

WOMEN, GENDER POLITICS, AND RESISTANCE IN KASHMIR

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This article focuses on Kashmiri women and the gender politics underpinning the August 5, 2019 revocation of Article 370 in Kashmir. Reclaiming Kashmiri women's property rights was among the justifications cited by the state for revoking Kashmir's autonomy. Paradoxically, however, most analyses centered on its political implications. Kashmiri women's opinions regarding the revocation, the state's use of the women's rights argument to justify the same, or Kashmiri women's rights and experiences in the wake of the revocation were seldom the subjects of discussion or analysis. Beginning with a brief overview of Kashmiri women's role in the Kashmiri struggle, I juxtapose the State's claim as defender of Kashmiri women's property rights against the legal and factual position of women's property rights in Kashmir prior to the revocation, demonstrating the contradiction between the two. I subsequently foreground the gendered, misogynist sub-text of nationalist rhetoric unleashed in the wake of the revocation. The convergence between hyper-nationalist, masculinist claims to Kashmir's territory on the one hand, and to Kashmiri women's bodies on the other, is highlighted. This particular dimension, I maintain, symbolises the gendered edge of the Indian State's policy of colonial and ethnic domination in Kashmir. In the final section, I use local Kashmiri reportage on Kashmiri women's views, subjective experience, and collective resistance to contest (a) constructs of the apolitical, victimised, agency-less Kashmiri Muslim woman, and (b) state claims to Kashmir, especially Kashmiri women's endorsement of the revocation. Kashmiri women's resistance, I conclude, is part of a Kashmiri struggle underpinned by the universal principles of justice and liberty; it symbolises the need for a just and peaceful resolution to Kashmir's tragedy.

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I. INTRODUCTION

The end of Jammu and Kashmir's ('Kashmir') limited autonomy on August 5, 2019 reconfigured Kashmir's relationship with the Indian state.¹ Over previous decades, a majority of constitutional provisions under Article 370 of the Indian Constitution ('Article 370') affirming Kashmir's autonomy were rescinded without Kashmiri consent.² A key provision of Article 35A³ forbidding non-Kashmiris from outside the state from permanently settling, buying land, holding local government jobs, and securing education scholarships had, however, remained. With its revocation, Kashmiris stood dispossessed of the last remaining remnant of Kashmiri sovereignty, namely, Kashmiri rights over Kashmiri land, and the statehood and residency rights flowing from the latter. The withdrawal of constitutional protections⁴ over Kashmiri land, residence rights, identity, and ways of life signalled a policy of aggressive colonisation.⁵ From its status as disputed territory with a contested accession⁶ to a period of extraordinary military occupation backed by impunity, the annexation marked

¹ Under the Constitution of India 1950, art 370, in addition to its own flag and constitution, Indian jurisdiction in Kashmir was limited to defence, foreign affairs, and communication. By 2019, however, as many as 290 out of 395 Articles of the Indian Constitution were applied to Kashmir. Virtually nothing remained of Article 370. The only remaining protection was art 35A related to Kashmiri rights over land, employment, and government scholarships. See Abdul G Noorani, 'What Article 35A Implies' (*Frontline*, 29 March 2019) <<https://frontline.thehindu.com/cover-story/article26506833.ece>> accessed 23 May 2020.

² Kashmir was the only Princely State to negotiate the terms of its temporary accession within the Indian Union. According to a Government of India white paper on Jammu and Kashmir, "in accepting the accession, the Government of India made it clear that they would regard it as 'purely provisional' [emphasis original] until such time as the will of the people of the State could be ascertained." The paper reiterated that "the question of the State's accession should be settled by a reference to the people." See Government of India White Paper on Kashmir, quoted by Abdul G Noorani, *The Kashmir Dispute 1947-2012* (vol 1, Tulika Books 2013) 23-24.

³ Noorani (n 1).

⁴ Abdul G Noorani, 'Article 370: Genesis and Wreckage' (*Kashmir Ink*, 29 April 2016) <http://gdcganderbal.edu.in/Files/a8029a93-30ad-4933-a19a-59136f648471/Link/ARTICLE_370__GENESIS_AND_WRECKAGE_-_Copy_88fea090-5882-42cd-8557-7aaf79477718.pdf> accessed 23 May 2020.

⁵ Aditi Saraf, 'The Lie of the Land: Why Losing Territorial Sovereignty Poses and Existential Threat to Kashmiris' (*The Caravan*, 1 October 2019) <<https://caravanmagazine.in/commentary/losing-territorial-sovereignty-poses-existential-threat-to-kashmiris>> accessed 23 May 2020.

⁶ Josef Korbel, 'The Kashmir Dispute and the United Nations' (1949) 3(2) International Organization 278.

a third phase characterised by a full-blown settler colonial project in Kashmir.⁷ The August 5, 2019 revocation split the state into the two separate Union Territories of ‘Jammu and Kashmir’ and ‘Ladakh’, each under direct control of the Central Government. The bifurcation replaced an older, overarching, historically shaped Kashmiri identity with a new balkanised version,⁸ with constituent groups and regions caught in competitive rather than in cooperative mode.⁹

The revocation also served to blunt a more than seven-decade-long Kashmiri Muslim resistance against occupation and repression in the Kashmir Valley by pitting it against majoritarian Hindu nationalist sentiment in Jammu. Likewise, the new Union Territory of Ladakh drew Ladakhi Muslims into an equation of political inequality and dominance with regard to Ladakh’s Buddhist majority, inclined towards New Delhi. In effect, the breakup of the state of Jammu and Kashmir polarised and politicised relations between ethnicities and regions in ways that subverted the integrity of a distinctive regional Kashmiri identity shaped through history. Kashmir’s traditional red flag with its three white stripes symbolising the three component regions of Kashmir, Jammu, and Ladakh, was replaced with the Indian flag at the state secretariat building.¹⁰ The division of Kashmir on ethnic lines served to erode the region’s Muslim majority character and weaken Kashmiri Muslim political power within each of the two new constituent territories.

In the wake of August 5, 2019, in addition to an already existing troop presence estimated at between five lakh - seven lakh security personnel,¹¹ the

⁷ Goldie Osuri, ‘Imperialism, Colonialism and Sovereignty in the Post (Colony): India and Kashmir’ (2017) 38(11) *Third World Quarterly* 2428.

⁸ Fayaz Bukhari and Zeba Siddiqui, ‘India Moves to Divide Jammu and Kashmir Despite Protests, Attacks’ (*Reuters*, 30 October 2019) <<https://www.reuters.com/article/us-india-kashmir-idUSKBN1X90JB>> accessed 19 April 2020.

⁹ The erstwhile State of Jammu and Kashmir comprising the Kashmir Valley, Jammu, and Ladakh had a Muslim majority character. The Valley is overwhelmingly Muslim (68%) with a Hindu minority (28%); Hindus are the predominant group in the Jammu region (62%) albeit with a 33% Muslim minority; Ladakh is home to a Buddhist majority (51%) with a Muslim minority (44%). Overall, the State of Jammu and Kashmir comprised 68.3% Muslims. See Census Organization of India, ‘Jammu and Kashmir Religion Census 2011’ (Census 2011) <<https://www.census2011.co.in/data/religion/state/1-jammu-and-kashmir.html>> cited in Bilal Ahmad Khan, ‘Demography of Jammu and Kashmir in Historical Perspective’ (2018) 7(3) *Asian Review of Social Sciences* 143.

¹⁰ “Under article 370, Kashmir was permitted to have its own flag, which was red in colour with three equidistant white vertical strips and a white plough. The flag was adopted by Kashmir’s Constituent Assembly on June 7, 1952. The three stripes represented the state’s three regions of Jammu, Kashmir and Ladakh ... The flag was removed from the Civil Secretariat three weeks after the Centre revoked article 370.” Press Trust of India, ‘Jammu and Kashmir State flag Removed from Civil Secretariat’ (*Economic Times*, 25 August 2019) <<https://economic-times.indiatimes.com/news/politics-and-nation/jammu-and-kashmir-state-flag-removed-from-civil-secretariat/articleshow/70829513.cms>> accessed 23 May 2020.

¹¹ Office of the United Nations High Commissioner for Human Rights, ‘Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from

central government dispatched an additional thirty-eight thousand troops to Kashmir.¹² A formidable security presence paralleled a crippling lockdown,¹³ an internet and telecommunication blackout,¹⁴ a ban on public gatherings,¹⁵ a curfew,¹⁶ and extraordinary levels of repression¹⁷ against the local population.

Historically, Kashmir has been subject to political control by New Delhi.¹⁸ Kashmir's 1987 Assembly election proved to be a watershed moment in this regard. A local umbrella opposition conglomerate, the Muslim United Front ('MUF'), emerged as the principal political challenger to the incumbent National Conference ('NC'). The defeat of the MUF in an election, the results of which were widely believed to be rigged, generated widespread resentment.¹⁹ Many MUF candidates were arrested; some who won were declared defeated. Popular anger at the subversion of democracy in Kashmir generated a militant-led movement for azadi, independence.²⁰

June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan' (United Nations 2018).

- ¹² Kamaljit Kaur Sandhu, 'Another 28,000 Troops Rushed to Kashmir Valley week after 10,000 were Deployed' (*India Today*, 2 August 2019) <<https://www.indiatoday.in/india/story/28-000-more-troops-deployed-in-kashmir-valley-1576280-2019-08-02>> accessed 10 May 2020.
- ¹³ Jeffrey Gentleman, 'In Kashmir Growing Anger and Misery' (*New York Times*, 30 September 2019) <<https://www.nytimes.com/2019/09/30/world/asia/Kashmir-lockdown-photos.html>> accessed 10 May 2020.
- ¹⁴ Mayank Bhardwaj, 'India Isolates Kashmir by Shutting down Communications as Big Change Announced' (*Reuters*, 5 August 2019) <<https://www.reuters.com/article/us-india-kashmir-blackout-idUSKCN1UVIR7>> accessed 7 May 2020.
- ¹⁵ Rebecca Ratcliffe, 'Kashmir Leaders Placed under Arrest Amid Security Crackdown' (*The Guardian*, 5 August 2019) <<https://www.theguardian.com/world/2019/aug/05/kashmir-leaders-placed-under-arrest-amid-security-crackdown>> accessed 10 May 2020.
- ¹⁶ Surabhi Tandon and Adil Bhat, 'Kashmir Residents Struggle under Curfew' (*France 24*, 14 August 2019) <<https://www.france24.com/en/20190814-kashmir-exclusive-india-pakistan-tensions-curfew-struggle-report-muslim-modi>> accessed 3 May 2020.
- ¹⁷ People's Union for Civil Liberties, 'Imprisoned Resistance: 5th August and its Aftermath' (*PUCCL* 2019) 40-63 <<http://www.pucl.org/reports/imprisoned-resistance-5th-august-and-its-aftermath>> accessed 20 January 2022; 'About 4,000 People Arrested in Kashmir since 5 August: Govt Sources to AFP' *The Hindu* (18 August 2019) <<https://www.thehindu.com/news/national/about-4000-people-arrested-in-kashmir-since-august-5-govt-sources-to-afp/article61582905.ece>> accessed 7 December 2019.
- ¹⁸ Hilal Bhatt recalls that, "Even prior to the ill-fated elections in 1987, there had been a widespread belief among the people of Kashmir that they had never been given a fair chance to choose their own representatives: since the first such elections, in 1951, the ruling parties had always been those backed by New Delhi." See Hilal Bhatt, 'Fayazabad' in Tariq Ali and others (eds), *Kashmir: The Case for Freedom* (Verso 2011) 79.
- ¹⁹ Farrukh Faheem, 'Interrogating the Ordinary: Everyday Politics and the Struggle for Azadi in Kashmir' in Haley Duschinski and others (eds), *Resisting Occupation in Kashmir* (University of Pennsylvania Press 2018); Sumantra Bose, *Kashmir: Roots of Conflict, Paths to Peace* (Vistaar Publications 2003) 49-51; Chitralekha Zutshi, *Kashmir: History, Politics, Representation* (Oxford University Press 2019).
- ²⁰ The Jammu and Kashmir Liberation Front ('JKLF') dominated the movement for azadi (freedom) during 1990-1993. The JKLF's idea of a united Kashmir independent of both India and Pakistan had little traction in India or Pakistan. Pakistan weakened the JKLF by supporting a range of pro-Pakistan militant factions, most primarily the Hizbul Mujahideen (HM) and

Many Kashmiri women joined Kashmiri men in supporting the movement for independence. During the initial phase of the movement in the early 1990s, women helped militant rebels morally, economically, and emotionally.²¹ Because Kashmir's movement was anchored in Kashmiri society, the Indian state's counter-offensive was not restricted to armed militants – it included the rebellion's social base, i.e., Kashmiri men and women. Kashmiri homes and bodies thus transformed into targets and sites of violence in an all-encompassing counter-offensive to contain the rebellion. For precisely this reason, women's identification and support for Kashmir's political struggle was inextricable from struggles of everyday survival and resistance in a conflict “where the binaries of home and outside do not hold and where the home is not an indicator of safety.”²²

A range of literature highlights Kashmir as a complex, multi-layered terrain where the conventional combatant–non–combatant, civil–military boundaries are blurred.²³ As the counter-offensive to contain the rebellion morphed into random and indiscriminate targeting of Kashmiri bodies by state forces, the methods and instruments of repression were gendered and sexualised.²⁴ Kashmir transformed into a space where the practices of repression intruded into social and cultural interstices and private spaces.²⁵

Anthropological studies demonstrate that conflict in Kashmir is as much about violence and the abuse of power inflicted on Kashmiri bodies as it is

its ideology of Kashmir banega Pakistan (Kashmir will join Pakistan). In 1994, the JKLF declared an indefinite ceasefire and continuation of the struggle through peaceful means. See Bose (n 19) 126–134. The JKLF was banned by the Indian state in March 2019 under the Unlawful Activities (Prevention) Act, 1967.

²¹ Mushtaq ul Haq Sikandar, ‘Women in Conflict: Surviving and Struggling in Kashmir’ (2012) 47(9) Economic and Political Weekly 21.

²² Nitasha Kaul and Ather Zia (eds), *Can You Hear Kashmiri Women Speak?: Narratives of Resistance and Resilience* (Women Unlimited 2020) xi.

²³ Cabeiri deBergh Robinson, *Body of Victim, Body of Warrior: Refugee Families and the Making of Kashmiri Jihadists* (Berkeley University of California Press 2013); Haley Duschinski and others (eds), *Resisting Occupation in Kashmir* (University of Pennsylvania Press 2013); Essar Batool and others, *Do You Remember Kunan Poshpora?* (Zubaan Books 2016); Suvir Kaul, *Of Gardens and Graves: Essays on Kashmir, Poetry, Politics* (Three Essays Collective 2015).

²⁴ Office of the United Nations High Commissioner for Human Rights (n 11); Essar Batool, ‘Dimensions of Sexual Violence and Patriarchy in a Militarized State’ (2018) 53(47) Economic and Political Weekly 60; Kaul and Zia (n 22); Samreen Mushtaq, ‘Militarisation, Misogyny and Gendered Violence in Kashmir’ (*London School of Economics and Political Science — Engenderings*, 9 September 2019) <<https://blogs.lse.ac.uk/gender/2019/09/09/militarisation-kashmir/>> accessed 7 March 2022; Aliya Anjum, ‘Moving from Impunity to Accountability: Women's Bodies, Identity, and Conflict-related Sexual Violence in Kashmir’ (2018) 53(47) Economic and Political Weekly 47.

²⁵ Fahad Shah (ed), *Of Occupation and Resistance: Writings from Kashmir* (Tranquebar Press 2013); Ather Zia and Javaid Iqbal Bhat (eds), *A Desolation Called Peace* (Harper Collins 2019); Saiba Varma, *The Occupied Clinic: Militarism and Care in Kashmir* (Yoda Press 2021).

about exercising political and territorial dominance. The field of conflict in Kashmir is thus multi-layered and complex: it is not an exclusively male space, nor is it a straightforward contest between state forces and Kashmiri militants, or between state forces and Pakistan-based militants. Critical gender scholarship on Kashmir illuminates the multiple instrumentalities of gender, especially the gendered field of conflict in Kashmir and the exploitation of gender difference and cultural codes of gender for political ends by state personnel.²⁶

Further, the term ‘Kashmiri women’ within the dominant discourse shaped by mainstream media is generally reductive and permeated with negative stereotypes of Kashmiri women, and by extension, of Kashmiri Muslim society. In mainland India, Kashmiri resistance against occupation and repression is viewed as an outcome of a Pakistan-backed Kashmiri Islamist patriarchy. Within this particular construct, Kashmiri women, as Kaul and Zia note, “are often presented as passive victims of their men and of the overarching political violence.”²⁷ Such representations of Kashmiri women shaped through public ignorance and hostility mask the historicity, complexity and continuity of women’s resistance against the gendered, interlocking systems of militarisation and political violence.²⁸ Against the latter, Kashmiri women witness and struggle to survive amidst a conflict characterised by, among others, democratic subversion, civilian killings, massacres, disappearances, curfews, blindings, the destruction of Kashmir’s civil society, ethnic fragmentation and polarisation, a mental health crisis, and migration.²⁹

By 2010, the Kashmiri struggle transformed into peaceful civic opposition against status quo. Kashmiri women joined civic mobilisations against occupation, militarisation, and repression as women and as Kashmiris. In 2017, for instance, female students joined other students to protest the creation of a security checkpoint at Pulwama’s Degree College. “Young women pelted stones at the police, kicked armoured vehicles, or got into altercations with the armed forces.”³⁰ Over the decades, many young Kashmiri women chose to wear a headscarf — a cultural choice that dovetailed into dominant representations of Kashmiri women as victims of a Kashmiri Muslim patriarchy. Mainstream media represented images of protesting young Kashmiri women with headscarves and covered faces as a sign of an Islamist radicalisation of women.³¹

²⁶ Anjum (n 24); Batool (n 24).

²⁷ Nitasha Kaul and Ather Zia, ‘Knowing in Our Own Ways’ (2018) 53(47) (Economic and Political Weekly) 33.

²⁸ Mir Fatima Kanth, ‘Women in Resistance: Narratives of Kashmiri Women’s Protests’ (2018) 53(47) Economic and Political Weekly 42.

²⁹ Office of the United Nations High Commissioner for Human Rights, ‘Update on the Situation of Human Rights in Indian-Administered and Pakistan-Administered Kashmir from May 2018 to April 2019’ (United Nations 2019) <https://www.ohchr.org/sites/default/files/Documents/Countries/IN/KashmirUpdateReport_8July2019.pdf> accessed 10 July 2022.

³⁰ Kanth (n 28).

³¹ *ibid.*

Such (mis)characterisations served to mask Kashmiri women's subjectivity as self-aware political actors with culturally anchored practices of resistance. As Inshah Malik asserts, "Kashmiri women's refashioning of self and notions of struggle for political freedom are drawn on elements from within their own culture."³²

Moreover, relatively little attention was paid to Kashmiri women's resistance in post-August 2019 Kashmir, even though gender equality was among the stated aims for the revocation of Kashmir's autonomy. The gender justice argument advanced by the Indian state received uncritical support across mainland India. It reinforced the nationalist convergence between Kashmir as threatened territory and Kashmiri women as threatened victims of a Kashmiri Muslim patriarchy — both needing to be secured and saved by the Indian state and by Indian men respectively. Effaced completely were Kashmiri "women's agential roles in resisting the everyday militarisation of their lives ... participation in protest marches ... to speak for themselves and challenge the militaristic state through their everyday negotiations."³³

This article addresses three relatively unexamined gender domains related to Article 370, its revocation, and the political aftermath. The first relates to the gender politics around Article 370. Since 2018, calls for abrogating Article 370 became more strident. The gender justice argument was employed by the government and its nationalist allies to advance the argument that the legal and constitutional protections over Kashmiri land discriminated against the residence and property rights of those Kashmiri women who married non-Kashmiri men. This article contests the legal validity of the gender justice argument with reference to the revocation of Article 370.

The second argument focuses on the convergence between hyper-masculine assertions of power over Kashmiri land and over Kashmiri female bodies through misogynist sloganeering and the objectification of Kashmiri women. The gendered subtext of the message of masculinist dominance over Kashmiri land and bodies conveyed through the August 5, 2019 abrogation is examined and analysed. The confluence between hyper-masculine Hindu nationalist entitlement to Kashmiri women's bodies on the one hand, and Kashmir's annexed territory on the other, is fore grounded.

The third argument relates to the contradiction between the Indian state's claims to gender justice through the revocation of Article 370 in mainland India, and the notable absence of the views of Kashmiri women themselves on the revocation. Many Kashmiri women protested the annexation, yet little

³² Inshah Malik, 'Imaginations of Self and Struggle: Women in Kashmiri Armed Resistance' (2015) 50(49) *Economic and Political Weekly* 60, 66.

³³ Mushtaq (n 24).

attention was paid to the very constituency on whose behalf the revocation was executed.³⁴ Blending critical scholarship on Kashmiri women's resistance through the decades with local Kashmiri reportage of women's protests against the August 5, 2019 revocation, this section reclaims and reaffirms Kashmiri women as critical, self-aware political actors contesting the revocation of Kashmir's autonomy undertaken in their name. The conclusion sums up the salience of Kashmiri women's resistance and underscores its political significance.

A. Women in Kashmir

The extraordinary violence, social chaos, human rights abuse, and the destruction of Kashmir's social capital in the wake of the 1989–1990 rebellion arrested the modest albeit significant achievements of Kashmiri women. Gender norms and roles were dislodged, extended, broken, instrumentalised and subverted as the conflict's dynamics seeped into the personal, social, cultural, and economic capillaries of Kashmir's society. Women transformed into protestors, prisoners, widows, writers, rape survivors, civic activists, mobilisers, *mukhbirs* (informers), prostitutes, and a whole host of other roles shaped by a military occupation.³⁵

Dominant narratives tend to view Kashmiri women as perennial victims of an Islamist and/or militarist patriarchy lacking socio-political understanding or subjectivity. Post-colonial feminist scholars underscore the critical importance of self, agency, and subjectivity towards understanding women in Muslim societies.³⁶ This point has much salience with regard to representations of Kashmiri women as apolitical, agency-less victims of conflict, proxies of Islamist jihadis, or at best, adherents of a male/militant-led Kashmiri nationalism. Such narratives mask and camouflage a context wherein the cultural dimensions of patriarchy in Kashmir are rendered redundant against the everyday violence, brutality, and dehumanisation inflicted by occupation, repression, and dispossession.

Additionally, some of the early feminist scholarship on Kashmir placed Kashmiri women within the larger universalist canvas of armed conflict, highlighting women as both victims and survivors.³⁷ Missing in these accounts

³⁴ People's Union for Civil Liberties (n 17).

³⁵ Sikandar (n 21) 22-23.

³⁶ Saba Mahmood, *Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton University Press 2005); Lila Abu-Lughod, 'Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others' (2002) 104(3) *American Anthropologist* 783.

³⁷ Urvashi Butalia, *Speaking Peace - Women's Voices from Kashmir* (Bloomsbury Academic 2002); Rita Manchanda, *Women, War and Peace in South Asia: Beyond Victimhood to Agency* (SAGE Publications 2001).

were Kashmiri women's local subjectivities shaped by a political understanding of survival amidst daily violence and repression, women's resistance against the status-quo, and women-led public struggles for accountability and justice.³⁸ In effect, as Inshah Malik maintains, "... an assessment of Kashmiri women's agency ... is a complex notion constituted by various identities and performed both as acts of self-formation and in constitutive struggles against oppressive subjection. Kashmiri women's lives are ... scripted by constraints of gender and political occupation."³⁹

Notwithstanding a formidable security presence and continuing violence for over seven decades, Kashmiri women have protested the militarisation, occupation, and repression in Kashmir. The post-2010 civic mobilisations against the status quo witnessed notable participation by women. In 2017, for instance, young women from prominent Srinagar colleges came out collectively for pro-freedom protests; Srinagar schoolgirls thronged the streets and pelted Indian soldiers and armoured vehicles with stones, undeterred by tear gas.⁴⁰ In the same year, after security forces fired tear-gas shells and pellets against students of Pulwama Degree College, female students across various districts in Kashmir organised protests and marches as a mark of solidarity with students of Pulwama – they chanted pro-freedom slogans and demanded the right to self-determination.⁴¹

Further, as a result of the state's counter-offensive, the killing or enforced disappearance of male kin pushed Kashmiri women to assume responsibility as earners and caregivers. Because many rebels were working-class, such killings and disappearances pushed a large number of underprivileged women into economic roles as breadwinners. In the absence of male kin, the rise of working-class female-headed households in a traditional society added to women's vulnerabilities. Working-class widows led a harsh life as female breadwinners with scant economic resources, a disabled and unsympathetic governance machinery, and an omnipresent fear of predatory violence by security forces.⁴² Many widows lead an invisible existence in suffering, struggle, and neglect.⁴³

³⁸ Kaul and Zia (n 22); Ather Zia, *Resisting Disappearance: Military Occupation and Women's Activism in Kashmir* (Zubaan Books 2020).

³⁹ Inshah Malik, *Muslim Women, Agency and Resistance Politics: The Case of Kashmir* (Palgrave Macmillan 2019) 9.

⁴⁰ Inshah Malik, 'Gendered Politics of Funerary Processions: Contesting Indian Sovereignty in Kashmir' (2018) 53(47) *Economic and Political Weekly* 63, 65.

⁴¹ Kanth (n 28) 43.

⁴² 'Half Widow, Half Wife? Responding to Gendered Violence in Kashmir' (Association of Parents of Disappeared Persons 2011) <<https://kafilabackup.files.wordpress.com/2011/07/half-widow-half-wife-apdp-report.pdf>> accessed 18 May 2022.

⁴³ Soudiya Qutub, 'Women Victims of Armed Conflict: Half-widows in Jammu and Kashmir' (2021) 61(2) *Sociological Bulletin Indian Sociological Society* 255.

Furthermore, Kashmiri women were subject to high levels of gender-based violence in Kashmir's extraordinarily militarised conflict. Independent reports testify to the extraordinary levels of sexual abuse by state personnel in Kashmir.⁴⁴ Special security legislation such as the Armed Forces (Special Powers) Act 1958, allowing impunity for the perpetrators of crimes against women, leaves survivors without any legal remedy for justice against gender-based violence by state actors.

In effect, the gendered edge of the Indian state's counter-offensive in Kashmir is coded with a message of political domination, wherein the sexual subjugation of Kashmiri women is both an abuse of public authority and a means to re-inscribe the larger equation of power and dominance over individuals, families, communities, and over Kashmiri society at large. Against this overarching context, Kashmiri women are raped not only because they are women; they are also raped because they belong to an 'other' (Kashmiri) ethnic group.⁴⁵ The gendered, sexualised edge of India's counter-offensive in Kashmir acquired a sharper ethno-nationalist edge in the wake of the August 5, 2019 revocation of Kashmir's autonomy.

II. GENDER POLITICS AND ARTICLE 370

In 1927, Kashmir's ruling monarch Maharaja Hari Singh granted Kashmiris exclusive rights over Kashmiri land, property, and jobs. His intent was to protect the interests of natives and prevent non-natives dominating the administration or from buying or selling Kashmiri land.⁴⁶

⁴⁴ Asia Watch and Physicians for Human Rights, 'Rape in Kashmir: A Crime of War' (Human Rights Watch 1993); Medicins Sans Frontieres, 'Kashmir: Violence and Health' (Medicines Sans Frontieres 2006) <<https://www.msf.org/sites/default/files/2018-08/kashmir-violence-and-mental-health.pdf>> accessed 22 September 2021; Batool and others (n 23); Office of the United Nations High Commissioner (n 11) 28.

⁴⁵ Surabhi Chopra, 'Dealing with Dangerous Women: Sexual Assault under Cover of National Security Laws in India' (2016) 34(2) Boston University International Law Journal 319.

⁴⁶ Through the 1927 and 1932 notifications by Kashmir's Maharaja, Jammu and Kashmir State subjects were vested with exclusive rights to land ownership, immovable property, scholarships, and government jobs in the three regions of Jammu and Kashmir. The protections under the Notifications of 1927 and 1932 were integrated within the Jammu and Kashmir Constitution of 1939 and subsequently within the Jammu and Kashmir Constitution of 1956. The objective of both was to address concerns brought to the notice of the Maharaja regarding the influx of outsiders and their likely appropriation of the property and employment rights of Kashmiris. See MJ Aslam, 'How State Subject Laws of Erstwhile State of JK came into Being: Have Kashmiri Hindus Forgotten it?' (*Countercurrents*, 26 May 2020) <<https://countercurrents.org/2020/05/how-state-subject-laws-of-erstwhile-state-of-jk-came-into-being-have-kashmiri-hindus-forgotten-it/>> accessed 13 January 2022. "At the beginning of the 20th Century 'a new problem confronted the people' - the outsider occupying posts in the administration. In 1912 a definition of the 'State Subject' was formulated for the first time. The cry of 'down with the outsider' was raised mostly by the Hindus. Muslims were excluded from State jobs by the Dogra ruler and were too poor to own lands." See Noorani (n 1).

The continuity of this order by way of Article 35A⁴⁷ was a core condition for Kashmir's accession⁴⁸ to India.

In order to comprehend the instrumentality of the women's rights argument with regard to the revocation, it is useful to situate the latter with reference to Article 35A. The provisions of Article 35A applied to all Kashmiri residents. During the 1960s however, Kashmir's revenue ministry began issuing residence certificates for women till marriage; the ministry also refused to renew the residency status of those Kashmiri women who married non-residents.⁴⁹ This particular gender-specific interpretation⁵⁰ of Article 35A, whereby female permanent residents lost their rights upon marriage to a person outside

⁴⁷ "Article 35A is embedded in Kashmir's history and psyche...The Maharaja's order of June 27, 1932, imposed a ban on 'foreign nationals' in respect of citizenship and purchase of immovable property." See Noorani (n 1). "They [Kashmiris] are afraid that people from India or elsewhere, rich people and others, might come and buy up property there, and thereby gradually all kinds of vested interests would grow up in property in Kashmir on behalf of people from outside. So far as we were concerned, we thought that this was only the existing law there, and the existing law prevails under Article 370 of the Constitution, which I have just read. We thought it was a perfectly justifiable feeling on their part, and that acquisition of property in Kashmir State should be protected on behalf of the people there." It was agreed therefore that: "The State Legislature shall have power to define and regulate the rights and privileges of the permanent residents of the State, more especially in regard to the acquisition of immovable property, appointments to service and like matters." Art 35A is based on a solemn pact between the Union and the State in 1952. It cannot be altered unilaterally. See Jawaharlal Nehru quoted by AG Noorani in Noorani (n 1).

⁴⁸ For many Kashmiris, the 1947 accession was temporary. This claim is based on Prime Minister Nehru's repeated assurances to Kashmiris and to the United Nations that the Kashmiri people were the sole, legitimate arbiters of their political destiny. "We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given not only to the people of Kashmir to the world. We will not and cannot back out of it." Jawaharlal Nehru quoted by Arundhati Roy in Arundhati Roy, 'Seditious Nehru' in Ali (n 18) 126.

⁴⁹ Ather Zia, 'Erasing Kashmir's Autonomous Status' (*AlJazeera*, 14 August 2017) <<https://www.aljazeera.com/opinions/2017/8/14/erasing-kashmirs-autonomous-status>> accessed 8 January 2022.

⁵⁰ In 1965, the Jammu and Kashmir High Court had "ruled that women take on the domicile and nationality of their husband, thus depriving women of their rights." See Riyaz Wani, 'Do Women Enjoy Equal Rights in Kashmir?' (*Tehelka*, 5 December 2013) <<http://www.tehelka.com/2013/12/do-women-enjoy-equal-rights-in-jk/>> accessed 8 January 2022. The landmark Sushela Sawhney judgment in 2002 referred to the 1965 ruling. It recalled the controversy "regarding the loss of status of a female permanent resident on her marriage with a non-permanent resident in *Parkash v Shahni*, 1964 SCC OnLine J&K 34: AIR 1965 J&K 83, by a Division Bench of the Jammu and Kashmir High Court." Ms Sahni, a permanent resident of the State, married a refugee to the State in 1947. Drawing upon the British Nationality and Status of Aliens Act 1914, the Division Bench in 1965 held that "a married woman acquires the 'domicile' of her husband if she had not the same domicile before marriage." However, because of changes in British laws with regard to the 'domicile' of married women, the 2002 ruling held that the domicile of a married woman is to be ascertained in the same way as the domicile of an independent person is ascertained. Accordingly, in its written order, the 2002 judgment overruled the 1965 ruling. For the full judgment, see *State of J&K v Sushela Sawhney*, 2003 SCC OnLine J&K 34: AIR 2003 J&K 83.

the state was, correctly, held to be discriminatory.⁵¹ The controversy was put to rest by a Jammu and Kashmir High Court ruling in 2002 that rejected the executive order which sought to disqualify women of permanent resident status if they married non-residents, on the ground that this constituted a violation of the fundamental right of gender equality applicable to the state under Article 370.⁵² This ruling thus affirmed in law the rights of all Kashmiri female residents in the event of their marriage to a non-Kashmiri.⁵³

Notwithstanding the 2002 ruling, the question of Kashmir's special status continued to be permeated with insinuations of gender discrimination in the mainstream media⁵⁴ and across influential sections of Indian civil society.⁵⁵ The gender justice argument was also invoked by India's higher judiciary in the run-up to the revocation,⁵⁶ reinforcing mainland public opinion and

⁵¹ Such a practice was indeed discriminatory for women who moved out of the state and married non-state men. See Arshie Qureshi, 'Using Women to Justify the Removal of Article 370: The State is Posturing as Patriarch' (*The Citizen*, 24 October 2019) <<https://www.thecitizen.in/index.php/en/newsdetail/index/7/17763/using-women-to-justify-the-removal-of-article-370>> accessed 22 December 2021.

⁵² *State of J&K v Susheela Sawhney*, 2003 SCC OnLine J&K 34, AIR 2003 JK 83.

⁵³ *ibid.* The judgment held that "a daughter of a permanent resident marrying a non-permanent resident will not lose the status of permanent resident of the State of Jammu and Kashmir," thereby clarifying female permanent residents' right to inherit property.

⁵⁴ See, for instance, Ishkaran Singh Bhandari, 'The Case against Article 370' (*The Pioneer*, 21 August 2018) <<https://www.dailypioneer.com/2018/columnists/the-case-against-article-370.html>> accessed 22 December 2021.

⁵⁵ In 2014, an NGO 'We the Citizens' petitioned India's Supreme Court to revoke art 35A on the ground of gender discrimination. Disregarding the 2002 Jammu and Kashmir High Court judgment upholding the right and status of a Kashmiri woman upon her marriage to a non-Kashmiri, in accordance with the Constitutional right to equality, the petition invoked the gender discrimination argument with reference to Constitutional art 6 (Right to Equality): "The petitioners challenge art 35A on the grounds that it results in the unfair treatment of women. They claim that art 6 of the Constitution of Jammu and Kashmir discriminates against women and violates the right to equality. A female descendant of a permanent resident of the State loses her status of permanent residency on marrying a non-permanent resident of the State. However, the same disqualification does not apply to a man who has married a non-resident of the State." See *We the Citizens v Union of India*, Case No. WP (C) 722/2014 in the Supreme Court of India. Several individual petitioners petitioned the Supreme Court on similar grounds. See Aanchal Bansal and Nidhi Sharma, 'Petitioners who Challenged Article 35A Happy Over Changes in Property Rights' (*Economic Times*, 8 August 2019) <<https://economictimes.indiatimes.com/news/politics-and-nation/petitioners-who-challenged-article-35a-happy-over-changes-in-property-rights/articleshow/70581443.cms>> accessed 22 December 2021.

⁵⁶ During a Supreme Court hearing on a petition challenging art 35A, the Additional Solicitor General Tushar Mehta commented that "It can't be denied that there is an aspect of gender discrimination in it (35A)." In response, Ishaq Qadri, former Advocate General of the Government of Jammu and Kashmir stated that "This issue was settled by a full bench of Jammu and Kashmir High Court in the case titled *State of J&K v Susheela Sawhney*, 2002 SCC OnLine J&K 34 by striking down the proviso of the state subject (permanent residency) law according to which women marrying outsiders would lose their permanent resident status." See 'J&K women marrying non-natives don't lose residency rights' (*The Business Standard*, 22 January 2019) <<https://www>

strengthening the case for revocation.⁵⁷ By 2019, the charge of gender discrimination was among the principal legal reasons advanced by the government for the revocation of Kashmir's autonomy. Justifying the revocation in a public speech, the Indian prime minister said, "Due to Article 370, the women of the Jammu and Kashmir were deprived of their rights. Now they will enjoy the same rights as those of men."⁵⁸

Notwithstanding the historical and legal factual position with regard to women's property rights in Kashmir, the gender justice argument portrayed the Indian state as the eternal paternal protector of the putatively oppressed Kashmiri women. "The banner of saving Kashmiri women was [thus] advanced to maximum effect by the Indian government ..."⁵⁹ The narrative of 'gender equality' for Kashmiri women in mainland India obscured Kashmiri jurisprudence upholding the principle of gender equality. That the gender justice argument had no basis in Kashmiri law was ignored in order to justify a hyper-masculine, mainland nationalist narrative of Kashmiri women as passive victims of Kashmiri men⁶⁰ and by extension, of a peripheral, regressive Kashmiri Muslim ethnic minority which mandated integration and assimilation within a putatively progressive mainland. Colonial cultural tropes and hyper masculine nationalist posturing converged. "Narratives of progressive Hindus versus backward Muslims who need to be enlightened" and "the violence of militarization in Kashmir ...[is] perceived as the expected natural behaviour of a strong masculinist state."⁶¹

For Kashmiri Muslim women, the irony of political, bodily, and ethnic domination under the pretext of women's empowerment was a particularly painful one. As Kashmiri women's rights, society and culture transformed into alibis for justifying the revocation, its outcome was no less injurious than physical violence. Kay Warren notes that "conceptions of violence that privilege harm and fail to question the ways in which cultural and political practices mediate

business-standard.com/article/pti-stories/j-k-women-marrying-non-natives-don-t-lose-residency-rights-expert-119012201079_1.html> accessed 22 December 2021.

⁵⁷ Dilution of Article 35A could potentially change the demography of the Valley, especially since the provision was enacted to protect the culture and the distinct character of the region. Apurva Viswanath, 'As heat in JK builds up, Pending in Supreme Court: 7 Petitions against Article 35A' (*Indian Express*, 29 July 2018) <<https://indianexpress.com/article/india/centre-sends-more-forces-to-kashmir-triggers-speculation-on-fate-of-article-35a-5859202/>> accessed 1 December 2021.

⁵⁸ 'Article 370 Deprived Women of their Rights ... Top quotes from PM Modi's address to the nation' (*Outlook*, 8 August 2019) <<https://www.outlookindia.com/website/story/india-news-top-8-quotes-from-prime-ministers-address-to-nation/335840>> accessed 22 December 2021.

⁵⁹ Kaul and Zia (n 22) viii.

⁶⁰ *ibid.*

⁶¹ Nitasha Kaul, 'India's Obsession with Kashmir: Democracy, Gender, (Anti-)Nationalism' (2018) 119 *Feminist Review* 126, 137.

the experience of violence” are limited.⁶² Notwithstanding the enduring significance of the nature, scale and implications of physical and bodily harm inflicted by institutional violence, it is nevertheless important to foreground how cultural and political practices influence and shape the experience of violence.⁶³ In this respect, the gender justice argument advanced by the Indian state to justify Kashmir’s political and territorial subordination exemplifies how cultural meaning and narrative underpin and augment the execution and practice of institutional violence. Instrumental use of Kashmiri women’s rights and by extension, Kashmir’s culture and society by the state served to facilitate and justify the institutional violence that followed.

Further, anthropologists Scheper-Hughes and Bourgois assert the significance of social and cultural dimensions of violence which give violence its power and meaning.⁶⁴ The concept of violence as a continuum between everyday practices of violence and explicit acts of state violence and repression⁶⁵ is especially useful in tracing the continuity between Kashmir’s over seven-decade-old territorial occupation, the history of egregious state violence and repression, the militarisation of everyday life in Kashmir, and the cultural trope of the victimised ethnic-minority Kashmiri Muslim woman rescued by the revocation of Article 370.⁶⁶

The gender-justice argument further functioned as an alibi to advance and entrench an unstated albeit manifest intent of domination of a different (Kashmiri Muslim) ethnicity through the revocation of Article 370. The term ‘ethnic domination’ here connotes the exercise of power by a dominant majority, independent of institutional constraints, whereby:

the state behaves more as an agent of the dominant/majority ethnic community ... to serve its ethnic interests while minority/weaker groups face a threat from those institutions on which they rely for protections, equity and justice...bodies of popular representation (parliament) and adjudication (judiciary) ... function like a mere rubber-stamp of the dominant/majority ... community.⁶⁷

⁶² Kay B Warren, *The Violence Within: Cultural and Political Opposition in Divided Nations* (Westview Press 2013) 3.

⁶³ *ibid.*

⁶⁴ Nancy Scheper-Hughes and Philippe Bourgois, *Violence in War and Peace: An Anthology* (Blackwell 2004) 1.

⁶⁵ *ibid* 20-21.

⁶⁶ Kaul and Zia (n 22).

⁶⁷ P Sahadevan, ‘Managing Internal Conflicts in India, Nepal, Sri Lanka and Myanmar’ in VR Raghavan (ed), *Policy Choices in Internal Conflicts: Governing Systems and Outcomes* (Vij Books 2013) 82.

In the new nationalist narrative, Kashmir was a conquered territory with a people who had been shown their rightful place in a new Hindu India, where ‘different’ religious and/or ethnic minorities had to either assimilate or be ‘othered’.⁶⁸ Dibyesh Anand notes that the August 5, 2019 move stemmed from a sense of unconcealed joy at “the humiliation of Kashmir’s Muslims for daring to be different”. “Ab Hindu Rashtra banega” (We will now build a Hindu nation), the ordinary vegetable vendor in Ranchi [said] to me with sadistic glee: “Now the Muslims will become Hindu out of fear or they will go to Pakistan or they will face... He let the sentence trail off, an unspoken threat.”⁶⁹

III. LAND, WOMEN AND ETHNO-POLITICS IN KASHMIR

Prior to August 2019, there existed an across-the-board acquiescence within the Indian polity for Kashmir’s territorial occupation, repression, the disabling of civilian institutions, the targeting of Kashmiri bodies, and impunity for crimes by state personnel. Since 2018, however, the gender-justice argument advanced by the state to justify the revocation functioned as an instrument to inscribe majoritarian ethnic dominance over Kashmiri land and bodies. Ethnic stereotypes of Kashmir as an ‘other’ misogynist Muslim patriarchy peopled by hard-line Islamist/terrorist Kashmiri men from whom Kashmiri Muslim women and Kashmir’s territory needed to be rescued, were widely circulated. Noting the intersection between ethnicity and the revocation of Article 370, Kashmiri anthropologist Ather Zia asserts, “In this context, Kashmir’s autonomous status was framed as creating a shield for an oppressive patriarchal structure which perpetrated gender injustice as exemplified by the women who married non-Kashmiris”.⁷⁰

The objectification and misogynist fetishization of Kashmiri Muslim women in the aftermath of the removal of Kashmir’s autonomy scaled higher levels

⁶⁸ “Hindutva was inimical to all of India’s minority religions to the extent that it sought either to assimilate them into the Hindu fold or explicitly othered them as foreign to India.” Medha Menon, ‘The Revocation of Kashmir’s Autonomy: High Risk Hindutva Politics at Play’ (German Institute of Global and Area Studies Focus Asia 2019). <<https://www.giga-hamburg.de/en/publications/giga-focus/the-revocation-of-kashmir-s-autonomy-high-risk-hindutva-politics-at-play>> accessed 28 September 2021.

⁶⁹ Dibyesh Anand, ‘Kashmir is a Dress Rehearsal for Hindu Nationalist Fantasies’ (*Foreign Policy*, 8 August 2019) <<https://foreignpolicy.com/2019/08/08/kashmir-is-a-dress-rehearsal-for-hindu-nationalist-fantasies/>> accessed on 22 December 2021.

⁷⁰ Ather Zia, ‘The Specter of Gender Discrimination in the Removal of Kashmir’s Autonomy’ (Association for Political and Legal Anthropology, 1 September 2020) <<https://politicalandlegalanthro.org/2020/09/01/the-specter-of-gender-discrimination-in-the-removal-of-kashmir-s-autonomy/>> accessed 3 March 2022.

post-August 5, 2019.⁷¹ The appropriation of Kashmir's territory through the revocation became inextricable from mainland Indian hyper-masculine entitlement to Kashmiri women's bodies. Many Hindu nationalist men celebrated the idea of their entitlement to Kashmiri Muslim women and to Kashmiri land in the wake of the revocation. While Kashmiris across the Valley and beyond were cut off from each other due to a blanket communications blackout in the region, news reports and social media messages were flooded with misogynist messages across mainland India targeting Kashmiri women. Social media was inundated with celebratory messages among "Hindu men asserting 'victory' by claiming they can now 'get girls' from Kashmir."⁷² Describing the misogynist fetishization of Kashmiri women's bodies after the revocation, a Kashmiri woman wrote, "The way women of Kashmir are exoticised and objectified on a daily basis in India, the way their bodies are portrayed as vulnerable and used to create fear and intimidation, has heightened the sense of being preyed upon."⁷³

A Kashmiri scholar noted the misogyny equating Kashmiri women with property in the wake of the revocation of Kashmir's autonomy: "You don't need to spend money on buying land in Kashmir when you can simply marry a Kashmiri girl and ask [for] land in dowry", she noted. "If this bill is for the rights of Kashmiri women," she went on to ask, "why are people abusing and insulting Kashmiri girls on social media?"⁷⁴

The gendered subtext of the revocation, as Hana Fatima wrote, "is clear: Kashmiri women are no longer an unattainable marital conquest for civilian Indian men. Military personnel or not, Kashmir is within reach."⁷⁵ Thus, the Chief Minister of Haryana, a BJP-ruled north Indian state declared, "Nowadays people are saying the path to Kashmir has been cleared. Now we

⁷¹ Samreen Mushtaq, 'The Violent Misogyny that Partners India's Stripping of Kashmir's Autonomy' (*TRT World*, 9 August 2019) <<https://www.trtworld.com/opinion/the-violent-misogyny-that-partners-india-s-stripping-of-kashmiri-autonomy-28889>> accessed 3 May 2020.

⁷² Piyasree Dasgupta, "'Get a Wife from Kashmir": Article 370 News has Sparked a Horrible Wave of Misogyny' (*Huffington Post*, 6 August 2020) <https://www.huffingtonpost.in/entry/article-370-kashmir-women-tiktok_in_5d494898e4b0d291ed064107> accessed 7 May 2020.

⁷³ Adnan Bhat, 'Kashmiri Women are the Biggest Victims of this Inhuman Siege' (*Al Jazeera*, 21 August 2019) <<https://www.aljazeera.com/indepth/features/women-biggest-victims-inhumane-siege-190820122327902.html>> accessed 30 April 2020.

⁷⁴ Iram Rizvi, 'Robbed of "Special Status", Kashmiris Feel Insecure, Humiliated, and Reduced to a Bounty of War' (*People's Review*, 15 August 2019) <<https://peoplesreview.in/opinion/2019/08/robbed-of-special-status-kashmiris-feel-insecure-humiliated-and-reduced-to-a-bounty-of-war/>> accessed 20 March 2022.

⁷⁵ Hana Fatima, 'Women's Bodies as Battlegrounds: Social Media Discourse and the Weaponization of Rape in Kashmir' (*The American Bazar*, 24 February 2020) <<https://www.americanbazaaronline.com/2020/02/24/womens-bodies-weaponization-of-rape-in-kashmir-440299/>> accessed 20 March 2022.

will bring girls from Kashmir.”⁷⁶ Likewise, Vikram Saini, a legislator from the Hindu nationalist BJP said, “his party workers were excited over the scrapping of Article 370 as it would now enable them to marry ‘gori’ (fair) Kashmiri girls ... He said bachelors in BJP were now welcome to go to Kashmir, buy plots of land and get married. Now anyone can get married to a Kashmiri girl without any issue ... Now Kashmiris have attained freedom.”⁷⁷ Nivedita Menon, a feminist academic, observed that these were “proclamations of conquest and plunder [that] reveal the real intention behind the abrogation of 370.”⁷⁸ In effect, the convergence between Kashmiri land and Kashmiri women mirrored an Indian colonialism rooted in fantasy and desire for women and landscape.⁷⁹

For Kashmiri women in Kashmir, the confluence between Kashmir’s occupation, annexation, and cultural stereotyping was disturbing. Adding to women’s bodily insecurity in post-revocation Kashmir was a gendered, sexualised edge of ethno-political dominance. In his testimony to the Associated Press five weeks after the revocation, Abdul Ghani Dar, aged sixty, narrated how soldiers raided his home in the hamlet of Marhang, south Kashmir, seven times since early August, adding that he sends his daughter to another location before they arrive. “They say they have come to check on my son but I know they are looking for my daughter,” Dar said, his eyes welling with tears.⁸⁰ Residents of three other villages said soldiers had threatened to take girls away from their families for marriage. “They are marauding our homes and hearths like a victorious army. They are now behaving as if they have a right over our lives, property, and honour.”⁸¹

In another testimony, a woman of Kupwara in north Kashmir told a visiting civil society group after the August 5, 2019 move that the army barged into her home. Upon protesting the intrusion, she was threatened. “Do you know what happened in Konan Poshpora (sites of mass rapes by the army in 1991)? We will do the same with you all.”⁸²

⁷⁶ Manohar Lal Khattar, quoted in ‘Haryana CM Manohar Lal Khattar Triggers Row Over Article 370 Assertion’ (*Times of India*, 10 August 2019) <<https://timesofindia.indiatimes.com/city/gurgaon/now-we-can-bring-girls-from-kashmir-says-haryana-cm-ml-khattar/article-show/70617564.cms>> accessed 20 March 2022.

⁷⁷ ‘BJP Bachelors Can Now Marry White-Skinned Kashmiri Women, Says MLA After Article 370 Move’ (*News18 India*, 7 August 2019) <<https://www.news18.com/news/india/bjp-bachelors-can-now-marry-white-skinned-kashmiri-women-mlas-shocker-on-article-370-2262103.html>> accessed 20 March 2022.

⁷⁸ Bhat (n 73).

⁷⁹ Kaul and Zia (n 22).

⁸⁰ Aijaz Hussain, ‘Kashmiris Allege Night Terror by Indian Troops in Crackdown’ (*Associated Press*, 14 September 2019) <<https://apnews.com/52b06a124a5a4469984793d3c208733d>> accessed 15 September 2019.

⁸¹ *ibid.*

⁸² Ameen Furquan, ‘Kashmir Reports: What Rights Teams have Found’ (*The Telegraph*, 19 October 2019) <<https://www.telegraphindia.com/india/kashmir-reports-what-rights-teams-have-found/cid/1712774>> accessed 23 October 2019.

Both reports illuminate the gendered edge of ethno-political practice in Kashmir in the aftermath of the annexation of Kashmir's territory, where threats to Kashmiri women's bodily and sexual integrity by state forces were integral to nationalist assertions of majoritarian power and dominance over Kashmiri land and bodies. In other words, the misogynist entitlement to Kashmiri women's bodies by mainland Indian men enabled by the revocation was inseparable from an overarching continuum of ethno-political domination intent on Kashmiri subordination through sexual humiliation.

IV. KASHMIRI WOMEN'S RESISTANCE

For over seven decades, against daunting and formidable odds, Kashmiri women survived and resisted occupation, repression, annexation, violence, loss, dispossession, sorrow, and despair.⁸³ Women in Kashmir survive "the everyday tribulations of militarization ... and its multi-faceted gender-based violent manifestations,"⁸⁴ yet Kashmiri women are usually absent in dominant narratives on Kashmir, centred on territory, militancy, and national security. Representations of Kashmiri women as agency-less victims of Kashmir's patriarchal society, Kashmiri militants, and militarised violence are routine.⁸⁵ Contrary to such representations, however, Kashmiri women's resistance against militarisation, occupation and dispossession, and their pioneering civic struggles for accountability and justice are integral to Kashmir's struggle for liberty and justice.⁸⁶ As Samreen Mushtaq, a Kashmiri scholar, writes:

It is important to recognize women's agential roles in resisting the everyday militarization of their lives. For instance, many women across Kashmir have been actively involved with the Association of Parents of Disappeared Persons, an anti-disappearance collective comprising kin of enforced disappeared men and boys. As they assemble on the 10th of every month in the summer capital city of Srinagar, they visibilise and re-member/remember the bodies of their disappeared kin. Their collective mourning and memorialisation thus become deeply political acts of resistance as they demand accountability and freedom ... [Further], Kashmiri women through their writings, resistance poetry and

⁸³ Zia (n 38); Malik (n 40) 64; Sikandar (n 21) 21-24; Mona Bhan and Parvaiz Bukhari, 'Inside Kashmir – A Heroic Fight for Justice' (*Sapiens*, 25 May 2017) <<https://www.sapiens.org/culture/kashmir-justice/>> accessed 28 February 2022.

⁸⁴ Samreen Mushtaq, 'Home as the Frontier: Gendered Constructs of Militarised Violence in Kashmir' (2018) 53(47) *Economic and Political Weekly* 54; Kaul and Zia (n 22).

⁸⁵ Adil Bhat, 'Oppressed by Religion, Kashmiri Women are Forgetting how to Sing' (*The Wire*, 20 January 2017) <<https://thewire.in/culture/kashmir-women-zaira-wasim>> accessed 8 February 2022.

⁸⁶ Zia (n 38).

participation in protest marches have come out to speak for themselves and challenge the militaristic state through their everyday negotiations.⁸⁷

In addition to women's political activism focused on using memory as a means to demand accountability from the state for the disappeared, Kashmiri women were integral to the post-2010 popular civic upsurges against a spate of civilian killings by security forces.⁸⁸ During the 2016 mass civic uprising, for instance, hundreds of women across Kashmir, especially from rural areas, participated in protests for which several women were killed, blinded, and harassed as part of collective punishment for joining Kashmiri men in public protest.⁸⁹

Further, away from the public domain, Kashmiri women's resistance encompasses myriad social and cultural spaces wherein women's words and bodies craft and forge alternate critical intersectional solidarities. Uzma Falak notes that, "Women's embodied practices, everyday memory projects, and intimate worlds shape and are shaped by...vjestoan, a critical and affective female alliance and friendship, a companionship of resistance."⁹⁰

There is, however, little public interest or sympathy for the views of Kashmiri women in mainland India where the revocation of Article 370 found resounding acceptance. There is a silence around Kashmiri women's views or opinion regarding the revocation. Neither the Indian state nor India's polity, nor indeed mainland Indian society, expressed much interest in the views of Kashmiri women themselves regarding the move. With the exception of a report by a women's delegation on violence against women and children in the aftermath of the August 5, 2019 move⁹¹ and a few reports on the human rights situation in the Kashmir Valley by civil society groups,⁹² there was a studied silence among mainland women and feminists regarding Kashmir's

⁸⁷ Mushtaq (n 24).

⁸⁸ Parvaiz Bukhari, 'Summers of Unrest Challenging India' in Sanjay Kak (ed), *Until My Freedom Has Come: The New Intifada in Kashmir* (Penguin 2010); Parvaiz Bukhari, 'Kashmir 2010: The Year of Killing Youth' (*The Nation*, 22 September 2010) <<https://www.thenation.com/article/archive/kashmir-2010-year-killing-youth/>> accessed 7 March 2022; Aaliya Anjum and Saiba Varma, 'Curfewed in Kashmir: Voices from the Valley' (2011) 45(35) *Economic and Political Weekly* 10; Hafsa Kanjwal, Durdana Bhat and Masrat Zahra, "'Protest' Photography in Kashmir' (2018) 46(3) *Women's Studies Quarterly* Fall/Winter 85.

⁸⁹ Essar Batool, 'Women's Resistance in Kashmir' (*AWID*, 22 February 2017) <<https://www.awid.org/news-and-analysis/womens-resistance-kashmir>> accessed 19 October 2021.

⁹⁰ Uzma Falak, 'The Intimate World of Vjestoan: Affective Female Alliances and Companionships of Resistance in Kashmir' (2018) 53(47) *Economic and Political Weekly* 76.

⁹¹ 'Women's Voice: A Fact-Finding Report on Kashmir 17-21 September 2019' (*Kashmir Action*, 2019) <<https://www.kashmiraction.org/womens-voice-fact-finding-report-on-kashmir>> accessed 19 October 2021.

⁹² People's Union for Civil Liberties (n 17); Jean Dreze and others, 'Kashmir Caged' (*Kafila*, 14 August 2019) <<https://kafila.online/2019/08/14/kashmir-caged-a-report-from-the-ground/>> accessed 19 October 2021.

militarisation, occupation and annexation. The limited civil society discourse in mainland India focused on the post-August 5 human rights violations in Kashmir. Women's silence in the mainland served to legitimise the revocation and the project of ethno-dominance in Kashmir. It is part of a continuing mainland unease and reluctance to address unresolved political and moral questions regarding Kashmir's status, its occupation, and the stated reasons for the revocation. As Ather Zia notes, "... gender discrimination which the government of India had propped up as a reason for the removal of autonomy seemed even more a ruse, deployed in propagating the Indian religious ethno-nationalist project."⁹³

In contrast to mainland India, however, local civic resistance in Kashmir emerged and attempted to sustain itself. One pocket of resistance was Soura, north Srinagar, where large numbers of women joined men to protest the revocation. Protests in Soura contested the government's narrative that Kashmiris were happy with the abrogation of Article 370:

We protest because our rights have been taken away ... The Government (of India) claims that these laws (Article 370 and Section 35a) led to injustice to Kashmiri women. Real injustice is when our children, husbands and brothers are taken away (by security forces).⁹⁴

Some twenty thousand to twenty-two thousand people of the Soura community including women spent their nights maintaining a vigil and preventing security forces from breaching their barricades.⁹⁵ Kashmiri writer Nawal Ali Watali reported on women's resistance in Soura:

There was not a degree of fear in the eyes of women, regardless of their age. After the protest, which was entirely peaceful, the police fired pellets from a distance injuring four people. This infuriated women and they picked up stones. Before they could have hurled them at the police, they got to know that some of the neighbourhood boys were detained. They put down the stones and gave the police a chase instead

⁹³ Zia (n 70).

⁹⁴ Aditya Menon, 'Protests in Kashmir: How Srinagar's Soura Became the Hub of Anger' (*The Quint*, 14 September 2020) <<https://www.thequint.com/news/india/kashmir-protests-srinagar-soura-article-370-media-army-crpf>> accessed 7 May 2020. See also 'We Won't give an Inch: India Faces Defiance in Kashmir's Gaza' (*TRT World*, 22 August 2019) <<https://www.trt-world.com/asia/we-won-t-give-an-inch-india-faces-defiance-in-kashmir-s-gaza-29190>> accessed 5 May 2020.

⁹⁵ Azaan Javaid, 'Why Some in Western Media Call this Srinagar Neighborhood Kashmir's Gaza' (*The Print*, 29 August 2019) <<https://theprint.in/india/why-some-in-western-media-call-this-srinagar-neighbourhood-kashmir-s-gaza/283258/>> accessed 18 May 2020.

... Back in the neighbourhood, Amina Jan treated pellet victims. She is a community paramedic. Other women assisted her with water, bandages, and other medical instruments.⁹⁶

The Soura protests were witness and testimony to an unacknowledged women's resistance in Kashmir. They reaffirm Kashmiri women as self-aware political actors, possessing political judgment and exercising political agency to defend their land, homes, dignity, and honour. Nawal Ali Watali and Ufaq Fatima's report on women's resistance in Soura rendered Kashmiri women's courage, resistance and forbearance against formidable odds visible; it also contested dominant tropes of the apolitical veiled Kashmiri woman "as a body sans capacities to think and reflect on her political condition."⁹⁷ Women in Soura affirmed Kashmiri women as critical political actors raising their voice and bodies to protest the revocation.

The story of Kashmiri women's resistance is, however, inextricable from the story of Kashmir's struggle for liberty and justice. If anything, Kashmiri women's resistance in post-revocation Kashmir symbolises the history, continuity, and enduring legitimacy of a Kashmiri struggle for justice and liberty, vividly captured by journalist Smita Gupta more than three decades ago:

But it is at Nowshera that we get a ringside view of what to all appearances is a liberation movement. Young men, old men, women, teenagers, march in an unending stream through the streets in complete defiance of the prohibitory orders that are in force. They are coming from Ganderbal and Kangan, 25 kilometres from Srinagar and their destination is Lal Chowk in the heart of the city [of Srinagar] ... Women peeping out of the homes that overlook the street softly echo the slogans being shouted. It is the most incredible sight.⁹⁸

This history and memory of resistance is testament to women's grit and courage in a conflict characterised by the politicisation of women's private spaces and of women's bodies, a struggle wherein Kashmiri women consistently craft and affirm a collective vision of moral and political justice. This

⁹⁶ Nawal Ali Watali and Ufaq Fatima, 'Women Overlooked in Kashmir's Resistance Against India's Iron-fisted Policy' (*TRT World*, 9 October 2019) <<https://www.trtworld.com/perspectives/women-overlooked-in-kashmir-s-resistance-against-india-s-iron-fisted-policy-30463>> accessed 22 May 2020.

⁹⁷ Malik (n 40) 64.

⁹⁸ Smita Gupta, 'Storm Over Srinagar' *The Independent* (Mumbai, 17 February 1990); Seema Kazi, *Between Democracy & Nation: Gender and Militarization in Kashmir* (Women Unlimited 2009) 88.

struggle, as Kashmiri writer Uzma Falak maintains, is a part of a ‘historical continuum’ of Kashmiri women’s lives.⁹⁹

Kashmiri women understand well that the real purpose of the revocation was to erase Kashmir’s identity by ending Kashmiri sovereignty over Kashmiri land.¹⁰⁰ Kashmiri women also know that Kashmir’s struggle for justice is not limited to re-instating Article 370 without ending militarisation, occupation, and repression in Kashmir. In the words of a woman from Soura, “Our fight is bigger than Article 370. The abrogation of the article stripped us off our identity; however, our battle is older than this. We are fighting for Kashmir’s liberation and until that is achieved, we will keep fighting, even if it takes several months or years.”¹⁰¹

V. CONCLUSION

Kashmiri women’s resistance contests nationalist, misogynist tropes of the passive, repressed Kashmiri Muslim woman integral to mainland Indian nationalist narratives underpinning the revocation of Article 370.¹⁰² Women’s resistance in Kashmir further contradicts and challenges state claims to popular acquiescence for the revocation by Kashmiris.¹⁰³ It affirms Kashmiri women as political actors in their own right, with a clear political understanding of the implications of the revocation for all Kashmiris, especially for Kashmiri women themselves. Further, women’s resistance, of which Soura is an example, is testament to Kashmiri women’s political resolve and endorsement for a Kashmiri struggle for justice, shaped and sustained through history, collective memory, and a strong sense of a shared destiny other than what the Indian state has ordained for Kashmiri women and men.¹⁰⁴

⁹⁹ Falak (n 90) 76.

¹⁰⁰ In response to the question regarding integrating Kashmir with India, jurist AG Noorani pointed out, “It is already there. What they mean by integration is just to remove its identity.” See Akshay Deshmane, ‘Kashmir: Scrapping Article 370 “Unconstitutional”, “Deceitful” Says Legal Expert A.G. Noorani’ (*Huffington Post*, 5 August 2019) <https://www.huffpost.com/archive/in/entry/kashmir-article-370-scrapping-constitutional-expert-reacts-noorani_in_5d-47e58de4b0aca341206135> accessed 22 May 2020.

¹⁰¹ Nawal Ali Watali and Ufaq Fatima, ‘Women Overlooked in Kashmir’s Resistance against India’s Iron-fisted Policy’ (*TRT World*, 9 October 2019) <<https://www.trtworld.com/perspectives/women-overlooked-in-kashmir-s-resistance-against-india-s-iron-fisted-policy-30463>> accessed 22 May 2020.

¹⁰² Kaul and Zia (n 22) ix.

¹⁰³ See for instance Manish Shukla, ‘Majority of Kashmiri People are Happy Article 370 has Gone: NSA Ajit Doval’ (*DNA News*, 8 September 2019) <<https://www.dnaindia.com/india/report-majority-of-kashmiri-people-are-happy-article-370-has-gone-nsa-ajit-doval-2788218>> accessed 22 May 2020.

¹⁰⁴ Gurharpal Singh makes this point with reference to India’s peripheral ethnic minority regions. See Gurharpal Singh, ‘Reassessing Conventional Wisdom: Ethnicity, Ethnic Conflict and India as an Ethnic Democracy’ in Sanjib Baruah (ed), *Ethnonationalism in India* (Oxford 2010).

Finally, women's resistance in Kashmir raises moral questions regarding India's methods to extinguish Kashmiri resistance, identity, and aspiration. Women's resistance in Kashmir affirms Kashmir as a struggle about people and justice. A repressive, militarist response may contain, but cannot erase a people's imagination crafted through history, memory, and collectivity. Most importantly, perhaps, Kashmiri women's resistance foregrounds the compelling need for a just, people-centric resolution to the conflict in Kashmir through peaceful, democratic means.