

# Law, Gender and Governance in Kashmir

*Seema Kazi*

## Introduction

It is widely accepted that contemporary conflicts are gendered and that women are subject to gender-specific forms of violence and discrimination. This point is especially salient in light of the United Nations Security Council Resolution 1325 affirming the significance of gender in armed conflict.<sup>1</sup> Gender mainstreaming is regarded as key towards instituting governance reform and enhancing political stability in conflict and post-conflict situations (El Jack, 2003, 3). This particular argument around gender, governance and conflict is premised on redressing gender-blind understandings of conflict and post-conflict reconstruction in states weakened by war – such as in the Balkans, Africa and the Middle-East.

The conflict in Indian-administered Kashmir,<sup>2</sup> however, does not fall within this category. The human tragedy in Kashmir is not the outcome of a weak or disintegrating nation-state. On the contrary, Kashmir has been subject to decades of undemocratic, unrepresentative and authoritarian governance by a relatively stable Indian state that, in turn, generated a militant-led movement for independence in 1989–90. The Kashmiri rebellion against the Indian state prompted a counter-offensive characterized by an extraordinary military mobilization and large-scale human rights abuses by state security personnel against Kashmiri civilians. It also simultaneously served to reinforce the India-Pakistan rivalry over the territory of Kashmir. Both dimensions transformed Kashmir into the most militarized territory in the world (Mathur, 2014; Kashmir Media Service, 2013).

In keeping with the characteristics of contemporary conflicts, the conflict in Kashmir assumed gendered overtones. Yet, as a result of the aforementioned historical and political reasons, Kashmir's gendered realities were shaped by rather different dynamics than the conflicts in Africa or the Middle-East. In contrast to the latter, Indian governance regimes in Kashmir were among the principal sources of the conflict. Accordingly, Kashmiri women were not victims of the social chaos

produced by a weak state or failing governmental authority. On the contrary, women in Kashmir faced a formidable and brutal state-led military occupation, an intrusive and predatory state security presence, a pervasive climate of violence, fear and repression, and a culture of public unaccountability and impunity for sexual crimes committed by state security forces.

This particular empirical context within the confines of a 'democratic' state mandates a rather different analytic framework. Accordingly, in contrast to approaches focusing exclusively on gender relations in a particular conflict zone, this chapter foregrounds the issue of rape of Kashmiri women by Indian security forces within Kashmir's wider institutional and legislative setting. Such a frame illustrates how larger and overarching systems of power and dominance shape and influence women's lived experience of law and governance in Kashmir. It highlights the gendered aspects of state security practice, as well as Kashmir's deep and enduring deficit of justice and accountability for sexual crimes committed by state personnel. By way of conclusion, the chapter emphasizes the regime of impunity that forecloses accountability or justice for such crimes committed by state personnel against Kashmiri women, and by extension, the illegitimacy of a state that uses sexualized repression to maintain its unlawful hegemony in Kashmir.

### **The (il)legality of Indian rule: Ethnicity, governance and repression**

Kashmir's recent history is witness to grave breaches of international and domestic law. Both dimensions are not mutually exclusive; rather, they are deeply intermeshed. It is therefore useful to begin the discussion by illustrating the overlap between both. Kashmir or the Valley of Kashmir – also the location of the conflict – was part of the former princely state of Jammu and Kashmir. Princely states were not part of British India<sup>3</sup> and their option upon British withdrawal from the subcontinent was restricted to joining one of the two successor states of India or Pakistan.<sup>4</sup> Without diverging into the multiple and complex events surrounding Kashmir's absorption within India, suffice it to state here that developments within the former princely state prior to and after 1947 (see Snedden, 2013, 41–57), together with the signing of a *provisional* accession to India by the ruling monarch Maharaja Hari Singh prompted war between India and Pakistan over the territory of Kashmir.<sup>5</sup> Upon cessation of military hostilities in 1948, a United Nations supervised ceasefire line, later known as the LOC, divided the territory of the erstwhile princely state between the Indian state of Jammu and Kashmir (comprising the Kashmir Valley, Jammu and Ladakh) and

Pakistani Kashmir (comprising Azad Kashmir, Gilgit and Baltistan). Subsequent United Nations Resolutions in 1949 and 1951 affirmed the legal principle that the future of Kashmir should be determined by a vote of its people by way of a free and impartial plebiscite.<sup>6</sup> Both states committed themselves to a plebiscite, yet neither did much to implement the same.<sup>7</sup>

If the denial of a plebiscite in Indian-administered Jammu and Kashmir (IJK) constituted a grave breach of an international legal obligation on the part of India, its subsequent declaration of Kashmir's provisional accession as permanent, served to heighten local Kashmiri grievances. Having reneged on the plebiscite, and in the absence of a legal mandate to rule Kashmir, the Indian claim to Kashmir came to rest on the very document that had provoked war between India and Pakistan, namely, the Instrument of Accession. By the yardstick of international law, India's resort to the Instrument of Accession as a justification for juridical control over Kashmir was on questionable legal grounds. There exist several discrepancies with regard to the accession signed by Kashmir's Maharaja Hari Singh in 1947. International law deems the Instrument of Accession invalid since Hari Singh was not in control of his territory and therefore lacked the authority to sign such a document (Snedden, 2013, 41–57).

Further, the Accession was made under duress and coercion that, according to Article 52 of the Vienna Convention on the Law of Treaties, renders it invalid (Rangarajan, 2014, 50). In addition, there is evidence to suggest that Indian troops were already in Kashmir before the Maharaja had signed the Accession Treaty, thereby raising serious concern regarding the legality of the accession (Lamb, 1992). Finally, there remain doubts as to whether the Instrument of Accession was ever signed: international law stipulates that every treaty entered into by a member state of the United Nations must be registered with the United Nations Secretariat. India has never presented or registered the Instrument of Accession with the United Nations. For these reasons, Kashmir's accession to India is legally questionable, if not invalid (Kapur and Narang, 2006). In the absence of international legal validity for its claim to Kashmir and in the face of local Kashmiri resentment against its forced annexation, India maintained its territorial and political hegemony in Kashmir through the twin policies of coercion and repression, and the cultivation of local client regimes by the central government in New Delhi.

Notwithstanding Kashmir's unresolved status with reference to international law, its unsettled status *within* India was legally acknowledged by framers of the Indian Constitution. Article 370 of the Constitution protected Kashmir's

autonomy and limited Indian jurisdiction in Kashmir to the areas of defense, foreign affairs and communication. Over the decades however, Article 370 was steadily eroded<sup>8</sup> and central jurisdiction extended to areas well beyond those spelled out in the constitution. As a result, Kashmir came to be ruled by a class of people affiliated more with the central government in New Delhi than with the local Kashmiri population.

Mindful of the extra-legal erosion of Kashmiri autonomy and aware of the shaky legitimacy of Indian rule in Kashmir, successive central governments denied to Kashmir constitutional freedoms and the rights of citizenship such as the freedom of speech and peaceful assembly. Judicial review<sup>9</sup> of their suspension was disallowed. As K. G. Kannabiran notes:

Freedom of speech, assembly and association in the state could be suspended at any time on 'grounds of security'. No judicial reviews of such suspensions would be allowed .... What ... India experienced for a brief period ... during [the] Emergency ... Kashmir has suffered for ... years. We cannot deny a people rights that flow out of citizenship and then expect their allegiance (1990).

The erosion of Kashmiri autonomy, repressive modes of governance and the subversion of local democratic process to perpetuate local client rule in Kashmir prompted the formation of a broad coalition of political groups opposed to the local status quo. In the aftermath of the 1987 election result – widely perceived as fraudulent and illegitimate – local opposition candidates and political parties concluded that 'democratic' politics offered no channels for the redressal of Kashmiri grievance. By 1989–90, the slogan of *aazadi* (freedom) came to symbolize popular resentment and protest against the denial of democracy, and the demand for freedom from Indian rule over Kashmiri land. In response to a militant-led mass movement for independence by Kashmiri Muslims, the Indian state embarked on an extraordinary military occupation,<sup>10</sup> combined with high levels of violence and repression in order to contain the rebellion.

Among the notable characteristics of Kashmir's revolt was the active participation of Kashmiri women during the most spontaneous phase of the struggle. Women's identification with Kashmiri nationalism and the movement for freedom drew them into a public sphere where they were at the forefront of mass protests against the Indian occupation of Kashmir and the atrocities by security forces against the local population. Thousands of women marched on the streets in Srinagar and clashed with police (*The Hindu*, 1990). Militant outfits such as Hizbul Mujahideen and the JKLF had women's wings – Binatul Islam and Muslim

Khawateen Markaz (MKM), respectively. Although the engagement of both outfits remained primarily political and non-military, their members supported welfare measures for affected families and worked on human rights issues. Yasmeen Raja and Zamruda Habib presently head the two factions of the MKM.

Armed with extraordinary repressive powers through special security legislation –including the denial of the right to life – Indian security forces launched a counter-offensive against Kashmiri militants. Since the mass protests were perceived as evidence of the movement's social base, the Indian state's counter-offensive was not limited to armed militants, but also included civilians. Women were the targets of gender-specific crimes by state personnel, including rape and sexual abuse, even as thousands of Kashmiri men were subject to enforced disappearance (there exist 15,000 widows and thousands of half widows of the disappeared). More than half a million people have been displaced and tens of thousands (some estimates cite 70,000 dead) are believed to have died during the conflict (Drohanovksa, 2010, 8; National Confederation of Human Rights Organisations, 2006; Bukhari, 2010). Since 2008, Kashmir's struggle for freedom from Indian rule has morphed into mass civic protests. On many occasions, stone-pelting by young people during street protests against India's military occupation has prompted unprovoked firing by state forces; in 2010, 122 unarmed Kashmiri young men were killed by security forces during civic protests across the Valley (Saliq, 2011).

Sensing an opportunity to thwart its rival, sections of the Pakistani establishment provided material and moral support for the rebellion from across the LOC. Paradoxically, however, instead of advancing their ostensible aim of dislodging Indian hegemony in Kashmir, the violation of international law by Pakistan only served to undermine the movement's moral and political moorings. The Pakistani intervention transformed a local Kashmiri-led struggle for justice by the Kashmiri Muslims against the Indian state into a wider India-Pakistan military confrontation in IJK, completely overshadowing its indigenous origins as well as its international legal dimensions. Pakistan's intervention in Kashmir also provided India with the opportunity to disclaim any responsibility for the rebellion and to represent it as a Pakistan-instigated conspiracy against the Indian state. Both states continued to engage in a nebulous military confrontation with nuclear overtones that received far greater media attention than local Indian tyranny in Kashmir.

The above history illustrates how the perpetuation of one legal injustice, namely, the failure of India and Pakistan to adhere to international law and UN resolutions on Kashmir, in turn inflicted a further injustice of unrepresentative and

repressive governance regimes in IJK. In the absence of popular consent, Indian rule in Kashmir hinged on militarily-backed repression to contain Kashmiri anger. The outcome of a policy privileging security forces over civil authority was the disabling and subversion of Kashmir's civil institutions. Ideological justification for such a policy was advanced through persistent evocation of an India as a unitary nation-state cosmology that endorsed institutional hostility towards ethnic minorities.

Instrumental use of the ethnic card by the state to promote the idea of an endangered 'nation' was especially expedient in regions such as Kashmir where the challenge to state legitimacy was vigorous. In the 1983 elections to Kashmir's state assembly, for instance, where the Congress-led national regime in New Delhi faced the National Conference (NC) – a predominantly but not exclusively local Kashmiri Muslim political party – the Congress won the elections on an explicitly parochial campaign, whereby the NC was accused of harbouring 'anti-national' and 'pro-Pakistani inclinations' (Bose, 1997, 121). Invocations of an endangered nation served to both politicize and delegitimize ethnic minority claims.

Conventional wisdom discounts the importance of ethnicity in shaping armed rebellion in India and the nature of the state's response to the same. However, in independent India, rebellion by ethnic minorities has been perceived and represented as a threat to the integrity of the nation-state and therefore deserving of a hard line response. Two points regarding ethnicity mandate emphasis here. The first relates to the disjuncture between an empirical reality of India as a multinational state and society, and a state narrative premised on the idea of India as a singular, unitary nation-state.<sup>11</sup> This discrepancy has been at the root of multiple rebellions by ethnic minorities across the periphery of the Indian nation-state. The standard state response to such rebellion has been the repression of all expressions of 'different' ethnic identity and/or political aspiration.

The second point is a corollary of the first: public denial of the existence of ethnic diversity and difference in India and state hostility towards ethno-nationalist movements have facilitated practices of institutional prejudice and discrimination against ethnic minorities. State-led politicization of ethnicity was internalized by state personnel who subjected ethnic minority populations to partisan, parochial and prejudiced governance practice whereby, as P. Sahadevan notes:

The state behaves more as an agent of the dominant/majority ethnic community. ... In many cases, it is virtually taken captive by the majority group to serve its ethnic interests while minority/

weaker groups face a threat of those institutions on which they rely for protection, equity and justice. ... The relevant intermediary institutions [such as] bodies of popular representation (parliament) and adjudication (judiciary) ... function like a mere rubber-stamp of the dominant/majority community (2013, 82).

The institutionalization of ethnic bias in governance policy in Kashmir produced a deep disjunction between the governing and the governed. More specifically, it meant that the methods, instruments and practices of repression employed by security forces against local ethnic minority populations transcended the conventional 'violence-against-civilians' frame. Rape of Kashmiri women by security forces is representative of the extra-legal nature of the Indian counter-offensive in Kashmir; it is equally representative of the state's resort to extra-legal means to inscribe political dominance on a recalcitrant ethnic minority through the sexual humiliation of ethnic minority women. Such gender-specific crimes against women by state personnel, as Surabhi Chopra maintains, are 'a form of ethnic persecution ... in areas where ... insurgent movements are active, state personnel might regard the stereotypes that attach to difference of ethnicity ... as intrinsic to the violence they are trying to control' (2016, 350).

### **Law and governance in IJK**

India's Constitution affirms civil liberties and individual rights for all citizens, including the right to life and liberty; freedom of speech, expression, movement and peaceful assembly; equality before law; freedom of religion and the right to the writs of *habeas corpus*.<sup>12</sup> Although these rights are justiciable, i.e., subject to enforcement by the Supreme Court, they are not absolute or inalienable in that they may be withdrawn in the interests of the state. This is particularly the case in conflict zones such as IJK, where the assumption seems to be that the executive branch needs the flexibility to be able to declare any area as 'disturbed' and use force without having to worry about the fundamental rights of citizens (Baruah, 2010). Upon notification of an area as 'disturbed' by the central government, the entire local civil apparatus including the police, armed police and civil society ceases to play a role in civil administration, which subsequently transforms into a domain of security forces. With the entry of security forces and their appropriation of the police function of the maintenance of law and order, the latter ceases to be an exclusively civil/local state government matter (Noorani, 2003, 280). A new institutional hierarchy, with local police authority suborned to executive and



military authority is established, and the maintenance of law and order transforms from a local civil to a central/state security issue.

In its report on Kashmir, the People's Union for Democratic Rights – an independent civil society group – noted that the declaration of an area as disturbed is synonymous with the virtual ceding of local civil administration to the army. In the absence of coordination between civil and military authority, soldiers are under no obligation to carry out the orders of the district collector, district magistrate, or the superintendent of police (1998, 4). As security forces became part of the governance architecture in Kashmir, the equation between citizens and the state was greatly distorted. Such a mode of governance, according to Kannabiran, enabled the government to impose what can justifiably be called martial law, for which there is no provision in the Indian Constitution (2004, 115). If the Constitution is the legal basis of governance in India, this is certainly not the case in Kashmir, where executive and military authorities manifest cavalier disregard for constitutional law, rights and propriety.

### **Disturbed Areas Act and the Armed Forces Special Powers Act**

Since 1990, Kashmir has been subject to a range of legislative provisions. These include, among others, the Disturbed Areas Act, the Jammu and Kashmir AFSPA and the Public Safety Act (PSA). There exists an inherent link between the first two pieces of legislation in that the Disturbed Areas Act is a pre-requisite for the imposition of the AFSPA. There is no clear legal definition for a disturbed area; the power to declare any area as 'disturbed' lies solely with the central government. According to the Asian Centre for Human Rights:

Unless an area is declared disturbed under Section 3 of the AFSPA, the central security forces cannot legally come to the aid of the civil administration. Under Section 3 of the AFSPA, the authorities only need to be 'of the opinion that whole or parts of the area are in a dangerous or disturbed condition such that the use of the Armed Forces in aid of civil powers is necessary.' There is no definition of what constitutes 'dangerous or disturbed condition.' The declaration depends on the satisfaction of the government officials; it is not subject to judicial review (2004).

Once an area is declared as disturbed by the central government, it becomes subject to the provisions of AFSPA. In contrast to the Emergency provisions of the Constitution (wherein fundamental rights may be suspended) – which mandate a Presidential proclamation and subsequent endorsement by Parliament – no such



constitutional checks are required for promulgating the AFSPA. Nor can AFSPA be subject to judicial review. The privileging of executive and military authority through AFSPA has transformed Kashmir into a space of illegality where, as Sanjib Baruah notes, AFSPA functioned as a localized variant of emergency rule, and yet, because it was not termed as such, this legislation evaded the limits and constraints imposed by democratic constitutionalism on emergencies (2010).

Among the most extraordinary provisions of the AFSPA is the protection to security forces from prosecution for crimes committed against civilians. Any citizen who wishes to move court against security forces for abuses committed under AFSPA must first seek the permission of the central government, which is almost never forthcoming (Human Rights Watch, 2006, 8). In its 54-year history in Kashmir and India's northeastern region where it has been in force since 1958, not a single member of the security forces has been prosecuted for crimes such as murder, rape and the destruction of property, including the burning of villages (Hazarika, 2013). A member of Kashmir's State Human Rights Commission described the legislation as 'hated' and 'draconian' (Dhar, 2012).

The AFSPA also violates Indian law on several counts. Section 4(c) of the AFSPA allows for arrest without warrant, which is in violation of the right to be informed of the reason for arrest and the right to be produced before a magistrate within 24 hours of being arrested (Article 22[5] of the Constitution). Similarly, Section 4(a) of the AFSPA – allowing the use of lethal force – violates the constitutional right to life (Article 21) and the constitutional right to equality before the law (Article 14). The exemption of the AFSPA from judicial review violates the right to move the Supreme Court of India to enforce constitutional rights (Article 32 [1]) (South Asian Human Rights Documentation Centre, n.d.).

Moreover, in contrast to the Indian Code of Criminal Procedure (CrPC), which allows for the dispersal of an assembly by a commissioned or gazetted officer through use of civil force, the AFSPA allows a non-commissioned officer to use maximum force to disperse an assembly to the extent of causing death. Similarly, in contrast to the CrPC (Sections 129–31), which defines the term 'assembly' as one that 'manifestly endangers' public security, the AFSPA classifies *all* assemblies as unlawful, thereby justifying the dispersal of legitimate, peaceful assemblies by coercive force. The AFSPA also violates international human rights law, including the right to life, the right to be free from arbitrary deprivation of liberty, and from torture and cruel, inhuman, or degrading punishment affirmed in the International Covenant on Civil and Political Rights (ICCPR) to which India is a signatory (Rana, 2005).

### **Public Safety Act**

Augmenting the arbitrary powers of security forces through AFSPA is the Jammu and Kashmir PSA, which enhances the repressive powers of the local civil administration. The PSA is an IJK state government legislation used by local administrative authorities for detention of civilians without trial for a period of three months up to a maximum of one year. It grants civil administrative authorities including the state police the power to detain individuals without trial for 'acting in any manner prejudicial to the security of the State' or to 'the maintenance of public order' (Amnesty International, 2010). Much like the ambiguity regarding the definition of a disturbed area in the AFSPA, there is no clear legal definition of 'state security', or of acts deemed as 'prejudicial to public order'. Like the AFSPA, the PSA is beyond judicial review.

Detentions under the PSA in Kashmir have registered an increase over the years; according to Amnesty International, between 8,000 to 20,000 detentions are estimated to have occurred during the past two decades (2011, 12). Both the scale of detention and the lack of substantive evidence against detainees indicate that the PSA functions as a legislative fig-leaf towards the larger objective of containing Kashmiri resistance. In other words, the administration's resort to PSA is eminently political. As Amnesty International noted:

The PSA is being used to disable the first and second tiers of the leadership of the major pro-independence political parties, taking them 'out of circulation' and thereby preventing political mobilization ... there is little attempt on the part of the police to make out a criminal case against the detainee (2011, 42–43).

In a context of legislatively-backed repression and the denial of citizens' rights and liberty, the judiciary remains a crucial institutional bulwark against the abuse of public power and a means to ensure constitutional propriety. In the case of Kashmir, however, the independence and integrity of the judiciary has been consistently undermined by executive and military authority.

### **The judiciary in Kashmir**

The judiciary is a key institution capable of restraining the abuse of power by public authorities and ensuring due process. Judicial authority in India, however, is not supreme. The absence of constitutional limits on executive and legislative power has produced an unsettled compromise between executive and legislative authority on one hand and the judiciary on the other. The Supreme Court and state High Courts are the protectors of citizens' fundamental rights and invested

with the power to issue writs of *habeas corpus* in order to enforce these rights; yet the power of both courts is simultaneously subject to executive and legislative restraint (Dam, 1964, 277–78; Ray, 1968, 32–33). Although the judiciary has the power to review any legislation, the legislature (parliament) retains the right to place certain legislation, such as AFSPA, beyond the ambit of judicial review (Shekhawat, 1994, 178). The possibility of a legal challenge to AFSPA thus stands eliminated.

At a local level, Kashmir's judiciary is unable to function normally because of the privileging of security forces by the AFSPA. Kashmiri courts are incapable of ensuring due process or providing justice, because court orders are routinely ignored or flouted by security forces (Human Rights Watch, 1999a). Noting the neutralization of Kashmir's judiciary by executive and military authorities in his report on Kashmir, jurist P. Varadarajan noted that Kashmir's courts were unable to restrain the abuse of power by executive and military authorities; judicial process existed only on paper, in practice it was ignored or subverted at will by executive and military authorities (1993, 20).

The sustained subversion of judicial power corroded Kashmir's civil criminal system. Victims of Kashmir's enduring human rights tragedy are unable to get justice due to the institutional paralysis wrought by a policy of privileging military power over judicial authority. Complaints by civilians against security forces are often thwarted at the initial stage. First Information Reports (FIRs) related to violence or abuse by security forces are not accepted or filed by the police. Since an FIR is the first step towards judicial recourse for victims, its non-acceptance pre-empts precisely this possibility. A neutralized and powerless police force is forced to defer to military authority, rather than to court orders. In an investigation on abuses by security forces against Kashmiri civilians, Ashok Agrawal noted that the police was disinclined to investigate or take action on complaints registered by civilians against security forces (2007, 1815).

For their part, local client regimes instruct the police not to comply with High Court rulings without informing the security forces first (Human Rights Watch, 1999b, 1). As a result, *habeas corpus* petitions have been routinely ignored, court directives circumvented and civilians, especially youth, hauled off to interrogation centres (Manecksha, 2011, 29). A report on Kashmir's judiciary by the Yale Law School noted that litigants routinely petition the Kashmiri court system to respond to claims against security forces for human rights abuses, and yet local lawyers could not recall a single case in which security forces were prosecuted and convicted for abuse (2009, 6). Amnesty International pointed to the existence of

a large number of pending *habeas corpus* petitions, the failure of local authorities to act on the orders of the High Court and the subversion of judicial process that rendered recourse to judicial remedy redundant (2011, 19).

The AFSPA and the PSA raise grave concerns regarding the legality of the local governance regime in Kashmir. If the principle of legality derives from clearly defined laws and legal procedures, then the AFSPA and PSA fall well short of this fundamental principle. The AFSPA has special significance with reference to gender-specific crimes such as rape by state security forces, since it accords impunity to security personnel guilty of rape. The following section situates rape by security forces in IJK within its overarching institutional context. More specifically, it focuses on the institutional response to sexual crimes committed by Indian security forces against Kashmiri women.

### **Rape by security forces: Accountability and justice**

Since 1990, Kashmir has witnessed a remarkably high incidence of rape of women (Medecines Sans Frontieres, 2006). Although reliable statistics on rape in Kashmir are hard to come by, existing evidence indicates that the practice is frequent and widespread (Asia Watch and Physicians for Human Rights, 1993, 1, 6–16). In a statement in Kashmir's legislative assembly in October 2013, Chief Minister Omar Abdullah admitted to the registration of more than 5,000 cases of rape since the 1989 armed rebellion against Indian rule (*Kashmir Times*, 2013).

There are several dimensions to rape by security forces in Kashmir. This discussion focuses on its political dimension, i.e., the use of rape as a weapon of war against the Kashmiri people and as part of the methodology of state repression to contain Kashmiri resistance. A report based on women's testimonies from the Kashmir Valley confirmed that women are targeted by security forces both as punishment for their support of the struggle and as a means of breaking the movement itself (Dewan *et al.*, 1994, 21; Singh, 1990, 35). William Baker's testimony at the 52<sup>nd</sup> United Nations Commission on Human Rights is instructive in this regard:

Rape in Kashmir is not the result of a few undisciplined soldiers, but rather an active strategy of Indian forces to humiliate, intimidate and demoralize the Kashmiri people. This is evidenced by the fact that a number of the raped women I interviewed had been raped in front of their own families, their own husbands, and their own children (1992).

Paradoxically however, of all the crimes committed by security forces in

Kashmir, the rape of women has drawn the least response in terms of investigation and prosecution (Asia Watch and Physicians for Human Rights, 1993, 3–4; *Kashmir Times*, 2012). The absence of a prompt or proper institutional response to rape allegations by security forces in Kashmir is a measure of official complacency anchored in the impunity granted to state security forces for sexual crimes against women.<sup>13</sup> Both serve to normalize modes of governance contemptuous of women's sexual integrity, judicial process, or justice. During her visit to India, Rashida Manjoo, United Nations Special Rapporteur on Violence against Women, noted that AFSPA was, 'eroding fundamental rights and freedoms—including freedom of movement, association and peaceful assembly, safety and security, dignity and bodily integrity rights—for women in Jammu and Kashmir' (Amnesty International, 2013).

Two cases of rape by security forces are relevant to this discussion. At a general level, both cases testify to the use of rape as an instrument of individual and collective humiliation and as a proxy weapon for inscribing domination (read defeat) on an ethnic minority population through the sexual subjection of ethnic minority women. More specifically, however, both cases highlight the normalization of modes of governance contemptuous of women's bodily and sexual integrity. The institutional response to such rape is representative of the general climate of impunity for state personnel and raises grave questions regarding state legality and legitimacy in Kashmir.

### *Kunan Poshpora*

An incident of mass rape by soldiers of the Rajputana Rifles was reported in the hamlet of Kunan Poshpora, north Kashmir, on 23–24 February 1991. Police investigation into the crime never commenced because the police officer assigned to the case was on leave at the time and was subsequently transferred by his superiors; the case was closed by the Director, Prosecution, on the ground that the perpetrators were untraceable (Asia Watch and Physicians for Human Rights, 1993, 7). After his visit to Kunan Poshpora, Justice Bahauddin Farooqi, former Chief Justice of the Kashmir High Court, noted that in his 43 years on the bench, he had never witnessed a case in which normal investigative procedures were ignored to the extent that they had been in this one (Crossette, 1991).

In the wake of local outrage and international criticism, a Press Council of India report exonerated the army of any wrongdoing (Manchanda, 1991, 1899). The fact that security forces were absolved of any wrongdoing by a civil society organization strengthened both central and local client regimes of denial. In their report on Kunan Poshpora, Asia Watch and Physicians for Human Rights noted

that the committee's eagerness to dismiss any evidence that might contradict the government's version of events indicated that it was far more concerned about countering domestic and international criticism, than about uncovering the truth (1993, 8).

In 2013, in response to petitions on behalf of the survivors, IJK's State Human Rights Commission (SHRC) recommended a re-opening and re-investigation of the Kunan Poshpora case and prosecution of the police officer who had recommended its closure in 1991. The government ignored the recommendation of its own institution. Subsequently, in response to a petition by fifty young Kashmiri women in the J&K High Court in 2013 seeking implementation of the SHRC order, the police sought to file a closure report. In response to the protest petition on behalf of the survivors against filing of the report by the police, the Judicial Magistrate of Kupwara (the district where Kunan Poshpora is located), rejected the closure report and ruled in favour of further investigation in order to identify and punish the perpetrators.

The re-opening of the case has prompted ever greater determination on the part of the authorities to obstruct, stonewall and delay the course of justice for the women of Kunan Poshpora. The local state government argued that women had no right to file a petition after a gap of over two decades and local administrative efforts were geared towards scuttling any probe (Jaleel, 2013). According to Parvez Imroz, a lawyer representing the victims, 'the probes have deliberately been carried out at a snail's pace to tire the mass-rape survivors' (Falak, 2013). Delay tactics are relentlessly employed to pre-empt and subvert the course of justice for Kunan Poshpora in a case that epitomizes the sexualized edge of the Indian counter-offensive in Kashmir. According to the Jammu and Kashmir Coalition for Civil Society (JKCCS) – a Kashmiri civil society organization representing the survivors – the government was misleading the court over the rape incident and showing disrespect to the victims (*Kashmir Life*, 2013). The collective anguish, misery and hopelessness of the women of Kunan Poshpora was captured by Harsh Mander – a scholar-activist who was part of an Indian delegation that visited Kunan Poshpora in 2013:

Many women wept wordlessly. An old man whose aged mother was raped and who became permanently disabled by the torture he suffered, cried out: 'where is the justice for us?' ... Women spoke of 15 hysterectomies, the difficulties in getting their daughters wed, and the way memories of that night corroded their marriage and their lives. 'Without justice, what is the point of living?' lamented a

village headman. 'Twenty-two years have passed since that terrible night. ... Until today not a single person has been punished. How can we live?'

### *Shopian*

In 2009, two young women, Asiya and Neelofar, were raped and murdered in the town of Shopian in close proximity to a highly militarized and policed zone flanked by encampments of the Jammu and Kashmir police (JKP), the Central Reserve Police Force (CRPF) and the Special Operations Group (SOG), which comprise uniformed renegade militants. Strengthening the case against security forces were two eye-witness accounts that testified to hearing women's screams for help from a police vehicle on the day of the crime. With the needle of suspicion pointing towards security forces, Kashmir's Chief Minister and the local police and senior officers of the Crime Branch and Intelligence Department, insisted on drowning as the cause of death, despite a forensic report in the First Information Report (FIR) registered with the local police confirming rape and murder (Chakravarty *et al.*, 2009, 3). The administration's attempt to advance the drowning theory paralleled its destruction of vital evidence for investigating the crime. Instead of gathering evidence and instituting investigation procedures, the police deliberately destroyed crucial ocular evidence at the crime scene and took more than a week after the crime to register an FIR (Chakravarty *et al.*, 2009).

An IJK government-appointed commission<sup>14</sup> confirmed that the women had been raped and murdered. The commission indicted four policemen for procedural neglect, willful destruction of evidence and criminal failure; all four were arrested after intervention by the Jammu and Kashmir High Court. The arrested policemen admitted before the commission that they had committed grave dereliction of duty and allowed important evidence to be lost and destroyed in the initial stages of the investigation (Chakravarty *et al.*, 2009). The state government, in the meantime, filed an application before the High Court for the case to be handed over to a central government agency – the Central Bureau of Investigation (CBI). Despite opposition from the local High Court Bar Association, the CBI took over the case in September 2009.

The entry of the CBI was followed by the granting of bail to the four policemen guilty of destroying vital evidence and the suspension of the two doctors who had confirmed rape. With the consent of the victims' family, which still hoped for justice, the CBI exhumed the victims' bodies and conducted a second post-mortem of Asiya's body by a team flown in from Delhi. The case was declared



closed by the CBI after its proclamation that the women had not been raped or murdered, but had instead drowned. The agency then proceeded to neutralize all local actors and constituencies supportive of justice for the victims. Lawyers from the Shopian District Bar Association who opposed the CBI version were subject to pressure tactics and blackmail by members of the agency; Shopian's public prosecutor was questioned by the CBI with regard to his alleged links with the agitation; the bank accounts and tax papers of the family of the two deceased women were scrutinized; and the family itself was subject to hostile interrogation by the agency. The forced closure of the case virtually extinguished the possibility of legal remedy for justice for the victims (Duschinski and Hoffman, 2011).

Kunan Poshpora and Shopian illustrate the gendered edge of India's undeclared war in Kashmir. Both also foreground women's subjective experience of Indian (mis)rule in Kashmir. For precisely this reason, the truth of rape and sexual crimes committed by state security personnel is denied, concealed, or understated by the Indian state. Such rape exemplifies the illegitimacy of India's military occupation and its amoral and extra-legal mode of governance in Kashmir. Public exposure and indictment of sexual crimes against Kashmiri women by state-funded and state-armed security forces in Kashmir would conclusively dismantle and destroy India's assiduously cultivated veneer of democracy and legitimacy in Kashmir.

## Conclusion

For over two and a half decades, India has attempted to repress, discredit and wear down a Kashmiri resistance that has been calling for an end to Indian rule in Kashmir. Aware of a local sentiment favouring freedom from Indian rule in Kashmir, and mindful of attracting international opprobrium for its extraordinary repression, India uses security legislation to mask its extra-legal tyranny in Kashmir. Women in Kashmir continue to pay an extraordinarily high price for a governance system usurped and dominated by the military. The daily lived experiences of women fearful of an intrusive and predatory security presence, as well as the struggles for justice of the widows of the disappeared and murdered, exemplify the illegality and illegitimacy of governance regime and practice in Indian-administered Kashmir. In general, law and governance have little meaning for Kashmiri women in an overarching context characterized by a denial of the right to life; the neutralization and/or subversion of civil governance authority; and impunity for sexual crimes committed against Kashmiri women by Indian security forces.

Attempts by Kashmiri women and Kashmir's civil society to move the local

courts in order to identify and prosecute the guilty are consistently thwarted by military authority intent upon evading accountability. As Essar Batool, who is part of an all-women support group for justice for the women of Kunan Poshpora put it, 'The fight for justice was 25 years long and still continuing. ... Impunity serves as bedrock to the unquestionable military occupation of Kashmir. In cases of sexual violence, this impunity allows security forces to get away' (Maqbool, 2016). The tragedies of Kunan Poshpora and Shopian highlight how *carte blanche* for security forces works to subvert the civil law enforcement machinery in order to protect the perpetrators of grave crimes. Both cases also exemplify governance regimes contemptuous of women's bodily and sexual integrity, and by extension, of the rule of law.

Laws and legislation are meant to serve people, not power. Quite the opposite, however, is the case in Kashmir, where as we have seen, security forces wield exceptional power, thus greatly distorting the equation between citizens and the state. Such a mode of governance – endorsed by successive regimes in New Delhi – is a variant of what can justifiably be called martial law (Kannabiran, 2004, 115). When laws serve only themselves, as in Kashmir, there is a lack of legal legitimacy. Legal legitimacy is inextricable from moral legitimacy (Thomas, 2013, 1). Legitimacy watches over laws, ensuring that they serve their fundamental purpose – to improve the lives of those they govern (Popovski and Turner, 2008, 1). If state legitimacy derives from adherence to legal and moral principles, India's regime in Kashmir is extra-legal, amoral and illegitimate because it serves the interests of (military and executive) power, not the aspirations or interests of the people of Kashmir.

## Endnotes

- 1 United Nations Security Council Resolution (UNSC) 1325 calls for the adoption of a gendered perspective on armed conflict. It recognizes the targeting of women by armed elements; affirms women's special concerns and interests during armed conflict; and emphasizes the full and equal participation of women in conflict resolution and prevention. UNSC 1325 was adopted by the United Nations Security Council on 31 October 2000.
- 2 The Indian state of Jammu and Kashmir comprises the regions of Jammu, the Kashmir Valley and Ladakh. The term Kashmir refers to the Valley of Kashmir, also the location of the present conflict. IJK refers to the state as a whole.
- 3 Princely states were not governed directly by British colonial authority. They were British protectorates under the control of their respective hereditary monarchs. On the eve of Independence in 1947, there were a total of 565 princely states in the subcontinent.
- 4 Pakistan's claim to Kashmir rested on the latter's Muslim-majority population. Of Kashmir's four million inhabitants, more than three-quarters were Muslim.

- 5 While Pakistan claimed Kashmir by virtue of its Muslim population, for India the failure of a Muslim-majority state to join the Indian Union undercut its claim to be a secular state.
- 6 'The question of the accession of the state of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.' Resolution adopted at the United Nations commission for India and Pakistan (UNCIP), 5 January 1949. See also United Nations Security Council Resolution, 21 April 1948.
- 7 'The Government of India and the Government of Pakistan reaffirm their wish that the future status of the state of Jammu and Kashmir shall be determined in accordance with the will of the people.' UN Resolution on Kashmir, 13 August 1948.
- 8 According to A. G. Noorani, 'From 1954 to 1994, 47 orders were made by the President unconstitutionally extending to Kashmir 94 of the 97 entries in the Union list and 260 of the 395 articles of India's constitution' (2014).
- 9 Judicial review refers to the power of a court to examine and assess whether the legality of a law, executive decree, or other public action is in consonance with the Constitution and to declare the same unconstitutional and invalid if it is not. It is a powerful and crucial legal protection of individual rights and freedoms against the abuse of power by legislative and executive authority (See Sharan, 1978).
- 10 Independent estimates cite a figure of at least 5,00,000 troops including, among others, the Indian army and paramilitary regiments such as the Border Security Force (BSF), Central Reserve Police Force (CRPF) and Special Task Force (STF) (Varadarajan, 1993, 5; Baker, 1994, 43; Bose, 2000, 100; Kak, 2014).
- 11 The Government of India insists that, 'The Indian people do not accept the proposition that India is a multinational society. *The Indian people constitute one nation*' (Singh, 2010, 105–06; emphasis in original).
- 12 Article 19 of India's Constitution guarantees, among other rights, the right to freedom of speech and expression, peaceful assembly and mobility. Article 21 guarantees protection to the life and liberty of all citizens. Article 25 guarantees the freedom of religion.
- 13 In January 2013, a central government-instituted panel headed by a former Chief Justice of India, Justice J. S. Verma, recommended that security forces be brought under the purview of ordinary criminal law instead of army law in cases involving sexual crimes against women. The recommendation was ignored by the government.
- 14 In June 2009, a judicial probe headed by Justice Muzaffar Jan was ordered by Chief Minister Omar Abdullah to investigate the rape and murder of Asiya and Neelofar in Shopian.

## References

- Amnesty International. 2010. *A 'Lawless Law': Detentions under the Jammu and Kashmir Public Safety Act, Executive Summary*. London: Amnesty International.
- \_\_\_\_\_. 2011. *A 'Lawless' Law: Detentions under the J&K Public Safety Act*. London: Amnesty International.
- \_\_\_\_\_. 2013. 'India Briefing', *Briefing: The Armed Forces Special Powers Act: A Renewed Debate in India on Human Rights and National Security*. Amnesty International. Available

- at: <http://www.amnestyusa.org/sites/default/files/asa200422013en.pdf>, accessed on 8 May 2016.
- Agrwaal, Ashok. 2007. 'Paradigm of Impunity: Two Months in the Life of the 20 Grenadiers', *Economic and Political Weekly* 42 (20): 1814–18.
- Asian Centre for Human Rights. 2004. *Review of AFSPA: Too Little, Too Late*. Hong Kong: Asian Centre for Human Rights. Available at: <http://webcache.googleusercontent.com/search?q=cache:M0YfVFeF4g0J:www.achrweb.org/Review/2004/45-04.htm+%&cd=1&hl=en&ct=clnk&gl=in>, accessed on 8 May 2016.
- Asia Watch and Physicians for Rights Watch. 1993. *Rape in Kashmir: A Crime of War*. Washington D.C. and Boston: Asia Watch and Physicians for Rights Watch.
- Baker, William Wayne. 1992. 'The Sealed Valley of Kashmir'. Testimony on Kashmir at the 52nd United Nations Commission on Human Rights. Available at: <http://www.kashmir-cc.ca/quarterly/kq2-3/SEALEDVA.htm>, accessed on 15 November 2004.
- \_\_\_\_\_. 1994. *Kashmir: Happy Valley, Valley of Death*. Las Vegas: Defenders Publications.
- Baruah, Sanjib. 2010. 'A Legacy of Colonial Constitutionalism', *Seminar* 615. Available at: [http://www.india-seminar.com/2010/615/615\\_sanjib\\_baruah.htm](http://www.india-seminar.com/2010/615/615_sanjib_baruah.htm), accessed on 9 May 2016.
- Bose, Sumantra. 1997. *The Challenge in Kashmir: Democracy, Self-Determination and a Just Peace*. New Delhi: Sage.
- \_\_\_\_\_. 2000. 'Kashmir, 1990–2000: Reflections on Individual Voices in a Dirty War', *SID On-line Dialogue* 42 (3): 99–102.
- Bukhari, Parvaiz. 2010. 'The Year of Killing Youth', *The Nation*, 22 September. Available at: <https://www.thenation.com/article/kashmir-2010-year-killing-youth/>, accessed on 11 May 2016.
- Chakravarty, Uma, Usha Ramanathan, Seema Misra, Vrinda Grover, K. Ajitha and Anuradha Bhasin Jamwal. 2009. *Shopian: Manufacturing a Suitable Story*. New Delhi: Independent Women's Initiative for Justice.
- Chopra, Surabhi. 2016. 'Dealing with Dangerous Women: Sexual Assault under Cover of National Security Laws in India', *Boston University International Law Journal* 34 (2): 320–54.
- Crossette, Barbara. 1991. 'India Moves against the Kashmir Rebels', *The New York Times*, 7 April. Available at: <http://www.nytimes.com/1991/04/07/world/india-moves-against-kashmir-rebels.html>, accessed on 8 March 2005.
- Dam, Sukumar. 1964. 'Judiciary in India', *The Indian Journal of Political Science* 25 (3/4): 276–81.
- Dewan, Ritu, Gouri Choudhry, Manimala and Sheba Chacchi. 1994. *Women's Testimonies from Kashmir: the Green of my Valley is Khaki*. New Delhi: Women's Initiative.
- Dhar, Arti. 2012. 'UN Asks India to Repeal AFSPA', *The Hindu*, 31 March. Available at: <http://www.thehindu.com/news/national/un-asks-india-to-repealafspa/article3263687.ece>, accessed on 9 April 2016.
- Drohanovksa, Sona. 2010. *Women's Rights in Conflict Zones: A Focus on India*. New Delhi: Human Rights Law Network (HRLN).
- Duschinski, Haley and Bruce Hoffman. 2011. 'Everyday Violence, Institutional Denial and Struggles for Justice in Kashmir', *Race and Class* 52 (4): 47–61.

- El Jack, Amani. 2003. *Gender and Armed Conflict: Overview Report*. Brighton, Sussex: Institute of Development Studies, University of Sussex.
- Falak, Uzma. 2013. 'Kashmir Mass-Rape Survivors Struggle as Kafakesque Justice Reigns' *Jadaliyya*, 30 October. Available at: <http://www.arabic.jadaliyya.com/pages/index/14003/kashmir%C2%A0mass-rape-survivors-struggle-as-kafkaesque>, accessed on 8 May 2016.
- Hazarika, Sanjoy. 2013. 'An Abomination called AFSPA', *The Hindu*, 12 February. New Delhi.
- Human Rights Watch. 1999a. *Behind the Kashmir Conflict: Abuses by Indian Security Forces and Militant Groups Continue*. New York: Human Rights Watch.
- \_\_\_\_\_. 1999b. *Behind the Kashmir Curtain*. New York: Human Rights Watch.
- \_\_\_\_\_. 2006. *Everyone Lives in Fear: Patterns of Impunity in Jammu and Kashmir*. New York: Human Rights Watch.
- Jaleel, Muzammil. 2013. 'Konan Poshpora Mass Rape: 22 Years On, State Still Out to Scuttle Probe', *The Indian Express*, 11 July. New Delhi.
- Kak, Sanjay. 2014. 'Bullet Ballot Stone', *Caravan*, 1 September. New Delhi.
- Kannabiran, K. G. 1990. 'The Slow Burn', *The Illustrated Weekly of India*, 1 July 1990.
- \_\_\_\_\_. 2004. *The Wages of Impunity: Power, Justice and Human Rights*. New Delhi: Orient Longman.
- Kapur, Vikas and Vipin Narang. 2006. 'The Fate of Kashmir: International Law or Lawlessness?' *Stanford Journal of International Relations* 3 (1). Available at: [https://web.stanford.edu/group/sjir/3.1.06\\_kapur-narang.html](https://web.stanford.edu/group/sjir/3.1.06_kapur-narang.html), accessed on 12 January 2016.
- Kashmir Life*. 2013. 'Government Misleading Court over Kunan Poshpora Mass Rape Incident: JKCCS'. 18 September. Available at: <http://www.kashmirlife.net/govt-misleading-court-over-kunan-mass-rape-incident-jkccs-42555/>, accessed on 2 December 2013.
- Kashmir Media Service. 2013. *Guinness Says Kashmir World's Largest Militarized Zone*. Kashmir Media Service. Available at: <http://www.kmsnews.org/news/2013/04/03/guinness-says-kashmir-world%E2%80%99s-largest-militarized-zone.html>, accessed on 8 May 2016.
- Kashmir Times*. 2012. 'Women Groups Demand Action in Kashmir Cases', 26 December, online edition. Available at: <http://www.kashmirtimes.in/newsdet.aspx?q=23369>, accessed on 30 May 2015.
- \_\_\_\_\_. 2013. '5125 Rape Cases Registered in J&K since 1989: Govt.' 9 October, online edition. Available at: <http://www.kashmirtimes.in/newsdet.aspx?q=14335>, accessed on 22 April 2015.
- Krishna, Chaitanya (ed). 2003. *Fascism in India: Faces, Fangs and Facts*. New Delhi: Manak.
- Lamb, Alastair. 1992. *Kashmir: A Disputed Legacy*. Karachi: Oxford University Press.
- Manchanda, Rita. 1991. 'Press Council Report on Army in Kashmir', *Economic and Political Weekly* 26 (33): 1899–900.
- Mander, Harsh. 2013. 'Night of Horror', *The Hindu*, 9 July. New Delhi.
- Manecksha, Freny. 2011. 'Tortuous Road to Justice in Kashmir', *Economic and Political Weekly of India* 46 (32): 29–30.

- Maqbool, Majid. 2016. 'Do You Remember Kunan Poshpora?' (Majid Maqbool interviews Essar Batool and Ifrah Butt), *Warscapes*, 7 April. Available at: <http://www.warscapes.com/conversations/do-you-remember-kunan-poshpora>, accessed on 14 June 2016.
- Mathur, Shubh. 2014. 'Terror and Impunity in Kashmir', *Foreign Policy in Focus*, 6 May. Available at: <http://fpif.org/terror-impunity-kashmir/>, accessed on 12 March 2016.
- Medecins Sans Frontieres (MSF). 2006. *Kashmir: Violence and Health*. Amsterdam: MSF.
- National Confederation of Human Rights Organisations. 2006. 'Nearly 70,000 Killed in 17 Year Kashmir Insurgency: Rights Group.' Available at: [http://www.nchro.org/index.php?option=com\\_content&view=article&id=5090:nearly-70000-killed-in-17-year-kashmir-insurgency-rights-group&catid=32:armed-conflicts&Itemid=9](http://www.nchro.org/index.php?option=com_content&view=article&id=5090:nearly-70000-killed-in-17-year-kashmir-insurgency-rights-group&catid=32:armed-conflicts&Itemid=9), accessed on 13 June 2016.
- Noorani, A.G. 2003. 'A Practising Nazi Trampling on India', in *Fascism in India: Faces, Fangs and Facts*, edited by Chaitanya Krishna, 278–87. New Delhi: Manak.
- \_\_\_\_\_. 2014. 'Kashmir Question', *Dawn* (Karachi), online edition, 14 June. Available at: <http://www.dawn.com/news/1112545>, accessed on 21 March 2016.
- People's Union for Democratic Rights. 1998. *An Illusion of Justice: Supreme Court on the Armed Forces Special Powers Act*. Delhi: People's Union for Democratic Rights.
- Popovski, Vessilin and Nicholas Turner. 2008. 'Legality and Legitimacy in International Order'. United Nations University Policy Brief (5). Tokyo: United Nations University.
- Raghavan, V. R. (ed). 2013. *Policy Choices in Internal Conflicts: Governing Systems and Outcomes*. New Delhi: Vij Books.
- Rana, Rajat. 2005. 'Silencing International Obligations and the Armed Forces Special Powers Act'. Available at: <http://www.ipcs.org/article/terrorism/silencing-international-obligations-and-the-armed-forces-special-powers-act-1671.html>, accessed on 4 May 2016.
- Rangarajan, Parasaran. 2014. 'A Kashmiri Equation', *International Journal of Research* 1 (6): 46–61.
- Ray, Samarendra Nath. 1968. 'The Crisis of Judicial Review in India', *Indian Journal of Political Science* 29 (1): 29–35.
- Sahadevan, P. 2013. 'Managing Internal Conflicts in India, Nepal, Sri Lanka and Myanmar: Strategies and Outcomes', in *Policy Choices in Internal Conflicts: Governing Systems and Outcomes*, edited by V. R. Raghavan, 77–189. New Delhi: Vij Books.
- Saliq, Sheikh. 2011. '2010 Kashmir Unrest: A Recollection of What Happened', *The Vox Kashmir*, 16 September. Available at: <http://archive.is/kNw05>, accessed on 6 March 2015.
- Sharan, P. 1978. 'Constitution of India and Judicial Review', *The Indian Journal of Political Science* 39 (4): 526–37.
- Shekhawat, Vibhuti Singh. 1994. 'Judicial Review in India: Maxims and Limitations', *Indian Journal of Political Science* 55 (2): 177–82.
- Singh, Gurharpal. 2000. *Ethnic Conflict in India: A Case-Study of Punjab*. London: Palgrave Macmillan.
- Singh, Sukhmani. 1990. 'Protectors or Predators?', *The Illustrated Weekly of India* (30 September): 35. New Delhi.

- Snedden, Christopher. 2013. *Kashmir: The Unwritten History*. New Delhi: Harper Collins.
- South Asian Human Rights Documentation Centre. n.d. 'Armed Forces Special Powers Act: A Study in National Security Tyranny.' Available at: [http://www.hrdoc.net/sahrdc/resources/armed\\_forces.htm](http://www.hrdoc.net/sahrdc/resources/armed_forces.htm), accessed on 3 February 2016.
- The Hindu*. 1990. 'More Kashmiri Women Turning Militant', 3 September.
- Thomas, C. A. 2013. 'The Concept of Legitimacy and International Law', *LSE Law, Society and Economy Working Paper* (12/2013): 1–32. Law Department, London School of Economics and Political Science. Available at: [https://www.lse.ac.uk/collections/law/wps/WPS2013-12\\_Thomas.pdf](https://www.lse.ac.uk/collections/law/wps/WPS2013-12_Thomas.pdf), accessed on 8 May 2016.
- Varadarajan, Patanjali. 1993. *Kashmir: A People Terrorised, Extra-judicial Executions, Rape, Arbitrary Arrests, Disappearances and other Violations of Basic Human Rights by the Indian Security Forces in Indian-administered Kashmir*. Paris: Federation Internationale Des Lignes Des Droits De L'Homme.
- Yale Law School. 2009. *The Myth of Normalcy: Impunity and the Judiciary in Kashmir*. New Haven: Allard K. Lowenstein International Human Rights Clinic.