkum Sangari points out that everyday gendered violence serves to reinforce all other forms of violence in our society, and is a connective tissue between patriarchal systems and social structures, the node at which the social inequalities represented by each of these dominant agencies meet and interact.

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13 Yuval Nira-Davis. Gender and Nation, Sage Publications, India, 1997, p-45

As in other conflict ridden societies like Nagaland, Manipur, in Kashmir as well, ethnic identity is tied to the body of women. Since the honour of the community is tied to women, in inter-community violence, women become the primary targets. Often they are targets of violence by members of their own community, and male members of the community target them to maintain the honour of their communities. As argued by Yuval Nira, in her book Gender and nation, the construction of womanhood has a property of 'otherness'. Strict cultural codes of what is to be a 'proper woman' are often developed to keep woman in this inferior power position. The most predictable form of violence experienced by women, as women, is when the women of one community are sexually assaulted by the men of the other, in an overt assertion of their identity and a simultaneous humiliation of the other by 'dishonouring' their women. Women are raped and abused by other men when they want to 'dishonour' the entire community or as is often asserted in such conflicts, to teach them a lesson. Thus according to Anuradha Chenoy women's bodies determine their symbolic value (for their community) and undermine their roles. Women also become victims of genocide under the assumption that violence against women's bodies is symbolically representative of shaming and dishonouring the

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13 Chenoy Anuradha, M., 'Resources or symbols? Women and Armed conflicts in India', IN, Ava Darshan Shrestha and Rita Thapa (ed.), The Impact of Armed Conflicts on Women in South Asia, Manohar, 2007, p. 183
14 Yuval Nira Davis, p-47
15 Kamla Bhasin and Ritu Menon (for India), Nighat Said Khan (for Pakistan) (ed.) Against All Odds: Essays on Women, Religion and Development from India and Pakistan, Kali for women, India, 1996, p. 41
16 Ibid; p. 183
community, as a whole. In a feminist analysis of the political economy of rape, Rita Manchanda, relates Violence against women with sexual control and the allocation of resources, that is, as an aspect of political and economic violence. Patriarchal societies regard women as their property and consider women’s productive and reproductive labour as crucial resource. Abduction and rape become strategies for stripping women of their personal assets and of their political assets-honour or in-particular community honour. More importantly, molestation of women is symbolically read in situations of armed conflicts as injuring the community and dishonouring its male members.

Rita Manchanda rightly points out that rape and sexual assault of women in situations of conflict is neither incidental nor private. In a 1995 report to the United Nations Human Rights Commission, the Special Rapporteur on Violence against Women noted that in situations of armed conflict ‘rape is the symbolic rape of the

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17 Ava Darshan Shrestha and Rita Thapa(ed.), *The Impact of Armed Conflict in South Asia*. Manohar, 2007, p.180
community, the destruction of the fundamental elements of a society and culture—the ultimate humiliation of the male enemy'.

It is a known fact that in the present, decades old conflict, in Kashmir, both the security forces and armed militants have systematically used rape as a weapon to punish, intimidate, coerce, humiliate or degrade their enemies. During 1990’s rape by Indian Security forces often occurred during crackdowns, cordon-and search operations which were followed by forcing the civilians to suffer collective punishments in which the security forces assaulted residents, destroyed their homes and raped/molested their women. According to Swarna Rajagopalan, in recent years, wherever security forces have been deployed in south Asia, one has heard stories of soldiers raping local women. Regardless of the veracity of every charge, and the issue as to which party to the conflict is more blameworthy, what matters is that such abuse appears to be accepted as part of the war. A study done by Medicins frontiers in Mid-2005 reveal that Kashmiri Women are among the worst sufferers of sexual violence in the world. It further mentions that since the beginning of the armed struggle in

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20 Walikhana Charu, *Women silent Victims*, p. 1
21 Manchanda Rita, ‘Guns and Burqa’, p. 73
22 Walikhana Charu, *Women Silent Victims*, p. 103
Kashmir in 1989, sexual violence has been routinely perpetuated on Kashmiri women, with 11.6 per cent of respondents saying they were victims of sexual abuse.\textsuperscript{24}

It is quite difficult to get sufficient data on violence intended on women's bodies, and that too in a conflict situation. Women are often silent victims and suffer violence with muted silence. Women, who dare to speak about the sufferings of their bodies, 'pollute' the communities which in-turn ostracises them. In most cases, of sexual assault which go unnoticed and few cases which get noticed are the ones in which it is still not the raped women themselves, but their menfolk who do the talking. They highlight these incidents of rape and/or molestation to de-legitimate the state, and to project it as an aggressor, rather than a protector to civilians that it ought to be. Anuradha distinguishes raped women into two categories. One category of raped women get shunned, while the other end up becoming symbols in the conflict. Just as the militants highlight incidents where the security forces are involved, the state points to cases of rape and molestation of women where the finger of accusation is pointed and against the militants. The state highlights the

atrocities committed by the militants in an attempt to isolate them. A report\textsuperscript{25} released by the army in Srinagar states; that the women of the state have been constantly subjected to the brutalities of the militants.\textsuperscript{26} The sexual appropriation of Kashmiri Muslim women by the military functions not just as an especially potent political weapon, but also a cultural weapon to inflict collective humiliation on Muslim Kashmiri men.\textsuperscript{27} In Kashmir both security forces and armed militants have systematically used rape as a weapon to punish, intimidate, coerce, humiliate or degrade the common people.\textsuperscript{28} Both pundit and Muslim women were sexually targeted by the militants. There are several incidents where both the militants and the security forces have raped women to punish the men in their families for their suspect loyalties.

According to a report prepared by Jammu Kashmir Coalition of Civil Societies (JKCCS), rape has been routinely used as a war weapon in Kashmir (See fig. 3.1 and 3.2). Documented cases have shown evidence of mass rape during

\textsuperscript{25} Indian Army, Human Rights Violations and Atrocities by Terrorists. Cited from Chenoy Anuradha, "Resources or Symbols?" p. 190
\textsuperscript{26} Chenoy Anuradha, "Resources or Symbols?" p. 190-191
\textsuperscript{27} Kazi Seema, Gender and Militarization. p. 155.
\textsuperscript{28} Manchanda Rita, 'Guns and Burqa', p. 72, 73
Fig 3.1: Rapes/Molestations from 1990 to Aug 2005 (Agency)

Fig 3.2: Rapes/Gang Rapes and Molestations from 1990 to August 2005

cordon and search operations by security forces. There have also come to light several cases of abduction of women and their subsequent rape within Army facilities and a complete disregard for age, health and disability in the perpetuation of sexual violence. Mass rape of Kashmiri women by the security forces was first documented in the Chanapora (Srinagar) mass rape incident on in March 1990. This was followed by another grave incident in Kunan Poshpora which allegedly witnessed the mass rape of women during a cordon- and search operation in February 1991. It is alleged that the troops raped the village women all though the night. Eleven year old girls, pregnant women, to 60 year old grandmother were raped. In raping them the security forces were punishing and humiliating the entire community. In 1996 in Bomai Sopore, in, when the people were holding protest demonstrations against the excesses of army personnel, several girls were dragged to paddy fields where the security men open their garments, bruised their faces and raped

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29 Ibid. p. 73
30 During a cordon- and search operation by the 4th Rajputana Rifles of 68 Mountain Brigade on the night of 23 and 24 February 1991, there was a crackdown in the entire by the troops of Rajputana Rifles. There had been heavy snowfall the earlier night and the troops asked all the men of the village to come out of their homes. They gathered at Kunan Chowk for interrogation leaving the women and children alone at their homes.
then. There are several incidents where the security forces entered houses, one after the other and sexually assaulted women. In one village, reportedly there were complaints of Army Personnel stripping themselves in front of womenfolk of the village.

In looking at why women become special targets in a situation of war it seems that rape as a war weapon has been often used to punish the civilians following any militant attack. Women in such attacks have been chosen randomly. For instance in 1993 a large number of women were raped during a search operation after a peaceful demonstration against Hazratbal siege was fired upon in Bijbehara in Anantnag and over 60 people were killed. Thus women often become the targets like other civilians assaulted or killed, simply because they happen to be in the wrong place at the wrong time. Rape has been used as a means of targeting women whom the security forces accuse of being militant sympathizers; in raping them the security forces were attempting to punish and humiliate the entire community. This is exemplified by an incident (among many) in which two sisters of a

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33 Ibid p. 13
36 Walikhana Charu, Women Silent Victims., p. 104
militant were raped by the Rashtriya Rifles, men of the Indian army in 1997 at village Hakura in District Anantnag. In 2005, the BSF troops raided the house of one Abdul Jabbar Malik of Vailu Village in Kokernag, Anantnag and raped his two sisters.

Cases have been documented where a group of soldiers allegedly molested women, refusing to spare even the ones who were pregnant. In one case study, by Independent Women’s initiative for Justice (IWJ), Uma Chakarvarthi, has rightly pointed out that the graph of rapes in Kashmir compared to other Right abuses is very low, but this is because most of the rape cases are not reported by the victims and their families. The victims do not come forward in most of the cases because of the social stigma attached to a rape victim. Besides, most of the rapes occur in remote areas which have little access to media or the human rights groups. Crimes against women in Kashmir exist in many other forms too. One such crime is the shameful sexual harassment often verbal harassment and molestation which erodes any sense of security for women in the valley. Kashmiri women are often

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37 Rape and Molestation: A Weapon of War in Kashmir. 1998, p.3
39 IWJ comprised of women (lawyers, law researchers, a medical doctor, journalist, and women’s rights activists.
subjected to humiliating body searches by the security men. Kashmiri women, on way to their college or office, are often subjected to body searches. This is what happens to a well-off, educated woman in Kashmir, needless to say that poorer women’s sufferings are much dreadful. In order to enquire on the matter, I asked my respondents if they were ever sexually harassed by the armed forces and 41% of my respondents replied in the positive (See fig 3.3). One woman from Anantnag District told me that, she stopped working in the agricultural fields, because the armed forces were continually harassing her with verbal abuses. This Woman was above 45 years of age and one could easily guess how difficult it must be for the younger women to venture out.

In a conflict zone like Kashmir, this direct assault on Women is one way of attacking the masculinity of the community and their sense of honor and prestige. It is this that often prompts the victims to take their own lives, before their ‘enemies’ succeed in ‘polluting’ their bodies. In one such case, Zahida, from Changoo, Doru Shahabad, took her life with a sharp knife when an army official entered her house to molest her, on being unsuccessful, he allegedly opened fire and

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Rajagopalan Swarna, ‘Women and Security’, P.60
pumped bullets in her abdomen. Her close relatives revealed that on realizing the intentions of the armed person, she had actually killed herself (See Appendix IIIA).
Fig 3.3; Harassment by the Security Forces

Harassment by the security forces

Source; Field Survey by the Researcher
Women who suffer gender violence have always experienced the bitter process of ‘othering’ by both sides. In some cases, militants have raped women whose family members were believed to be informers or supporters of rival groups. A 16 year old girl daughter of a (Central Reserved Police Force) CRPF Jawan was allegedly gang raped by militants, the reason being her father’s job. During 1990’s when the militancy was on peak, militants and Armed Forces were both using women as informers. The abduction of women and forced marriages is common throughout the militancy affected areas of Jammu and Kashmir, especially at the hands of militants who have surrendered and enjoy the patronage of security forces. In most cases, the arrest of these women does not mean rescue for them, it means being engaged by the other side for the same tasks.

In recent years many cases have come to light where women have been pressurized by the army or unidentified gunmen to work with them as informers. Two girls from Budgam, named Zaheeda and Nuzhat were shot at. First, the girls were dubbed as militant aides and then forced by the security personnel to work for them and when they

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refused, they were shot dead. The incidence of women working for army and militants has shown some resurgence in the recent times. One Dilshada Bano was mysteriously shot dead by unidentified gunmen in June 2004. Her husband had disappeared in custody and she was contesting the case in State Human Rights Commission (SHRC) and was a member of APDP. People in her native village said that she was an informer and that is why she was killed by the militants. The present conflict has seen a considerable loss of male members and it is left to women to follow the cases of ex-gratia and SRO-43 (See Appendix- IIB). These women have to visit various security camps to ascertain death of the killed or whereabouts of disappeared. Often the army personnel take undue advantage and make them do regular rounds and sometimes force them to work for them. Even in the regular offices here women pursue their cases they have to face humiliation from lower to higher ups in bureaucracy. Many women have been forced by armed forces to work as informers and in case of refusal have been booked under PSA (See Appendix- IIC and IID). Official statistics record that 11 girls were abducted

45 The army on the pretext of having links with militants arrested Sakina from Bandipora. The Army even claimed recovery of weapons from her possession, a claim which was strongly refuted by police cited from, State of Human Rights in Human rights in Jammu and Kashmir.
47 Ibid.
and murdered after 1993, 35 in 1994 and for the first half of 1995, there were 3 abductions of girls and women. According to an estimate of JKCCS, there were 225 rape/molestation cases in Kashmir inflicted by the armed forces (See Fig 3.2 and 3.3) from 1990 till August 2005.

In determining when to bring indictments for rape and sexual assault in armed conflict, the prosecution in the court to take account of the rules of Evidence and procedure and the adequacy and reliability of available evidence. Investigations of crimes against women in Rwanda have raised the numerous practical and legal problems, which are equally applicable in the conflict situation in Jammu and Kashmir: these are

i) The dispersal of victims and witnesses across regions of the world;

ii) The unwillingness of women to speak of crimes committed against them through humiliation, shame, fear of public or family ostracism or fear of reprisal

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48 UNI Report in the Times of India, 24 Nov 1995, also see Manchanda Rita, ‘Guns and Burqa’ P. 81
49 walikshanna Charu, Women Silent Victims, p.103
iii) The intervention of too many people wanting accounts of their experiences, including media, NGOs, support agencies etc, and eventually official investigators.  

iv) The passage of time and the desire not to relive such atrocities; and the feeling that rape and sexual assault were not in fact of major concern compared with the loss of community, home and possessions and the death or disappearance of family members.

Until recently, incidents of rape in Kashmir had largely escaped international scrutiny and condemnation, including allegedly committed by the armed forces. In the past, rape was often accepted as 'spoils of war' or mischaracterized as incidental to the conflict or as privately motivated form of sexual abuse rather than an abuse of power that implicates public responsibility. Reports of the widespread use of rape as a tactic of war in the former Yogoslavia have been instrumental in focusing attention on the function of rape in armed conflict and have provoked international condemnation. Such

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51 Walikhana Charu; Women Silent Victims., p. 106
condemnation needs to extended to the use of rape in internal conflicts as well.\textsuperscript{52}

The unfortunate part of violence on women is that their bodies become the markers of identity. Their individuality is curbed and their sufferings become a means of publicising their positive victimhood. The victimhood of women is publicised and politicised, to fulfil the political objectives of both the state and the militants. The rape of Kashmiri women by the security forces was viewed as an integral political event in the people’s struggle but the political leadership in publicly projecting rape as a war crime, failed at the same time, to politically challenge the patriarchal code within which women’s victimhood serves to deny agency to women\textsuperscript{53}.

\textbf{State, militants and Women}

Armed conflict is a typically masculine activity, marked by violence, aggression and force. There are indeed certain deep rooted social and political grievances that legitimate these conflicts, but the violence and force on which they depend to realise their objectives cause untold pain and suffering for ordinary men and women. An important feature

\textsuperscript{53} Manchanda Rita, ‘Guns and Burqa’, p.75
of armed conflict is that it operates within a masculinist frame of reference, and sets out hierarchical roles and attributes for men and women in their respective societies\textsuperscript{54}. Scholarly work has shown that most of the actors involved in a conflict are men, and even when women form a significant part of the structure of the insurgent/militant group, their military and organizational roles are unlikely to be as significant as those of men. It is the ordinary people, women in particular, who suffer the most in these conflicts. Women often find themselves caught between the warring factions and face the consequences of social fragmentation and disruption of homes, social networks and livelihoods\textsuperscript{55}.

It is interesting to note that to define the Kashmir as a Nation Sheikh Abdullah appropriated the fourteenth century historical Symbol of Kashmiriyat, a secular ethnic concept (on which Kashmir was to be based), expounded by the Kashmiri ruler ‘Zain-ul-Abideen’, and popularised by a woman called ‘Lal-Ded’\textsuperscript{56}, The notion of Kashmiriyat transcended religious divisions, and was an regional identity that

\textsuperscript{54} Chenoy and Chenoy, (ed.) Maoist and other Armed Conflicts, p.180
\textsuperscript{55} Avn and Rita (ed.), The Impact of Armed Conflict’, p.15
\textsuperscript{56} A mystic Hindu Women, revered by both Muslims and Hindus equally.
included both the Muslims and the Hindus living in Kashmir. At the same time, the notion of Kashmiriyat that has so insistently been invoked by the secessionists, insurgents, militants and the mainstream political parties in Kashmir has worked to marginalise women by presenting them as its bearer, and symbolic representatives. Since women have come to be seen as bearers of Kashmiriyat, the community, in particular the men in the community, have appropriated the right to discipline and control them, and if necessary, with violent means. Women in Kashmir have often been targets of community and family-induced violence, perpetrated on their bodies in the interest of the need to preserve the regional Kashmiri identity.

In Kashmir there was little proof of women combatants in militant organisations, until some of them were arrested by the army. This indicates that some women militants were, and are still, a part of the underground militant organisations. While in Nagaland and Manipur, women cadres are present in significant numbers in the insurgent and national liberation groups, in Kashmir, on the other hand, some women’s organisations defending extremist positions

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58 Anuradha M.Chenoy ‘Resources or Symbols?’, p. 197
exist, but women are not represented in the more important political organisations of the militants\textsuperscript{59}. Women become activists and support peace processes in different ways during conflicts, from their homes, rather informally through community interaction and as active negotiators. In Kashmir like in NE, women have supported struggles in their daily chores, by bearing the burden of missing men, by their songs and stories that they pass on to children and by their caring roles. As Anuradha puts it, ‘Women do not have to be in the public sphere to be activists, since politics enters the private domain especially during conflicts. Their very struggle to survive, fend for their families, and eke out a living requires tactics and strategies no less than those on the war front’\textsuperscript{60}. Women’s involvement in armed conflict can be strategic, circumstantial, or by choice. Very often, women relatives of militants and security forces have no choice but to be a part of the ‘infra-structure’ in conflict situations.

Women militants in the valley have largely confined themselves to secondary roles, like nursing and care-giving, the support they render to insurgent forces is more or less social and cultural in nature. At the same time, they do not take up leadership roles, and are not likely to

\footnotesize{\textsuperscript{59} Ibid, p. 194
\textsuperscript{60} Ibid, p. 198

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have any presence or representation in the peace talks as and when they are held.61

Women increasingly play multiple roles, as combatants, protesters and peacemakers, but they are valued less than men. Women do not have key roles in decision making structures and leadership of the state or amongst insurgent groups. Societies perceive women primarily in gender-stereotyped roles and this image gets reinforced in situations of armed conflicts and insurgency strengthened62. Anjum Zamruda Habib serves a typical example of such a case. She was one of the founding members of Hurriyat Conference. She was the chairperson of Muslim Khwateen Markaz, the women's wing of Hurriyat conference. In 2003 she was arrested in Delhi and convicted under the Prevention of terrorism Act (POTA). Anjum in her prison dairy which was later published in the form of a book by Sahiba Hasan, says that she was a member of All Party Hurriyat Conference (APHC) and had connections with the well known Hurriyat leaders. Anjum in her book recapitulates that Rita Manchanda and Tapan Bose had brought the Wakalatnama-power of attorney to her but she didn’t sign it in the

61 Ibid p. 198
62 Cheney and Chenoy, Women and Other Armed Conflicts, p.180
hope that APHC would arrange a lawyer for her. But as she points out, when she got arrested none among these leaders gave her any importance, and assist her. They tried their best and to a large extent succeeded in getting their male co-associates released. The worst was that her name was not included in the list of names of Kashmiri prisoners submitted by the APHC to the Government of India with a recommendation that they be released. They had abandoned her although she was an active member and associate of Hurriyat. Anjum Zamruda’s feels that she was discriminated by the separatist leaders only because she was a woman. As she puts it:

I personally believe that perhaps they did not wish to encourage woman’s leadership role or maybe they simply lacked the basic courtesy to enquire after me or look into whether or not I needed legal assistance. Could it be just a coincidence that they made every possible effort to get our male colleague released but left me to rot in jail? According to her account, her family members had met the then chairperson of Hurriyat. They told her mother zamrud is a very brave woman. She will endure the hardship and it will not take more

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63 Anjum Zamruda Habib, Prisoner No. 100, My Life In An Indian Prison, tr. by Sahiba Hussain, Zubaan, New Delhi: 2011 p.13
64 Ibid., p. 42
65 Ibid p. 22
than five years’. Zamruda blames it be ‘a game’ of her entry to the jail that was already fixed for five years.

In her early works, Manchanda presents two narratives about women in the Kashmir conflict. The first derives from a human rights discourse where women figure as victims of direct (state) and indirect violence that transforms them into widows and half-widows of the disappeared or bereaved mothers of lost sons and children. The second centres on the Kashmiriyat on the conventional patriarchal ideology of Kashmiri struggle in which woman symbolise the grieving mother, the martyr’s mother and the raped women. The representation of Kashmiri women as victims rather than survivors does not correspond with Women’s subjective experience and removes them from the political canvas of militarization. However scholars who have worked in Palestine and Algeria, hold that, are the iconic representations of the nation, in a nationalist movement. In protracted military conflict with its attendant loss of life, women, in particular the mother of the martyr, symbolise life giving or national generativity, loss and sacrifice.

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66 Ibid p. 173  
67 Manchanda, Rita ‘Guns and Burqa.’ p.; 43  
68 Julie Peteet, ‘Icons and Militants: Mothering in the Danger Zone’, IN, Therese, Carolyn, Allen, (ed.) Gender, Politics and Islam., p.139
According to the scholars working in other conflict ridden societies, women reshape their homes as war fronts, and even as mothers and housewives get informally affiliated with resistance movement. Kashmiri women have also seemingly chosen to blend the home and the front to nourish political activism. At local weddings, women were eager to have a resistance fighter or Mujahid in their festivities. They would break out into a Wanawwan, the traditional Kashmiri song of celebration, intertwining couplets in praise of local Mujahids. Mothers, sisters and aunts would bask the glory of a Mujahid relative who had gone across for training.

In the mass protests 2008-2010 an increasing number of women participated alongside men: at times even leading all-women protest marches. Interestingly women engaged in stone-throwing; together with chanting anti-India and pro-freedom slogans.

These women get classified as combatants by sheer location. Women relatives supported, gave shelter to the militants and played active roles in the militancy. They suffered severe consequences if the

69 Ibid p. 141,142
70 Manchanda Rita (ed.). ‘Guns and Burqa’, P.51
police/army discovered their linkages to extremists. Women relatives of state officials like police and army wives have been termed by analysts as the forgotten and invisible ‘other’, which have to grapple with trauma, widowhood and tragedy and have generally been ignored by Human rights activists of the region and by the state. State and society treat relatives of victims in different ways, depending on their status. Thus it seems that apart from social patriarchy women in Kashmir are the victims of militaristic patriarchy as well.

One cannot dismiss the ‘disappearance’ of women as stray events, since, in many cases, women have been recovered from the hide-outs of militants. No reports of women being picked up have been lodged by families, most likely out of fear that such a step brings greater shame and indignity.

It is obvious that women from militant families become by the security forces particular targets of harassment. They suffer intimidation by the security forces even after the suspected militants

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72 Chenoy Anuradha, ‘Resources or Symbols?’ p.187
73 Reshni Goswami, Reinforcing subordination, an analysis of women in armed conflict situations www.isiswomen.org/wih/view/399/113400001.html
74 Chenoy Anuradha, ‘Resources or Symbols’ p.187
76 Walikhana in her book, Women Silent Victims narrates, ‘Jana’s son, Fayaz Ahmad Dar, was a member of the hizbul mujahideen. She hasn’t seen him since long, but the, security forces constantly question her about his whereabouts. Twice they have set her house in warpora village on fire. Desperately poor, jana’s is a lonely battle for daily survival. Her neighbours avoid her’.

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had been eliminated. Sometimes they have to suffer for their close male relative’s decision to become a Militant. They face routine questioning and harassment from the security forces. They also suffer from social isolation. Based on various testimonies, several studies have shown that there is very little social acceptance for the militants, and particularly after 1995, people don’t want to be seen associating with militant families. In the initial years of militancy, women in Kashmir valley were in the forefront, protesting against custodial killings or torture of youths at the hands of security forces. There was a conspicuous silence in cases of rape, but when it came to custodial killings or disappearances. There were vocal protests by both men and women. Women deliberately positioned themselves as a shield for men-folk and remained at the forefront, through a voluntary decision at such protest demonstration. The political leadership has often involved religion to ensure the support of women to their side, presenting their dead sons and husbands as glorious martyrs. After the Amarnath Shrine Board agitation, JKLF chairman- Yasin Malik handed out Shahid Maqbool Butt award to the mothers of those young

78 Ibid
79 Bhasin Anurdaha Jamwal, ‘Women in Kashmir Conflict’ P.106
80 Ava, Rita(ed.). The impact of Armed Conflicts. p.18
boys who were killed in the agitation in Srinagar in 2008. The mothers were reported to have said that they were guaranteed a good place in heaven so there was no problem in giving up their sons. They would meet them again in heaven.

In ethnic and nationalist struggles, the glorification of women as biological regenerators of the nation, combined with a complete disregard for them as people results in massive abuse of their reproductive rights and maternal emotions. This has happened in Kashmir too. In early 1990's militant groups imposed a ban on the use of contraceptives and on abortions. People, especially in the villages were told that the central government was trying to alter the Muslim majority nature of the state and so Muslims should have more children and besides, the armed conflict needed more fighters. The sale of contraceptives was stopped and family planning procedures were not performed at least openly. The role of women was to ensure a continuous supply of fighters. Mothers were exhorted to send their sons to fight. Those who did were praised as 'patriotic mothers'. Mothers were told not to grieve for sacrificing their sons in order to

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motivate others to sacrifice. To motivate women for sacrificing their male relatives they were preached ‘shaheed ki jo maut hai wo quam ki hayat hai’ - he who dies a martyr, gives life to the nation. Women protected militants hiding in their homes by telling the security forces then that they were their husbands. In ethnic and nationalist struggles, women often serve as couriers of cultural and ideological traditions. Women are expected to dress and behave in ways that are prescribed by tradition.

Valentine Mogadham has categorised two kinds of revolutionary movements one ethno-nationalist separatist movements and the other religio-political movements. The first uses women as a symbol of liberation and project women’s emancipation as an important revolutionary agenda as in case of separatist movement of Sri Lanka. The second one uses women as a symbol of the national culture and tradition that are to be reclaimed as in case of Kashmiri separatist movements. In this case women are virtually excluded from formal participation. In the case of Kashmir, women have managed to give

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82 Ramachandran Sudha, The Shades of Violence’ P. 21-22; One Khatija bi did not stop her son from joining the armed struggle. When her son died, khatijah was praised for the sacrifice she had made. They would tell her over and over again not to grieve. And she first believed it. But latter, she started feeling lost and pain
83 Ibid p.22
84 Cf. Parashar Swati, Feminist IR and Women Militants: Case Studies from South Asia” IN Cambridge Review of International Affairs, June 2009, p.240
85 Ibid., p. 240
logistical support to militants and women’s groups are unfortunately playing a vital role in enforcing fundamentalist Islamist Ideology in Jammu and Kashmir, where predominantly liberal Sufi form of Islam had thrived for centuries. While this does not indeed hold true for all the groups, the attractions of the hyper-masculinist and puritan Islam for an increasing number of women is a worrying trend in Kashmir.

In Kashmir, it is a regrettable fact that the state is not a protector against, but a perpetuator of, violence against women. Armed with the Armed Forces Special Power Act (See Appendix IIIE), the security forces routinely target ordinary civilians, including, women, free from the constraints set by the laws and the judiciary. Anuradha Bhasin, rightly points out that women are raped and molested by combatant forces in armed conflicts as a form of vengeance and control. The state, she further says in such situations devises different acts and strategies to shield the culprits in uniform.

In Kashmir, the state has often been accused of shielding the criminals. In Kunan Poshpora, in 1991, in one incident over 30 women and children were raped by the army. No adequate official enquiry was held. The police refused to file an FIR because they did

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86 Ibid., p. 249
87 Bhasin Anuradha Jamwal, ‘Women in Kashmir Conflict’; p. 96,97
not want to annoy the army' despite detailed affidavit clearly indicting the army on charges of rape.\textsuperscript{88} The army subsequently invited the independent press council of India to investigate the incident. The Press Council agreed to that and appointed a three-member committee, headed by B. G. Verghese\textsuperscript{89}. The Verghese Committee visited the village more than three months after the incident occurred. After interviewing a number of the alleged victims, the committee concluded that the incident was a trick set up to frame the army. The committee rejected the allegations merely on the ground of inconsistencies in the women's stories and variations in the number of rapes alleged to have taken place.\textsuperscript{90} In the final report, they gave a clean chit to the security forces on such frivolous grounds that the girls were found to be giggling when asked if they had been raped.\textsuperscript{91}

Even in the cases where it was proved that security forces had raped certain women, they were not prosecuted. In a much publicized case, a young bride was detained and she and her aunt were raped by BSF.

\textsuperscript{89} Though it was a three member Committee, it was actually conducted by George Verguese only, and therefore the report came to be known as the Verghese Committee Report.
\textsuperscript{90} Rape In Kashmir. A Crime of war. \textit{Asia Watch A Division of Human Rights Watch & Physicians for Human Rights} \url{http://www.hrw.org/sites/default/files/reports/INDIA935.PDF}
\textsuperscript{91} It is believed that the committee examined medical reports based on examinations conducted on 32 of the women two to three weeks later, on March 15 and 21, 1991, which confirmed that the hymens of three of the unmarried women had been torn. The committee concluded that the medical evidence was "worthless", that "such a delayed medical examination proves nothing" and that such abrasions are "common among the village folk in Kashmir." About the torn hymens, the committee argued that they could be the result of "natural factors, injury or premarital sex.
\textsuperscript{91} Bhasin Anuradha Jamwal. "Women in Kashmir Conflict"; p. 95
soldiers while she was travelling to her husband’s home. The Indian authorities ordered the police to conduct an enquiry. Although the enquiry concluded that the women had been raped, the security forces were never prosecuted. Instances such as these are far too many to be recounted here. More recently, owing to initiative of IWUJ (Independent women’s initiative for justice) the double Shopian rape case captured the attention of the media, but we must bear in mind that the for Kashmiri women the shameful incident was neither exceptional nor unprecedented. The security forces are viewed by Kashmiri women with considerable fear and apprehension, indeed!

Social effects of violence on women

Since the insurgency in Kashmir, a large number of Women have seen the deaths of their loved ones, and often, the loss of the bread-earner in the family, either a father or a spouse. Every death in the family leads to the destruction of the family, as a viable socio-economic unit. It creates immediate problems of sustenance and emotional security for the family members. Since the responsibility for the maintenance of the household then falls on the hapless women, it creates immense social and psychological problems for them, which most women, in

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the absence of trained counseling centers, find impossible to cope and handle. This has, as several studies have revealed, led to a dramatic increase in suicides by women in the post-insurgency period.\textsuperscript{93}

Military action in Jammu and Kashmir is covered under the Armed forces (Special Powers) Act, 1958 (As Amended in 1972). Under the Act (See Appendix- IIIE), even a Non-Commissioned officer can order his men to shoot to kill if he thinks that it is necessary for maintenance of public order. The Act permits arrest without warrants with whatever force necessary of any person against whom there is an iota of suspicion\textsuperscript{94}. The most draconian aspect of the Act is the immunity it offers to the security forces, against prosecution. Unaccountable to the court of law, the armed forces have been responsible for the loss of many lives. The armed militants have similarly killed many Kashmiri’s, under one pretext or the other treating these deaths as necessary for the armed struggle. It immediately leads to the destruction of the family as a social unit, and renders women, widows and their children, orphans. It then falls on women to provide livelihoods, and widows are pushed into the labour market, where they are under-paid, and suffer continued exploitation.

\textsuperscript{93} Afsana Rashid, Women Suicide Rate in Valley Rising, \textit{Voices Unheard}, July-Sep 2005 p.5-6
\textsuperscript{94} Bhasin Anuradha Jamwal, ‘Women in Kashmir Conflict’ : p.173
at the hands of their employers. According to one study, the period of insurgency in Kashmir has shown a marked increase in the female labour.\textsuperscript{95}

In a study by Dabla, it was revealed, that about, one-third of the widows were in the age-group of 31-45.\textsuperscript{96} Over half of these women, (53.67\%) live alone, and even though remarriage is not forbidden, a mere 8.66 percent remarried. When asked, 89\% of widows were against remarriage.\textsuperscript{97} Several families were actually found to have no male members left. At least 25 families in Trehgam village are all-women households.\textsuperscript{98} Even in case where widows received support from their extended family, it was found to be insufficient to meet both the material and emotional needs of the widows and their children. According to an estimate, in rural Kashmir, widows are reporting on average 3-6 children.\textsuperscript{99}

According to a recent report by APDP, titled ‘Half-life half-widow’ like most conflict situations, gendered violence in Kashmir has been systemic but typically overshadowed by attention to ‘harder’ security

\textsuperscript{95} Afsana Rashid, \textit{Waiting for Justice, Half-widows} p.10
\textsuperscript{96} Save Children Fund to support NGO in rehabilitating Valley Orphans, \textit{Kashmir Times}, May 7, 2000
\textsuperscript{97} Dabla Bashir Ahmad, \textit{Widows and Orphans In Kashmir}, JAYKAY Publications, Srinagar, 2010, P. 65
\textsuperscript{98} Ramachandran Sudha \textit{The Shades of Violence}, p. 17
\textsuperscript{99} Suri Kavita, \textit{Impact of violence on women's education in Kashmir}, WISCOMP, New Delhi, 2006, p. 38,39
matters. The report has pointed out that violence against women has prevented accurate assessments of the actual harms preserved by women, for example, due to widowhood.\textsuperscript{100}

Enforced disappearance is one of the most harrowing consequences of the armed conflict in Kashmir. It has been argued in several scholarly studies that the lower-middle classes were more directly involved in the public mobilisation for Azadi and therefore subject to greater repression by the state. The prolonged, often permanent absence of male family members is particularly detrimental for women from weaker socio-economic backgrounds, where the absence of male kin has severe economic implications.\textsuperscript{101} During the last decade and a half, thousands of people have been summarily arrested and detained under PSA, TADA, and POTA. The enforced disappearance in the valley has given rise to, what has come to be known as Half-widows—women whose spouses have neither been declared dead nor have they returned back to their places of residence. Absence of proof of death

\textsuperscript{100} Half Widow-Half life, Responding to Gendered Violence in Kashmir, A report by Association of parents of disappeared persons, \url{http://kaffilabackup.files.wordpress.com/2011/07/half-widow-half-wife-spdp.report.pdf} p 3

\textsuperscript{101} Sarwan Kashani, Idrees kanth and Gowhar Fazili(ed.), The Impact of Violence on the Student Community in Kashmir, Oxford, India, 2003 p 35
makes life miserable for the half-widows and they continue to live with uncertain future\textsuperscript{102}.

According to a report of 2011 there are about 1500 half-widows in the valley.\textsuperscript{103} The report took cognizance of the half-widows of civilians, militants as well as ‘suspected militant’ members who joined APDP and have pursued disappearance cases are wives of civilian. According to the report, 1,417 cases of disappearances documented by the APDP reveal a common pattern. The forces enter and search a house and take a male member with them who is never seen again. In most cases, wives and other family members who go looking for their loved ones are sent from one military base to another, one jail to another, each suggesting some clue at the next. Usually, there frantic searches end up in vain, and the family returns back empty-handed.\textsuperscript{104} The condition of half-widows is rendered worse owing to the fact that they cannot remarry, unsure of the fate of their spouses, and are denied the paltry state assistance that is offered to the widows\textsuperscript{105}. Most of these women- the widows, half widows and the mothers of missing sons, are unemployed and are sustained by relatives, neighbours, NGO’s.

\textsuperscript{102} Half-life-Half Widow; http://kapilabackup.files.wordpress.com/2011/07/half-widow-half-wife-apdp-report.pdf p.1

\textsuperscript{103} Ibid

\textsuperscript{104} Ibid

\textsuperscript{105} Avita Rita, Impact of Armed Conflicts on Women , p. 16
meagre government relief, parents, and their husband’s pensions. A few among them eke out their living starting part-time businesses, or by making handicraft goods or by tilling their small fields. Government sanctioned financial support, especially in the case of civilian killings, usually reaches the widows after two or more years of the death of their husbands\(^\text{106}\). According to Dabla’s study, 101/300 (33.6\%) widows, were provided financial support by Governmental organisations, the relatives provided support to 99/300 widows, and only 7.3 (22/300) widows were provided any financial support by NGO’s. \(^\text{107}\) One Firdous a resident of, Srinagar was arrested by the army. He was arrested and booked under PSA for two years. Firdous was later asked by the army to work as their informer and on his refusal to do so, he was, presumably ‘eliminated’ by the army. After his disappearance, his mother, Fatima applied for the ex-gratia relief as well as benefit under SRO-43 of 1994. However, neither the whereabouts of Firdous were revealed nor any relief provided to the family. \(^\text{108}\) In another much publicised case of Parveena Akhter v/s state and others petition no. 64/91 case, even the finding of the inquiry conducted by senior additional Sessions judge, Srinagar had observed

\(^{106}\) Suri Kavita, *Impact of Violence on education*, p.39

\(^{107}\) Dabla, Bashir Ahmad , A. *A Sociological Study of Widows and orphans in Kashmir*, P. 70

\(^{108}\) *Informative Missive*, April 2006 p.5,6
that the National Security Guard arrested Javaid during the intervening night of 17-18 August 1990 and thereafter he disappeared. It has been almost 2 decades now and the state has neither confirmed his death, nor has it, handed him back to his family.\textsuperscript{109}

The social impact of conflict is most visible in the emergence of women-headed households. Widows or half-widows are abruptly thrust into a position of responsibility owing to the need to sustain the family.\textsuperscript{110} According to the official records, the total number of disappeared persons registered by the state is 693. As per the standing rules next of kins of missing persons are entitled to Rs. 1 lakh as ex-gratia relief after fulfilling all codal formalities. Ex-gratia in favour of 332 cases has been sanctioned\textsuperscript{111}. Half-widows, generally refrain from demanding any ex-gratia relief and the popular feeling is that they should accept compensation at all. This is owing to two reasons. One because she isn’t sure about her husband’s death and two, because she would be accepting money from the very state actors who are responsible for her husband’s disappearance in the first place\textsuperscript{112}. Among the Muslims, the decision of a half-widow to remarry often

\textsuperscript{110} Ibid
\textsuperscript{111} Informative Missive April 2006, p.11
\textsuperscript{112} Half-life half widows: http://kafulabackup.files.wordpress.com/2011/07/half-widow-half-wife.pdf
invites contentious theological debates, concerning the length of waiting period for a woman whose husband had disappeared. In 1939, the dissolution of Muslim Marriage Act was passed in India. It was adopted by the State of Jammu and Kashmir in the year 1942 and since then it prevails in J&K. There is a clause in the Act which states; that a woman who is the wife of a person according to Muslim law shall be entitled to obtain a decree for the dissolution of marriage on the ground that the whereabouts of the husband have not been known for a period of 4 years. She can then go to court and seek permission to dissolve the marriage. Among the Muslim theologians, however, the issue is far from settled. One group of Ulema’s in Kashmir say that if a half-widow, marries a second time and her first husband comes back, the previous marriage would be dissolved. However another group believe that if the first husband comes back after the woman has gone for a second marriage then the second marriage would be dissolved, but if she has borne any children from second marriage, they would be deemed legal.

113 Muslims believe in 4 schools of thought, Hanafi, Malaki, Shafifi and Hambli; according to Hanafi school of thought, a woman has to wait for 90 years to remarry in case her husband disappeared. This lead Muslim Ulema of Hanafi School of Thought to think of an improvisation in the existing order therefore a clause was borrowed from Malaki school in which woman has to wait for 7 years, some say 4 and then she can remarry.
Adding to the problems of these women, Personal laws do not allow distribution of property of a disappeared person unless he is ‘declared’ dead and surviving family members have to wait for 7 years to even apply in court to have some access to the property. The process takes another 2 years in court. Half widows and family, members of disappeared persons therefore have to wait at least 9 years before being able to access to property. Remarriage is not an easy option for widows and half-widows, owing to the social stigma that is socially associated with it. Waiting for twelve years for her disappeared husband, Sara Bano married but faced social ostracism from her family and community. A widow in her early thirties was encouraged by her acquaintances to remarry but she had to drop the idea on the ground that her in-laws, threatened to take custody of her two female-kids. In a study conducted by Dabla, it has been shown that about 65% women retained the custody of their children, while the remaining 35% were forced to entrust their children to the care of their parental and maternal grand-parents. A report by APDP, points out that half-widows often suffer psychologically when they are

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115 Afshana Rashid, *Half widows*, P. 96-97
116 Sara Bano’s testimony, in a study by Afshana, reveals that she married to feed her children as there was no other source of income and nobody helped her. But when she re-married. They kept taunting her.
117 *Voices unheard*, Vol-11, July- sep 2005
118 Dabla Bashir Ahmad, *Widows and Orphans in Kashmir*, P.65
separated from their children. There are several instances where the in-laws choose to keep and raise their grandchildren while turning out the half-widow and providing no visitation rights. In certain other cases, the half-widow’s natal families take them back only on the condition that their children remain with the in-laws or be sent to orphanage. In still other cases, the report goes on to add, children are divided between the half-widow’s parents and in-laws and she may in such a situation never see one/all of her children.\(^{119}\)

Many women who did remarry had to social ostracism, sometimes even from members of their own families.\(^{120}\) Absence of organisations, both governmental and voluntary, working for such women, at the grass root level, has further worsened the plight.\(^{121}\) Such hapless women sometimes resort to begging to feed their children\(^{122}\). Others take to prostitution selling their bodies to feed their families\(^{123}\). Adding to this, Dr Khurshid-ul-islam, ‘since they do not have help from anywhere many women are compelled to enter flesh trade. In the absence of female politicians, women’s concerns and


\(^{120}\) Ibid

\(^{121}\) Afsana Rashid, *Half-Widows*, p.12

\(^{122}\) Ten years ago Subi’s husband, deputy chief of the Al-Barq militant outfit was killed by SF in an encounter. And this mother of six children lost everything. With no source of income, she was forced to beg in order to feed her children, among them a 20 year old unmarried daughter.

\(^{123}\) Suri Kavita, *Impact of violence on women’s education in Kashmir*, WISCOMP, New Delhi, 2006 p.39
aspirations remain hostage to a male-dominated Kashmiri polity and patriarchal militant leadership for whom gender is secondary'. In 2004 sex scandal, a lady constable was alleged to be one among the pimps. On her arrest she revealed that the girls were also supplied to big hotels like Grand Palace and Hotel Broadway of Srinagar. She revealed that such girls were the ones who had recently been recruited in the dept. of Police and CID.

Rape affects the women’s eligibility to marry or to remain married. In the infamous rape case in Kunan Pospora, only a couple of men took back their wives, even after intervention of the militants. Speaking to a women’s group, a raped woman said that she begged her husband to forgive her for a sin she had never committed but he refused. He refused to take her back because he saw her as ‘polluted’ defiled by another man. The marriage of raped women is non-existent in Kashmir, but the stigma that is attached to rape, often prevent other girls in the family from finding a suitable groom. The rape of women in Kunan Poshpora was a powerful symbolic defeat for the men of the village; yet, the sequential logic and politics of ‘honour’

124 Kazi Seema, Gender and Militarization, p. 146
126 Urvashi Butalia(ed.) Speaking peace, Women’s Voices from Kashmir, Kali for Women, New Delhi, 2002 p. 83
transcended its perpetuators to rebound with cruel irony on its survivors. The men of Poshpora lament the fate that befell their women; yet when asked whether they would marry women from another village where women had been raped, they refuse categorically.\textsuperscript{128}

Women are valued in Kashmir as markers of community identity, and the burden of preserving the cultural purity or Kashmiriyat falls on their bodies. Since women are seen as markers of community, identity, they are particularly vulnerable to violence and sexual abuse. Their vulnerability is heightened during times of conflict, and the battle among male contestants is mostly fought over women’s bodies. Women’s bodies are prime targets of attack, but women also suffer violence from their ‘own men’, as well, who impose restrictions on their movements and attire, in the interest of ‘the honour of the community’.\textsuperscript{129} Women in political struggles are configured as embodying the community/nationality’s distinct (superior) tradition and cultural identity. According to Rita Manchanda, the graphic representation of women’s subordination as symbolised in the veil,

\textsuperscript{128} Kazi, Seema Gender and Militarization, 158
\textsuperscript{129} Ava\& Rita The Impact of Armed Conflicts on Women, p.18
exposes the gendered nature of the political struggles\textsuperscript{130}. In Kashmir girl students complained that militants came to the class rooms and insisted that all girls cover their heads and wear \textit{burgas} (veils).\textsuperscript{131}

Yuval Nira Davis in her work ‘Gender and Nation’ rightly points out that women, in their ‘proper’ behaviour, their ‘proper clothing’, embody the line which signifies the collective boundaries\textsuperscript{132}.

The Muslim fundamentalist organisations have been trying to introduce \textit{burqa} and chador as part of their Islamisation programme. Notices were printed in the local papers warning women that severe action would be taken if they did not don \textit{purdah}\textsuperscript{133}. Such cultural violence against women actually serves to legitimise misogyny and a predatory construct of masculinity\textsuperscript{134}. The lashkare -toi-ba decreed that Kashmiri women either ‘wear \textit{burqa}’ (veil) or face bullets. Militants shot girls for wearing jeans and in doing so, argued that they actually ‘protected women’.\textsuperscript{135} Young students would also threaten a teacher who was not properly covered or had plucked her eye brows\textsuperscript{136}. In march 1999, two Kashmiri girls, Mehvish (16 yr old) and Nausheen (14 yr old) were shot in their legs by militants for wearing jeans\textsuperscript{137}.

\textsuperscript{130} Manchanda Rita, \textit{Guns and Burqa}, p.59
\textsuperscript{131} Yuval Nira Davis, Op.cit, p.46
\textsuperscript{132} Chenoy Anuradha, ‘Resources or Symbols?’ p. 184
\textsuperscript{133} Women like Nayeema Ahmad Mehjoor, a radio star and executive producer with radio \textit{Kashmir}, were under double pressure, to be veiled and to quit jobs denounced as un-Islamic. Nayema had colour thrown on her body by the \textit{Purdah} crusaders. Amazingly people were swept up in a kind of blind faith that what Mujahids said was the voice of Allah. It is said that even her otherwise, non-conformist husband urged her to wear \textit{burqa}. Cited from; Manchanda Rita, \textit{Guns and Burqa}, p.59.
\textsuperscript{135} Kavita Suri, \textit{Impact of Violence on Education}, p.21
The immediate resistance to a dress code came from the urban educated elite with college girls refusing to respond the militant threats. Their resistance received substantial support from Kashmiri women, especially in the rural areas, who found its imposition alien to their culture; *burqa* was never a part of traditional Kashmiri dress. Women would wear in the traditional attire of Kashmir a *qasaba* or ornate head gear and a long *phiran*, and their faces were never covered. Instead of protecting women *burqa* made these women more vulnerable to the security forces. Security forces were convinced that one in every three *burqa* clad person was a militant. It was believed that the disguise was used when militants wanted to shift hideouts. Women wearing *burqas* suffered humiliation and sexual harassment from the security forces. In the process of enforcing dress code for women, the sari disappeared from the valley altogether. The emphasis on *burqa* demonstrated an assertion by the men of the community of their control over their women, a protective control which had necessarily to be demonstrated given their sense of emasculation in the face of the armed might and humiliating treatment.

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139 Manchanda Rita, ‘Guns and Burqa’ p.59,60
140 Urvashi Butalia(ed.), *Speaking Peace* P.138
by security forces and their resentment towards women's necessary activism. 

Under the continued threat of the militants and conservative elements in Kashmir, almost all women have taken to burqa or chador. There is scarcely any woman in the valley who would walk around in public places without covering her head. By and large girls in Kashmir no longer wear skirts or jeans. I enquired from my respondents about their opinions over the impact of diktats on the dress of Kashmiri women. 44.5% women respondents said that purdah has become mandatory for women in Kashmir and 18% of the total respondents said that covering of heads has become compulsory after the issue of diktat. However Respondents believed that there was no impact of diktats on the attire of women in Kashmir.

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141 Chenoy Anuradha, "Resources or Symbols?", p.184
142 Manchanda 'Guns and Burqa', p.59
143 Ibid p.87
APPENDIX III-A

STATE AS AGGRESSOR:


Zahida was killed by a Rashtriya Rifles soldier masked as a militant, whom he intended to rape, in the intervening night of 13 and 14 July 2005 at around 11PM. The soldier had entered the house through window after the inmates refused to allow him into the house. When the inmates screamed he fired at and stabbed Zahida, and fled from the house while spraying bullets at the chasing villagers. CRPF troopers manning in the paddy fields thought he was a militant and gunned him down. Later dead soldier was identified as Baljinder Singh of 49 Rashtriya Rifles.

While talking to Voices Unheard, the family members said that at 11.05 PM on Wednesday night. They heard someone knocking at their door. ‘We heard a knock at the door but did not respond to it. For we knew that, at this point of time no civilian would dare to move out of his home’. However, he climbed a walnut tree adjacent to our house and jumped into our compound. His face was veiled. He was in civvies,’ said Muhammed Iqbal, younger brother of Zahida. Iqbal was
the first person to identify the veiled intruder as the RR personnel. The soldier was stationed adjacent to the victim’s house on 12\textsuperscript{th} July when RR person cordoned the whole village.
APPENDIX III-B

SRO 43:

Application of Rules: - These rules shall apply to the Compassionate appointment of a person who is a family member of:

- i. a Government employee who dies in harness other than due to militancy related action;

- ii. a Government employee who dies as a result of militancy related action and is not involved in militancy related activities;

- iii. a civilian who dies as a result of militancy related action not involved in militancy related activities and total income of the family from all sources does not exceed Rs.3,500/- per month as assessed by the Revenue Officer not below the rank of an Assistant Commissioner;

- iv. A permanent resident Junior Commissioned Officer or non-Commissioned Officer of the armed force or an Officer of equivalent rank of the Para military force who is killed in action connected with law and order duties within the State of Jammu and Kashmir or as a result of enemy action on the line of actual control.
Source: Office of the Divisional Commissioner, Government of J&K

http://kashmirdivision.nic.in/about/services/sro43a.htm
APPENDIX IIIC

JAMMU AND KASHMIR PUBLIC SAFETY ACT, 1978 (ACT NO. 6 OF 1978)

CHAPTER I PRELIMINARY

1. Short title and extent......

2. Definitions....

3. Prohibited places.

(1) If as respects any place the Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, the Government may, by notified order, declare that place to be a prohibited place.

(2) No person shall, without the permission of the Government or the authority specified by the Government, enter, or be on or in, or pass over, or loiter in the vicinity of, any prohibited place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over, a prohibited place, that person shall, while acting under such permission comply with such orders for regulating his conduct as may be given by the Government or the authority specified by the Government.
(4) Any Police Officer, or any other person authorised in this behalf by the Government, may search any person entering or seeking to enter or being on or in, or leaving a prohibited place, and any vehicle, aircraft or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, aircraft and article.

Provided that no female shall be searched in pursuance of this sub-section except by a female.............

4. Protected areas.

(1) If the Government considers it necessary or expedient in the interests of the defence or security of the State to regulate the entry of person into any area, it may, by a notified order declare the area to be a protected area, and thereupon, for so long as the order is in force, such area shall be protected area for the purpose of this Act.

(2) The Government or the authority specified by the Government may regulate the entry of any person into a protected area.

(3) If any person is in a protected area in contravention of the provisions of any order passed under this section then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer not below the rank of a Sub-Inspector.
(4) If any person is in a protected area in contravention of any of provisions of this section, he shall be punishable with imprisonment for a term which may extend to two months, or with fine, or with both.

5. **Forcing or evading a guard.**

Any person who effects or attempts to effect entry into a prohibited place or a protected area after taking precautions to conceal his entry or attempted entry from any person posted for the purpose of protecting or of preventing or controlling access to such place or area shall be punishable with imprisonment for term which may extend to three months, or with fine, or with both.
6. **Power to prohibit circulation within the State or entry into the State of certain documents.**

(1) The Government, or any authority authorised by it in this behalf, if satisfied that such action is necessary for the purposes of preventing or combating any activity prejudicial to the maintenance of communal or sectarian, or regional harmony effecting or likely to affect public order, may, by notified order, regulate or restrict the circulation within the State, or prohibit or restrict the importation into the State, of any document. .............................................

(2) Any person who contravenes an order made under this section shall be punishable with imprisonment for a term which may extend to three months or with fine or with both. ..................................................

7. **Removal of doubts.**

8. **Detention of certain persons.**

(1) The Government may -

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to

(i) the security of the State or the maintenance of the public order, or

(ii) [deleted by J & K Act XII of 1988]

(b) if satisfied with respect to any person who is -

(i) a foreigner within the meaning of the Foreigners Act; 1946, or
(ii) a person residing in the area of the State under the occupation of Pakistan,

that with a view to regulating his continued presence in the state or with a view to making arrangements for his expulsion from the State, it is necessary so to do, make an order directing that such person be detained.

(2) any of the following officers, namely -

(i) Divisional Commissioners,

(ii) District Magistrates,

may, if satisfied as provided in sub-clauses (i) and (ii) of clause (a) of sub-section (1), exercise the powers conferred by the said sub-section.

(3) For the purposes of sub-section (1), -

(a) [deleted by J & K Act XII of 1988]

(b) "acting in any manner prejudicial to the maintenance of public order" means

(i) promoting, propagating, or attempting to create, feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community, or region;

(ii) making preparations for using, or attempting its use, or using, or instigating, inciting, or otherwise abetting the use of force where such
preparation, using, attempting, instigating, inciting, provoking or abetting, disturbs or is likely to disturb public order;

(iii) attempting to commit, or committing, or instigating, inciting, provoking or otherwise abetting the commission of mischief within the meaning of section 425 of the Ranbir Penal Code where the commission of such mischief disturbs, or is likely to disturb public order;

(iv) attempting to commit, or committing, or instigating, inciting, provoking or otherwise abetting the commission of an offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more, where the commission of such offence disturbs, or is likely to disturb public order................................

9. Execution of detention orders.

A detention order may be executed at any place in the manner provided for the execution of warrants of arrest under the Code.

10. Power to regulate place and conditions of detention.

Any person in respect of whom a detention order has been made under section 8 shall be liable -

(a) to be detained in such place and under such conditions including conditions as to the maintenance of discipline and punishment for
breaches of discipline as the Government may, by general or, special order, specify and,
(b)to be removed from one place of detention to another place of detention in the State by order of the Government.............................
18. Maximum period of detention.

(1) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 17, shall be -

(a) twelve months from the date of detention in the case of persons acting in any manner prejudicial to the maintenance of public order or indulging in smuggling of timber; and

(b) two years from the date of detention in the case of persons acting in any manner prejudicial to the security of the State.

(2) Nothing contained in this section shall affect the powers of the Government to revoke or modify the detention order at any earlier time, or extend the period of detention of a foreigner in case his expulsion from the State has not been made possible.

20. Temporary release of persons detained.

(1) The Government may, at any time, order that a person detained in pursuance of detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the Government may require him to enter into a bond with or without
sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1), shall surrender himself at the time and place and to the authority, specified in the order directing his release or cancelling his release as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3) be shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

(5) If any person released under subsection (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

(6) The period of release shall not count towards the total period of detention undergone by the person released under this section.

Source: Laws of India
APPENDIX III-D

MOLESTATION OF WOMEN BY STATE AGENTS THROUGH DRACONIAN ACTS:


Razia Sultana, Daughter of Raja Ali Maradan Khan R/O Booniyar Bali, Islamabad Razia is the eldest of the family of two sisters and one brother. On 13 May 1990 her father was allegedly picked up by 3rd Sikh between the Check Post and fruit forest nursery. Eyewitnesses said that some gypsy borne security personnel in civvies picked him up. Since that day nothing was known of his whereabouts. Razia Sultania searched for him everywhere in almost all jails throughout India. After long search, she returned to Jammu she was asked by try again in Kote Balwal Jail. According to Razia after her persistant pleas, DSP talked to SP on her behalf, but the SP refused to give her permission to meet her father. Later she also met IG police and some ministers, but nothing happened. Five years later in 1995, 38 RR arrested her. They put her for five days in their custody. During these five days they tortured her and beat her ruthlessly in which she got
serious head injury for which she was stitched upon in the 38 RR dispensary. After torture they handed her over to police station Gantamullah, from where she was sent to JIC Baramulla for 14 months. There she was kept in a cell and tortured with electric shocks. Then after 14 months she was sent to Central Jail in Baramulla under PSA for 24 months. After the term was over, she was realised for a brief period and then rearrested. She was tortured with electric shocks and verbal abuse. After her release three months later, she stayed at her maternal home as her husband deserted her after she got arrested. During her detention her only brother got married and settled separately. Disillusioned and dispirited with no male support. Razia started her poultry farm. During her detention, her husband has also remarried rendering her dispirited. With all these sufferings she continued to live with her mother and two sisters. In April 2003, she was again arrested by, STF (Air Crago) Srinagar. She was ruthlessly tortured and the Inspector made her nude and beat one her legs and thighs. She was released on 21 June 2003. She was again arrested and rearrested on the charges of supporting militancy. Razia however stated that she had been persuaded by different intelligence agencies in Uri for working for them, which she always refused.
Compiled and collated by Public Commission on Human Rights, edited by Parvez Imroz on behalf of Coalition of Civil Society, Srinagar (Delhi: Hindustan Printers, 2005)
APPENDIX IIIE

THE ARMED FORCES (JAMMU AND KASHMIR) SPECIAL POWERS ACT, 1990

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:

1. Short title, extent and commencement.
   (1) This Act may be called the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.
   (2) It extends to the whole of the State of Jammu and Kashmir.
   (3) It shall be deemed to have come into force on the 5th day of July, 1990.

2. Definitions. In this Act, unless the context otherwise requires,
   (a) "armed forces" means the military forces and the air forces operating as land forces and includes any other armed forces of the Union so operating
   (b) "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area;
   (c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 19501, or the Army Act, 19502, shall have the meanings respectively assigned to them in those Acts.
3. Power to declare areas to be disturbed areas. 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.

Explanation: In this section, "terrorist act" has the same meaning as in
Explanation to article 248 of the Constitution of India as applicable to
4. Special powers of the armed forces. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,-

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of firearms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as training camp for armed volunteers or utilized as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any persons who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
(d) enter and search, without warrant, any premises to make any such arrest as aforesaid or to recover any person believed to be wrongful restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawful kept in such premises, and may for that purpose use such force as may be necessary, and seize any such property, arms, ammunition or explosive substances;

(c) stop, search and seize any vehicle or vessel reasonably suspected to be carrying any person who is a proclaimed offender, or any persons who has committed a non-cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a non-cognizable offence, or any person who is carrying any arms, ammunition or explosive substance believed to be unlawfully held by him, and may, for that purpose, use such force as may be necessary to effect such stoppage, search or seizure, as the case may be.

5. Power of search to include powers to break open locks, etc. Every person making a search under this Act shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or other thing, if the key thereof is withheld.
6. Arrested persons and seized property to be made over to the police. Any person arrested and taken into custody under this Act and every property, arms, ammunition or explosive substance or any vehicle or vessel seized under this Act, shall be made over to the officer-in-charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest, or as the case may be, occasioning the seizure of such property, arms, ammunition or explosive substance or any vehicle or vessel, as the case may be.

7. Protection of persons acting in good faith under this Act. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

8. Repeal and saving. (1) The Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990, is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

**Source:** The Gazette of India, Extraordinary, Part II-Section 1, 1990