



‘Half Widows’: A Socioeconomic Study of the Survivors of Conflict in Occupied Kashmir

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Abstract

This article focuses on half-widows in the Indian Occupied Kashmir, a socioeconomic phenomenon brought forth by political violence between India and Pakistan. Half widows are the surviving female partners of Kashmiri men who have gone missing due to illegal detention, extrajudicial killings, and in resistance movements. Women in Indian occupied Jammu and Kashmir (IOJK) are facing severe circumstances due to their husbands' deaths and disappearances. As a result, these women have a variety of emotional, physical, mental, and social issues; and the subject of this paper is formulated around these issues related to women who fall in category of half-widows and how their rights are being violated in IOJK. Furthermore, a secondary focus of this study is on

the practices that oppress and degrade women after their husband's disappearance.

Keywords: Half-widows, Indian Occupied Jammu and Kashmir (IOJK), Human Rights, Enforced Disappearances.

Introduction

India and Pakistan have been at war over Kashmir since 1947. The conflict has an impact on every area of daily life in Kashmir, but it has a special impact on women. Half-widows are women whose spouses have undergone forced 'disappearances' but have not yet been officially ruled to have died.¹ Enforced disappearances can also be as arrest, detention, kidnapping and all types of lack of freedom by state agents. In Indian Occupied Jammu and Kashmir, the practice of forced disappearances began in the 1990s. Women who cannot determine whether their husbands are deceased or alive are referred as 'Half widows'.

The majority of enforced disappearances were carried out by police, paramilitaries, the militants, and also military. However, the proportion of disappearances committed by militants is much lower. Omar Abdullah, the ex-chief Minister of IOJK, played an important role in pushing the thread to cross the LOC into Kashmir occupied by Pakistan.²

In IOJK, about 8,000–10,000 men are missing since 1989 as per survey done by Association of Parents of Disappeared Persons, in which roundabout 1,500 are 'half-widows'.³ The Indian government, however, denies knowledge of the problem of forced

¹ Bashir Ahmed Dabla, "A Survey of Widows and Orphans in Kashmir Conflict. Kashmir," *India: Kashmir University*, no. 5(2010): 177-182.

² Julie Marie Peteet, *Gender in Crisis: Women and the Palestinian Resistance Movement* (New York: Columbia University Press, 1991).

³ Veena Das, "Violence, Gender, and Subjectivity." *Annual Review of Anthropology*, no. 37 (2008): 283–99.

disappearances in Kashmir and claims that just 4,000 people are 'missing'. As a result, the 'half-widows' are left in an unresolved, perpetual state of grief, suffering the effects of what is known as an 'ambiguous loss'—a loss that is not yet resolved or clear.⁴

Due to territorial and political conflict between India and Pakistan over years, many women become 'half-widows'.⁵ More than 70,000 people have died in the fighting between the areas claimed by India and Pakistan; most of them were civilians.⁶ In 2009, the Guinness Book of World Records declared Kashmir as the "planet's largest militarized territorial dispute".⁷

Kashmiri women are the main sufferers of the continuing and unending conflict between Pakistan and India. They have been subjected to human rights violations while the strangulating Indian military involvement in IOJK has gone unchecked. According to facts and figures from the Jammu and Kashmir State Commission for Women, the newly established government institution was established to guard the privileges of both women and children and to ensure prompt prosecutions. During the previous crackdowns in 2016 and 2017, the number of cases of violence against women and violence in general increased by over three thousand each year.⁸ Even under international Law, this issue remain unattended, only available is Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearances, 2006 which deals with rights of half-widows to somehow.

⁴ T.W. Bennett, "Human Rights and African Customary Law under the South African Constitution," *Journal of African Law* 48, no. 2 (2004): 271-73.

⁵ Abid Bhat, "In Pictures: Kashmir's 'half-widow,'" *BBC World News*, December 11, (2013).

⁶ Raja Mohan, "The other Half: For Many Kashmir 'half-widows', Remarriage Ruling Means Little," *The Indian Express*, March 2, 2014. accessed July 01, 2022.

⁷ Jamie Halsall, "The Social Context of Widowhood Rights and Women's Human Rights in Cameroon," *Journal of Cogent Social Sciences* 2, no.1 (2016): 59-60.

⁸ Aliya Bashir, "Kashmir's half-widows Shoulder the Burden of a Double Tragedy," *The Guardian News*, October 2010. Accessed July 02, 2022.

Violence against women is on the rise in IOJK. Due to the extensive militarization in valley of Kashmir, women have frequently been subjected to harassment, rape, molestation, and sexual assault such as rape by Indian security personnel. Although gender violence is regular, it is sometimes overlooked in favor of more pressing security concerns, much like in other conflict situations. The incidence of violence among women in daily life has been noted by several independent observers, although the exact statistics are unknown.⁹

Literature Review

Athar Zia stated in his work “The Spectacle of a Good Half-Widow: Women in Search of their Disappeared Men in the Kashmir” that Sadaf’s descriptive representation highlights the prolonged debates on feminine subjectivity, especially in a military area. There are no practices in Kashmiri culture for dealing with the eventualities generated by militarization, which has pressurized women to face not merely with governmental fear but also social criticism. The public structure of Kashmir, which has already been damaged due to 60 years of war, militarization as well as armed conflict, has become even more torn apart during Sadaf’s lifetime. The state benefits from the escalation of gender injustices and biases because it is not seen as the ‘direct aggressor’ while the social hierarchy actively discriminates against women. Forced disappearances as a punishment also uniquely deconstructs the culture. It created gaps in social order, erasing the community as it knew it and bringing about anomie.¹⁰

Rameez Raja Mir stated in his article that in 1991, the 14th Rajputana Rifles Unit is reported to have raped more than 40

⁹ A. E. Afigbo, “Prolegomina to the Study of the Culture and History of the Igbo-speaking Peoples of Nigeria,” *Igbo Language and Culture* 28, no.3 (1975): 28–53.

¹⁰ Athar Zia, “The Spectacle of a Good Half-Widow: Women in Search of their Disappeared Men in the Kashmir Valley,” *Political and Legal Anthropology Review* 39, no.2 (November 2016): 169.

women, ranging in age from 13 to 80, while holding them at gunpoint. Nine women were allegedly gang raped by an army unit in Shopian in October 1992. In 2009, we saw the discovery of the rape and murder of two young ladies named Neelofar Jan and Asiya Jan. The victims, however, are not courageous enough to reveal it to the open in media as well as in public because of societal stigma. In Kashmir, women often experience indirect harm in addition to direct violence. They are psychologically impacted and are said to have the worst mental health issues in Kashmir. Given their typical monetary necessity on husbands in most situations, women also experience socioeconomic disadvantages.¹¹

Farheen Abdullah, in her work "Theatre Review: Half Widow by Rights Council of Pakistan" reported that during armed conflicts, women, who account for half of society, are frequently targets of rape, molestation, and torture. Their pain is constant, ongoing, and unacknowledged. In many communities, losing a male entail losing the family's primary provider, potentially leading to hardship and an uncertain future for the family. This situation can force women to work in traditionally male-dominated fields. However, women still do not have enough authority to make decisions.¹²

Ekta Dokania in her article "Widow of Silence: Views Kashmir Conflict through a Half-widow's struggle" describes that during the Kashmir struggle, women encountered annoyance, harassment as well as violence, not only from armed forces but also from fighters. She also described that the plight of women of their moans were remained unaddressed. Because of which thousands of orphaned children and half widows are facing the consequence of battle.¹³

¹¹ Raja Rameez Mir, "Women and Violence: the Socio-economic and Political Status of Half-widows in Kashmir," *South Asia Journal* 32, no.4 (May 29, 2016): 17-21.

¹² Farheen Abdullah, "Theatre Review: Half Widow by Rights Council of Pakistan," *A Cultural Journal* 4, no.3 (February 07, 2019): 78-89.

¹³ Ekta Dokania, "Widow of Silence: Views Kashmir Conflict through a half-widow's Struggle," *The Seattle Globalist* 7, no.4 (May 29, 2019): 10-14.

The doctrinal legal research method is mostly applied in legal research. During this research analytical approach along with descriptive methodology will be applied and data constitutes books, articles, newspapers, and reports. This study describes the socio-political and economic position of half widows in IOJK and understanding of the human rights of women in IOJK.

Discussion and Findings

In addition to dealing with their own experiences of grief, loss, or trauma following the death of a spouse, widows may also encounter economic insecurity, stigmatization based on their marital status, discrimination, and harmful traditional behaviors also including socio-economic issues, re-marring barrier, social and psychological problems, lack of government assistance and legal aid.

Equal Inheritance Rights and Financial Challenges

In IOJK, half-widows are even denied equal inheritance rights and risk losing their homes, their property, or even their children. Their ability to inherit money, open bank accounts, and obtain credit may be restricted, which might have a severe financial impact on them, their offspring, and future generations. According to estimates, one in ten widows worldwide suffers from severe poverty. The missing or disappearance of a husband can leave older women homeless because half-widows are also considerably less likely than males to have access to pensions.¹⁴

Socio-Economic Challenges Faced by Half Widows

Half-widows suffered and, still are suffering countless insecurities including economic, social, and emotional. The majority of departure and missing incidents took place in the countryside, because of having less or lack of freedom. Their fundamental rights

¹⁴ Bhat, "In Pictures: Kashmir's 'half-widow.'"

to a good life were also compromised by societal stigma. Half widows are subject to intimidation, extortion, and manipulation by people in positions of authority. The half widows are at the mercy of their relatives who repeatedly try to deprive their property rights.¹⁵

Women become economically insecure when their husbands suddenly stop providing money, which causes an unexpected insufficiency of cash. Half widows are prohibited from receiving ration cards, transferring their husband's property, or opening bank accounts. Since their spouses have not yet been formally ruled dead, half the widows do not receive death certificates. In accordance with Islamic law, a widow is entitled to one-eighth of her husband's assets if she has children, and one-fourth if she does not.¹⁶ However, a half-widow is not entitled to anything until her husband is declared legally dead. Children of widows and widowers become reliant on the husband's relatives.¹⁷

The disappearance of husbands puts half-widows subject to countless dangers to their physical and mental health. She might never be able to see some of her children because their in-laws keep their kids apart from them. Half-widows experience social exclusion, economic discrimination, and political alienation.¹⁸

In Kashmiri society, half-widows are viewed as stereotypes by the public. The way they fight for justice is vilified by individuals in their social circle. For example, when they meet with their attorneys and any government representatives, individuals slander them.¹⁹

¹⁵ Iqbal Kirmani, "Why are half-widows in Kashmir being Denied Share in Husband's Property," *DNA on Kashmir*, no. 5 (November 2015): 12.

¹⁶ Surah-e-Bakrah verse 233 and Muslim Family Ordinance, 1961.

¹⁷ Surah-e-Bakrah verse 233 and Muslim Family Ordinance, 1961.

¹⁸ J. Roberts Comaroff, "Rules and Processes: The Logic of Tswana Disputing," *Chicago, IL: University of Chicago Press*, no.7 (1977): 122-30.

¹⁹ M. Jaggar, & S. R. Bordo, "Gender, Body and Knowledge: Feminist Reconstruction of Being and Knowing," *New Brunswick, NJ: Rutgers University Press*, no. 5(1989): 145-71.

Islamic Concept and Re-marriage Barrier

Half widows seldom remarry, and mostly do not even consider it as they think and ultimately hope to hear something about their husband's return. Islam supports re-marriage, on the other hand the four main schools of thought i.e., Hanafi, Maliki, Shafi, and Hamabali offer various perspectives on the practice. For instance, the Maliki school of thought stipulates a 4-year waiting period, while the Hanafi school of thought stipulates a nine-year waiting term following the disappearance of her spouse.²⁰

Additionally, there are conflicting views on whether a second marriage is legitimate if the first husband returns. Before being remarried, a half-widow must first seek help from Islamic law, which is frequently interpreted by Islamic scholars to mean that the first marriage must be annulled. However, the majority of half-widows are unaware of this religious clause and avoid getting remarried. In addition, Muslim clergy may hesitate to take up the matter of half-widow's remarriage. They find it challenging to pronounce a missing individual dead.²¹

In the Muslim Marriage Act of 1939, the Hanafi School finally acknowledged agreement with the Maliki school of thought by establishing a four-year waiting period for half-widow remarriage. Some younger half-widows get remarried shortly after their husband vanishes.²²

Psychological Impact

The forced vanishings have a severe psychosomatic effect on half-widow's thoughts in addition to emotions. Their husbands' forced disappearances associated with economic, social, and legal fight, and these factors make their employment uninteresting and cause

²⁰ Muslim Family Laws Ordinance, 1961.

²¹ Mohan, "The Other Half."

²² Muslim Marriage Act of 1939.

anxiety and tension. Half-widows are dealing with Post-Traumatic Stress Disorder (PTSD), but unfortunately the government is failing to offer them specialized medical as well as psychological care.

Half-widows depend on antidepressants and other medications since they are unaffordable and expensive, which has led to other health-related issues for them. Half-widows still hold onto optimism despite the fact that doing so has negatively impacted their physical and emotional health.²³ Their economic conditions are negatively impacted by their deteriorating mental and physical health, which further exacerbates their social standing and vulnerability.

Lack of Government Assistance and Legal Aid

Government support for the family is difficult to obtain and often leads to friction between the widows and their in-laws, especially if they are from poorer families. Half widows only receive one-eighth of the relief since the in-laws have a stake in it, and Muslim personal law supports their right to a portion. Because the half-widow is not confident that her husband will not come back, there is sometimes discussion about whether she should be entitled to compensation.²⁴

Half widows are not averse to receiving government support, but because their experiences are widely known, few are able to give them any chance of receiving the financial support they so desperately need. The majority of half widows assert that they will not compromise their self-esteem in exchange of government assistance.²⁵

Half widows encounter challenges when trying to obtain pensions, ration cards, compensation from the government or becoming

²³ Muslim Personal Law Shariat Application Act, 1962.

²⁴ A. M. Jagger. "Love and Knowledge: Emotion in Feminist Epistemology," *New Brunswick, NJ: Rutgers University Press*, no. 4 (1989): 133-39.

²⁵ M. B. Miles & Huberman, *Qualitative Data Analysis: An Expanded Source Book* (London: Sage Press, 1994).

eligible for remarriage. There is no public acknowledgement of the missing by the army, any agencies or even by police in the case of legal remedies. Police in India refuse to file a First Information Report (FIR) of half-widows, leaving them with no option but to resort to legal action. Half widows often lack the financial resources or legal knowledge to retain counsel and pursue legal claims. The process can be avoided if an attorney accepts the case pro bono.²⁶

Unavailability of Hindu Laws to Half Widows

Many widows' rights are given under Hindu law including those related to property, coparcenary, inheritance, etc. There have been numerous changes made to the existing laws, such as the Hindu Women's Right to Property Act, 1937; the Hindu Succession (Amendment) Act, 2005; the Hindu Succession Act, 1956, and the Hindu Succession (Amendment) Act, 2005, has been amended as part of the revisions, providing absolute interest as a coparcener. A daughter has also been made a coparcener, per Section 6(1) of the Hindu Succession (Amendment) Act, 2005. When we carefully examine the Hindu Succession Act of 1956 and its amendments, including those made in 2005,²⁷ significant changes have been made, which have ultimately changed the situation of a widow in relation to coparcenary rights, legacy, and property right. But all these rights are unavailable to half-widows of IOJK.

Recommendations

To safeguard and protection for half-widows' rights in IOJK, here are some suggestions that international organizations for Human rights, CEDAW, governments representatives and each of us should take:

²⁶ Mac Cormack. "Biological Events and Cultural Control Signs," *Journal of Women in Culture and Society*, no. 3 (1977): 93–100.

²⁷ Hindu Succession (Amendment) Act, 2005.

- Improve and provide half-widow' access to inheritance, land, pensions, and other social safeguards by implementing social and economic reforms.
- Special laws should be made by CEDAW and other International organizations
- Discriminatory and unfair laws should be ended and such discriminatory laws that deprive half-widows of their property, housing, income, social benefits, and opportunities must be repealed.
- Empower half-widows by providing access to opportunities for education and training, fair employment, and income, and eradicating social stigmas, so they can support themselves, their families, and live with dignity.
- Encourage and support community measures, international efforts, and advocacy to defend, develop and protect the rights of widows as protected in international laws and conventions.
- Remarrying right should be given to half-widow according to Islamic Law
- Half-widow should have access to justice and government policies assistance should be available for them.
- Half widow's knowledge of their rights under the convention should be increased, developed, and bolstered via education.
- Governments should often demand ratification of International Human Rights Treaties time to time for half-widows as well.
- The government, civil society, and women's organizations need to give them the support they need to lead dignified lives. For their mental health, these women require free medical care and counselling.

Conclusion

With the ongoing discussion it is concluded that the worst affected by the direct and indirect effects of violent hostilities in IOJK are half widows. Along with ongoing pain from post-traumatic disorder and transgenerational trauma, half widows also experience economic insecurity. Due to their husbands' prolonged absence,

these women are more exposed to societal scrutiny, policing, and abuse at the hands of people in positions of authority. Only a small percentage of half widows decide to be married again. Half widows in IOJK are strong models of perseverance, continuing to fight for justice and a decent existence in spite of obstacles and limitations on both a societal and governmental level.

The offspring of these half-widowed mothers, who were directly impacted by the sufferings they endured, likewise received no significant support from the government or civic society. These children should receive free schooling and other required care in order to shield them from trauma and help them lead prosperous lives in the future. The problem of half-widows lay dormant for a few decades before being revealed and made public by the NGO known as APDP. But until now, neither the federal nor state governments have been able to offer these women a way to rejoin society.

it is important that at both the state and national levels, the government and civil society should step up and provide the support these traumatized women need to lead dignified lives. For their mental health, these unlucky women require free medical care and counselling. They should receive assistance in creating self-help organizations so they can maintain their socioeconomic stability. Governments at the state and national levels should take prompt action to solve the challenges of social marginalization and political alienation facing half widows. Most of their problems can be solved by making them financially independent and by providing them jobs according to their education and skills.