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**Sovereignty, Vulnerability and a Gendered Resistance in Indian-Occupied  
Kashmir**

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## **Sovereignty, Vulnerability and a Gendered Resistance in Indian-Occupied Kashmir**

**Abstract:** Drawing on Iffat Fatima's documentary film, *Khoon Diy Baarav* or *Blood Leaves its Trail* (2015), this paper explores how a gendered Kashmiri activism against human rights violations allows for reenvisioning the concept of an authoritarian and violent Westphalian sovereignty concerned with exclusive political authority and territory. Previous studies of gendered resistance are examined as are reformulations of sovereignty through feminist and Indigenous critiques. Through these examinations, the paper offers a way to rethink sovereignty through the theoretical concept of vulnerability. Such a rethinking of sovereignty may point to an interrelational model of sovereignty where the vulnerability of gendered bodies and the environment may be emphasised. In the context of human rights violations in Kashmir, this re-envisioning of sovereignty may be a necessary counter to the repetitious cycles of necropolitical sovereign power.

**Keywords:** gender and sovereignty; Kashmir; human rights; vulnerability; resistance and activism

### **Introduction**

Iffat Fatima's documentary film, *Khoon Diy Baarav* or *Blood Leaves its Trail*, produced in collaboration with The Association of Parents of Disappeared Persons (APDP) is remarkable not least for its gendered exploration of the link between individual stories of Kashmiri women who are victims of enforced disappearances, their collective struggle as part of APDP, and the rising crescendo of women's voices shouting for *azaadi* or freedom from the Indian state.<sup>1</sup> Powerful and poignant, the film meticulously explores how Indian state violence, its concern for territorial sovereignty, is exercised through necropolitical techniques of enforced disappearances, torture, rapes, fake encounters, extra-judicial killings, and mass graves.<sup>2</sup> Yet, the film simultaneously and viscerally demonstrates the extraordinary gendered and collective resistance that demands justice and accountability.<sup>3</sup> The film's link between gendered resistance and the demand for Kashmiri sovereignty, I

suggest, offers a way to think through and re-envision the problematic of sovereignty. To begin with, the paper evaluates existing debates on the link between gendered resistance and sovereignty in Kashmir.<sup>4</sup> Following this, I examine how a liberal underpinning of current state sovereignty thwarts the projects of human rights accountability as well as self-determination for Kashmiris. Finally, the paper addresses how the problematic of sovereignty itself could be reshaped in understanding gendered vulnerability and resistance in the context of human rights violations.

### **Sovereignty in Gendered Studies of Kashmir: Theoretical Concerns**

Seema Kazi's study of the constitutive role that gender plays in militarism makes the case that postcolonial nation-states, in drawing on a Westphalian unitary model of sovereignty, have been more concerned with militarisation rather than strong democratic institutions where their sovereignty is contested.<sup>5</sup> The Westphalian model of sovereignty that Kazi references emphasises exclusive political authority and jurisdiction or a territoriality of militarised borders. In Kazi's thesis, gender is a 'means to inflict defeat and humiliation on the "enemy" through the appropriation of the cultural meanings of gender.'<sup>6</sup> Here the logic of the mass rapes of Kashmiri women in the 1990s – e.g. in the twin hamlets of Kunan-Poshpora where 31 women between the ages of 8 and 80 were raped- becomes intelligible as systematic patriarchal gendered strategies of occupation by the Indian army in Kashmir to humiliate an entire community.<sup>7</sup> As this paper goes into the publication process, criminal investigations regarding the January 2018 planned and horrific torture, rape and murder of eight-year old Asifa Bano from the Muslim Bakerwal nomadic community in Jammu, by a Hindu temple custodian, a special police officer, and their

relatives are ongoing. The complex entanglement of Hindutva fascism, anti-Muslim and anti-tribal land rights appear to be reason why the eight-year old was raped and murdered so as to make the Bakarwal community leave the area. Yet, rather than place Asifa Bano's rape and murder only in the context of the rise of the Hindu right, it needs to be contextualised within the longer trend of militarisation and rape as a weapon of war in Kashmir.<sup>8</sup>

Yet, Kazi also argues against human rights discourses or Kashmiri militant patriarchal narratives that can only perceive women in passive victim roles ('women figure as victims of direct (state) and indirect violence that transforms them into widows, half-widows of the disappeared, or bereaved mothers of lost sons and children'<sup>9</sup>). Countering this, Kazi's empirical research maps a gendered Kashmiri resistance struggle which, while not dismissive of the victimhood of half-widows or grieving mothers or raped women, also points to Kashmiri women's political participation in the struggle for Kashmiri sovereignty. Recent studies by Ather Zia, Deepti Misri, Inshah Malik and Manolagayatri Kumarswamy further substantiate the nuances of Kashmiri women in the doubleness of victimhood and agency.<sup>10</sup> Kazi's study of gender and militarism is valuable for this theorisation. However, her critique of the Westphalian 'unitary' model of sovereignty appears limited. In her earlier study, Kazi suggests that 'a decentralized, democratic Indian state, premised on a plural concept of nation and identity can restore to Kashmir's people the dignity and justice for which they pay so dear a price.'<sup>11</sup> Perhaps realizing the futility of such a position, Kazi's 2014 article on 'Rape, Impunity, and Justice in Kashmir' calls for international legal mechanisms to support the Kashmiri right to self-determination.<sup>12</sup> Yet Kazi does not engage with the idea that the path to divisible sovereignty (independence) does not engender a different form of sovereignty and so

depends on the very gendered forms of militarism that she critiques. In this sense, re-envisioning sovereignty becomes a necessary task alongside a critique of the constitutive role of gender in current forms of the necropolitical operations of state sovereignty.

Recent scholarship on Kashmir appears to prove the need for rethinking the model of a liberal postcolonial national sovereignty, which proclaims its democracy yet is authoritarian through militarism, through law, and through its constitutionalism. Much has happened in the Kashmir Valley since Kazi's 2009 study. In particular, the Kashmiri uprisings of 2008, 2010, 2016, the brutal and violent repression of these uprisings by the Indian state, and the extremely low voter turnout in the 2017 elections in Kashmir, seem to suggest that any future with India is possibly untenable.<sup>13</sup> Kazi's 2018 essay, 'Law, Gender and Governance in Kashmir', in fact, suggests this untenable relationship between India and Kashmir; Kazi cites the ways in which India's rule in Kashmir is based on an illegitimate use of a provisional Instrument of Accession 'as justification for juridical control.'<sup>14</sup> The history of the Instrument of Accession as noted by Kazi is a troubled story of Kashmir's accession to India under duress by Maharaja Hari Singh – an accession disputed by Alistair Lamb and Victoria Schofield, in particular.<sup>15</sup> Based on the Instrument of Accession, the Indian Constitution retains Article 370, a legal provision whereby Kashmir is meant to have a special autonomous status for governance while the Indian state is responsible for defence, foreign affairs, and communications. Historically, such provisions governed the British Raj's satellite relationship with its princely states, and this provision was part of the Instrument of Accession, incorporated into the Indian Constitution. Article 370 was meant to give Kashmiris autonomy over their own affairs.

In the first instance, it is through the incorporation of Article 370 as a legal provision in the Indian constitution that the Indian nation-state has been able to occupy Kashmir as Haley Duchinski and Shrimoyee Nandini Ghosh have argued, through the process of ‘occupational constitutionalism’.<sup>16</sup> Article 370, Duchinski and Ghosh state, was ‘transformed from a constitutional framework of sovereignty and self-determination to a constitutional mechanism of incorporation in the Indian Union.’<sup>17</sup> Duchinski and Ghosh posit that a series of Presidential Orders in the 1950s based on ‘the sense of permanent political danger and instability’ ensured the legal annexation of Kashmir.<sup>18</sup> Presidential orders, therefore, established ‘Indian authoritarian rule while undermining J&K’s status.’<sup>19</sup> In this sense, Article 370 enabled the militarisation of Kashmir in the name of defence of India’s borders against Pakistan. The responsibility of defence for Kashmir in Article 370 further enabled the Indian state to declare Kashmir ‘a state of exception’ or a ‘disturbed area’ and put in place the draconian laws of the Public Safety Act (1978) and the Armed Forces Special Powers Act (1990). These Acts have allowed for a brutal occupation of Kashmiris with impunity. Presidential Orders and legal Acts also follow the logic of a Schmittian sovereign decisionism in the declaration of ‘a state of exception’, which as Giorgio Agamben has argued, is at the heart of the functioning of the hegemonic liberal-democratic nation-state form.<sup>20</sup> Liberal-democratic nation-states, therefore, are often able to invoke the principle of the ‘unity’ of sovereignty to declare emergencies (decided by the sovereign) even as such forms of authoritarian sovereignty were thought to have disappeared with the advent of the democratic nation-states relying on the rule of law.<sup>21</sup>

Simultaneously, Article 370 also enables an understanding of Kashmir as ‘not an integral part of India’ precisely as it emphasises the special status of Jammu and

Kashmir despite Indian politicians stating that Kashmir is an integral part of India.<sup>22</sup> These events and histories point to India's realpolitik policy of the unity of its sovereignty in terms of territorial nationalism, which, in effect, has also generated and intensified the Kashmiri struggle for freedom. A consideration of these issues, therefore, suggests that such democracy (liberal, parliamentary) or decentralisation alone does not necessarily prevent gendered militarism and (in) security. If what is at stake in the Kashmiri context is the legitimacy of a popular sovereignty – an issue which Kazi's 2015 article recommends – the broader issue of reenvisioning sovereignty (currently characterised by its gendered necropolitical operation) remains unaddressed.

Addressing precisely the issue of the legitimacy of India's sovereignty in Kashmir, Shubh Mathur's collaborative and poetic ethnography, *The Human Toll of the Kashmir Conflict: Grief and Courage in a South Asian Borderland* is a searing critique of Indian sovereignty. However, while Mathur accepts that poststructuralist understandings of sovereignty as absolute power over life and death resonate in relation to the scale of human rights violations in Kashmir and offer a 'rich insight into technologies of domination', she argues that this theory of sovereignty is 'devoid of actors and institutions, and thereby of any hope or possibility of change.'<sup>23</sup> Mathur's ethnography emphasises the keen ways in which APDP victim-families of enforced disappearances, in particular, have 'zeroed in on the available mechanisms of human rights monitoring through international institutions.'<sup>24</sup> Her ethnography demonstrates the ways in which APDP and other claimants for justice in her ethnography, have been generally seeking justice through a number of avenues even if the international community has not shown a political will, for political and economic reasons, to emphasise a political solution for Kashmir. Thus Mathur suggests that

poststructural understandings of sovereignty as unbounded power over life and death are limited. She suggests that faith must be kept in the evolving institutions of international justice including the concept of universal jurisdiction of the International Criminal Court or the Human Rights Council – institutions which may offer the possibility of accountability and justice for human rights violations in Kashmir as these violations meet the legal definition of ‘crimes against humanity.’<sup>25</sup>

Mathur is right to argue for the potentiality of evolving international human rights mechanisms through which Kashmiris may be able to seek accountability as part of a possible political solution to this 70-year dispute. But there are a few issues to consider in thinking through her discussion of sovereignty. In Mathur’s thesis, there are two ‘competing claims’ to sovereignty – that of a poststructuralist reading of sovereignty in its ‘absolute claims over life and death’ and its more classical, liberal definition, as ‘finite, bounded by laws, and accountable.’<sup>26</sup> Mathur emphasises the necessity of accountability in theorising sovereignty, thus suggesting that a liberal account of sovereignty is more useful as it retains the notion of accountability.

However, rather than thinking through the formulation of sovereignty as an either/or scenario with regard to these two competing claims (i.e., absolute authority that enables technologies of absolute power and hence states of exception or political authority that is accountable through the legitimacy of popular consent), it is necessary to reiterate a more nuanced understanding of Agamben’s theorisation of sovereignty and the state of exception. The edifice of the idea of the state of exception depends on the ability of sovereign authority to operate both within and outside law. Through a detailed study of the legal and spatial territorialisation of Guantanamo Bay during the Bush era, in the aftermath of the invasions of Afghanistan and Iraq by the U.S., Derek Gregory has qualified and extended Agamben’s theorisation of the state

of exception by arguing for the ways in which states of exception can in fact operate through the infrastructure of law in liberal-democracies.<sup>27</sup> In other words, liberal-democratic states are able to engage in the practice of sovereignty with all its checks and balances as well as behave with impunity in particular contexts both through law and its suspension. In this sense, liberal democracies in our era perform the dance of democracy. Or as Mohamed Junaid would argue, democracy is the very alibi through which India practices its necropolitical sovereignty in Kashmir.<sup>28</sup> From a legal studies perspective as cited earlier, Haley Duschinski and Shrimoyee Nandini Ghosh conceptualise ‘occupational constitutionalism’ as a way to describe India’s constitutional moves to occupy Kashmir.<sup>29</sup> Furthermore, the practice of sovereignty in terms of the declaration of states of exception can be spatial (it can demarcate regions, territories, and states such as Kashmir or Nagaland) or embodied (it can target certain populations marked by ethnicity, caste, tribe, race, or religion). In this sense, the biopolitical and necropolitical practices of sovereignty – fostering the lives of some at the expense of others is a feature of liberal democracies. Through this nuanced understanding of sovereignty, what becomes clear is that it is perhaps inadequate to depend, in good faith, on an international human rights apparatus composed of a membership of nation-states who, in practice, participate in the realpolitik interplay of biopolitical and necropolitical practices. Mathur does acknowledge the problems with the international human rights apparatus. Here, geopolitical alliances in relation to a protection of national interests become more of an imperative in drawing attention to some human rights violations as opposed to others. This, for example, is what scholars like Talal Asad and Wendy Brown point to as a corrupt politics of human rights.<sup>30</sup> To understand these politics and the manner in which a liberal understanding

of state sovereignty functions through the international human rights apparatus, I turn to the ways in which the United Nations has approached the Kashmir issue.

### **Politics, Liberal Sovereignty, and Human Rights Mechanisms**

The history of the United Nations' engagement with the Kashmir context is instructive for understanding the ways in which a Westphalian notion of sovereignty has operated at an international level. Between 1948 and 1957, the UN Security Council voted on resolutions arguing for demilitarisation of Kashmir and for Kashmiris to have the opportunity for self-determination through a plebiscite – i.e., whether they should join either India or Pakistan.<sup>31</sup> But as India and Pakistan continued their military offensives, by 1965 the United Nation Security Council omitted references to the plebiscite, and called for a cease-fire between the two nation-states, thus emphasising the narrative that Kashmir was a bilateral issue to be solved. In 2016, in the wake of a popular civilian uprising and protests against the killing of Commandar Burhan Wani, a Hizb-ul-Mujahedeen Kashmiri militant, Kashmir experienced the brutal killings of 100+ civilians and 15,000+ injured civilians by India's security forces.<sup>32</sup> Yet, the two-permanent members of the UN Security Council, the UK and the US continued the narrative of the resolution of the Kashmir dispute to be solved bilaterally. For the US and the UK, it is trade with India that appears to be paramount for their national interest. In the wake of the 2016 brutal state violence against Kashmiris, Theresa May, the UK Prime Minister visited India in order to raise the issue of a free trade agreement and bilateral ties with India in the wake of the Brexit referendum in Great Britain.<sup>33</sup> Hence, May deemed Kashmir to be a bilateral issue for India and Pakistan rather than an issue of concern for the UK. Similarly, John Kirby from the US State Department stated that 'meaningful

dialogue' between India and Pakistan would bring down 'recent tensions' in Kashmir.<sup>34</sup>

After reports of the killing and mass blindings in Kashmir in 2016, the UN High Commissioner, Zeid Ra'ad Al Hussein 'sought unconditional access' for a 'fact-finding team' to Kashmir.<sup>35</sup> This request was refused by the Indian External Affairs Ministry. India's Foreign Office stated that the Indian State of Jammu and Kashmir are part of a 'pluralistic and secular democracy.'<sup>36</sup> Furthermore, freedom in Kashmir was said to be guaranteed by 'an independent judiciary, an active media and a vibrant civil society.'<sup>37</sup> Such a claim was posed in contrast to 'Pakistan-occupied Kashmir', 'a hub for the global export of terror.'<sup>38</sup> In his opening statement on 13 September 2016, Al Hussein reported to the 33<sup>rd</sup> session of the Human Rights Council about the 'growing refusal on the part of an increasing number of Member States to grant OHCHR, or human rights mechanisms, access' in terms of human rights investigations or engagement.<sup>39</sup> Mentioning Kashmir in his speech, Al Hussein passionately argued for the necessity for the international community to work collectively in the facing of the increasing trend of the election of 'dangerous xenophobes and bigots running for office.'<sup>40</sup> He also stated that his 'Office' had 'no coercive power' and 'access' could only become possible when the State extends an invitation to us.<sup>41</sup> In effect, Al Hussein was citing the paradoxes of human rights mechanisms, which respect the sovereignty of member-states. While human rights are said to be universal, state sovereignty in terms of the powerful interests of states as well as democracy as an alibi thwarts the investigation of the human rights violations of certain states.

In a sense, then, it is a struggle to have faith in the efficacy of international human rights instruments that depend on this liberal understanding of state

sovereignty. Yet, the principles of international human rights law remain cogent. The right to self-determination, Karen Parker argues (in her 2003 address to the US House of Representatives on ‘The Right to Self-Determination of the Kashmiri People’), ‘is indisputably a norm of *jus cogens*’ and ‘*jus cogens* norms are the highest rules of international law and must be strictly obeyed at all times.’<sup>42</sup> Emphasising precedent rulings, Parker’s point is that ‘the principle of self-determination also has the legal status of *erga omnes*. The term “*erga omnes*” means “flowing to all.”’<sup>43</sup> Thus, ‘the International Court of Justice refers to the right to self-determination as a right held by a people rather than a right held by governments alone.’<sup>44</sup> Therefore, the criteria for self-determination, Parker argues, applies to Kashmiris: these include ‘a history of independence or self-rule in an identifiable territory, a distinct culture, and a will and capability to regain self-governance.’<sup>45</sup> In this sense, the fraught history of the instrument of accession and Alistair Lamb’s argument that the instrument of accession points to the ambiguity of Indian sovereignty in Kashmir, in effect, bolsters the Kashmiri case for self-determination in addition to the criteria that Parker outlines.<sup>46</sup>

Yet, as Parker herself points out, Kashmiri right to self-determination has depended on the political will of the UN Security Council, which, in turn, keeps legitimating the bilateral resolution narrative. And this bilateral resolution narrative makes of Kashmir a geopolitical strategic game between India and Pakistan rather than enabling Kashmiri self-determination. While it may be that this intractable game might end one day, that there may be an International Tribunal as in the case of the International Criminal Tribunal for the former Yugoslavia, or that Kashmiris may attain the right to self-determination, this paper is concerned with the ways in which current political understandings of sovereignty allow for the continual repetition of

state violence, a state violence which is always already gendered. What such a diagnosis necessitates especially in thinking through gendered (in) security in Kashmir, and more broadly, is the need to re-envision a form of sovereignty that would be unable to draw on its liberal-democratic structure as an alibi to continue its necropolitical techniques of power. In other words, while the principles of human rights are useful especially for those demanding accountability from necropolitical state power, the mechanisms by which these processes function show the need for reenvisioning sovereignty. In the next section, I turn to some of the debates which attempt to reformulate sovereignty through feminist and decolonial approaches. And finally I make the case for reenvisioning sovereignty through a poststructuralist feminist understanding of the relationship between vulnerability, resistance and sovereignty through a reading of *Khoon Diy Baarav*.

### **Reenvisioning Sovereignty through Gendered Resistance**

Debates around gender and sovereignty have been ongoing for a few decades. John Hoffman provides an overview and an appraisal of the ways in which feminist theory has addressed and critiqued patriarchal sovereignty.<sup>47</sup> Outlining Weber's definition of state sovereignty, (i.e., the state as having four elements – territory, legitimacy, force and monopoly as founded on violence – in short, a Westphalian model of sovereignty),<sup>48</sup> Hoffman argues for reenvisioning sovereignty through a study of the debates on gender and sovereignty. Taking account of Wendy Brown's argument that a more nuanced view of state institutions as contradictory rather than always masculinist is necessary, Hoffman states that Brown still needs to take into account the fact that sovereignty is a masculinist construction.<sup>49</sup> Thus, outlining some of the major feminist critiques of sovereignty, John Hoffman argues for 'feminizing' the

concept of sovereignty.<sup>50</sup> By feminising sovereignty, Hoffman advocates a ‘relational sovereignty,’ which emerges through an eco-feminist conception of women’s relationships with their environment – one that ‘alerts us to the importance of locating humans within nature, not because we move away from humanism, but because a concrete humanism is one which stresses our relations with the natural world.’<sup>51</sup> Hoffman’s proposal is that ‘unless women become sovereign, then humanity as a whole will be unable to progress.’<sup>52</sup>

While Hoffman’s thesis may appear to be fairly progressive, we may consider how the eco-feminist paradigm may essentialise women by positing a female-centric relationship with the earth and furthermore exclude the constitutive ways in which queer literature addresses the question of sovereignty.<sup>53</sup> Hoffman also marginalises colonial necropolitical experiences of state violence. In this regard, Andrea Smith decolonising conception of sovereignty, by drawing on Native American women’s struggles and perspectives, may be more useful. Complicating an oppositional stance between Native American ‘sovereignists’ and feminism,<sup>54</sup> Smith suggests that Native American women who do identify as feminists are also ‘genuinely sovereignist’ in that their political activism involves decolonisation and questioning the legitimacy of the US state.<sup>55</sup> Drawing on interviews with Native American women activists, Smith conveys the importance of conceptualising sovereignty through Native American forms of political and cosmological organisation. Here, Smith makes the point that a reparations-based call for justice for Native American women in the US ‘is not radical if its demands don’t call into question the capitalist and colonial status quo.’<sup>56</sup> On this basis, Smith argues for a form of governance ‘not based on domination and control,’ and hence advocates revitalising an Indigenous form of sovereignty.<sup>57</sup> Citing an interview with a Native American feminist and sovereignist, Smith states that

‘indigenous sovereignty and nation-hood is predicated on interrelatedness and responsibility.’<sup>58</sup> This interrelatedness and responsibility is expressed through Crystal Ecohawk’s words: ‘Sovereignty is an active, living process within this knot of human, material, and spiritual relationships bound together by mutual responsibilities and obligations.’<sup>59</sup> From these interrelationships, Ecohawk argues, emerge practices of identities and history – and these practices involve ‘the traditional ways in which we govern ourselves, our beliefs, our relationship to the land.’<sup>60</sup> Smith’s discussion of reconceptualising sovereignty on the basis of Native American forms of governance is insightful and useful for thinking through possible forms of sovereignty as alternatives to the Westphalian model – particularly as her critique throws into relief the colonial and capitalist imperatives of the Westphalian model of sovereignty. Here interrelationships between people and land draw on a relational model.

Yet this formulation of sovereignty needs to be grounded in the present experience of dispossession and injustice. How can sovereignty be reenvisioned through the experience of activism and resistance against biopolitical and necropolitical techniques of power? Such a question might provoke us to think through forms of relational sovereignty that cannot be appropriated by colonial or capitalist imperatives. Here Judith Butler’s recent work on vulnerability in resistance may offer some insights. While Butler is not arguing for reenvisioning sovereignty as such, I draw on her theorisation of vulnerability to reenvision sovereignty.

For Butler, the vulnerability of the body can be thought through as a means of political mobilisation.<sup>61</sup> Here, the ‘acting body’ can be rethought as a relation – one that ‘cannot be fully dissociated from the infrastructural and environmental conditions of living.’<sup>62</sup> And so, in Butler’s terms, ‘the dependency of human and other creatures on infrastructural support exposes a specific vulnerability’ especially when ‘those

infrastructural conditions characterizing our social, political, and economic lives start to decompose' or when living beings come 'under explicit conditions of threat.'<sup>63</sup>

Butler argues that such a theorisation of vulnerability is opposed to the sovereignty that demonstrates 'the posture of control over the property that I have.'<sup>64</sup> This masculinist form of sovereignty protects vulnerable women or minoritised communities from rape or death at the hands of another sovereign masculinist form of power (this could be state institutions, for example); but the logic of protectionism suggests the protector can turn violent.

Vulnerability as an acknowledgement of the dependence of the body on its infrastructure and environment is slightly different from the relational model espoused by Hoffman in that it anticipates the vulnerability of the body to necropolitical techniques of power. And yet, it draws on the experience of vulnerability as a mobilisation for resistance. Furthermore, rather than advocating an 'overcoming of vulnerability' through resistance, Butler asks us to think about the ways in which vulnerable bodies indicate their interdependency in relation to their infrastructure and environment. Here Butler's argument for interdependency resonates with Indigenous understandings of sovereignty as an interrelationship between humans and the environment. But in emphasising vulnerability, Butler also foregrounds the resistance to a masculinist form of sovereignty that claims omnipotence, absolutism, violence and protectionism. So in Butler's thesis, vulnerability can be a way of being simultaneously 'exposed and agentic' as it presumes the vulnerability of bodies as a collective experience, and 'such collective forms of resistance are structured very differently than the idea of a political subject that establishes its agency by vanquishing its vulnerability'.<sup>65</sup>

If we think through Butler's theorisation of the relationship between vulnerability and resistance in the context of Iffat Fatima's film, *Blood Leaves its Trail*, something of the relationship between vulnerability, political mobilisation and resistance is foregrounded in the collective struggle for sovereignty in Kashmir. *Blood Leaves its Trail* begins with the stories of women (mothers and wives) who have been searching for their husbands or sons who have been enforced disappeared. One of the stories the film starts with is that of Parveena Ahangar, co-founder of The Association of Parents of Disappeared Persons (APDP), Kashmir. Ahangar's son Javed was enforced disappeared in 1990 by India's security forces. The camera follows Ahangar to her previous place of residence from where her son was taken from her. As the story is told, Ahangar narrates how she felt when her son was taken away. During that traumatic night, she says that she dreamt that 'a dog bit' her. 'I am wounded' she says, 'but there is no blood, just the bruise.'<sup>66</sup> This description seems to resonate with the experience of being a victim of enforced disappearance. There is a wound – the absence of the son taken away by violent security forces of the Indian army – and yet there is no blood. Something of the experience of the separation from the body of the son without knowledge of his whereabouts, his state of being, is viscerally conveyed in this description as the camera moves through a narrow confined alley where Javed was taken. The vulnerability of a young mother going mad with grief as she searches for her son is gut-wrenching. Yet it is that vulnerability which mobilises Ahangar. As she searches for her son, she begins to recognize the grief and desperation through which other mothers or wives search for their loved ones at police stations, detention centres, hospitals and morgues. Through this understanding of her own experience as a collective one, Ahangar co-founded APDP in 1994, and has been leading the movement against enforced disappearances in

Kashmir since then.<sup>67</sup> The film skillfully weaves the stories of a few women to form a broader picture of the systematic ways in which the Indian state has used the technique of enforced disappearance, amongst other techniques of violence, to crush any demand for self-determination since the late 1980s.

The film manages to impress, through the story of Parveena Ahangar and the other victims of enforced disappearance, the collective strength and resistance of this women-led organisation. The images of their protests, every 10<sup>th</sup> of the month, at Pratap Park, Srinagar for the last two decades demonstrates the ways in which their collective assembly of bodies, as Butler might put it, are simultaneously vulnerable to detention or death and also resistant and agentic. Butler theorises two understandings of resistance. One presupposition of resistance, she argues, opposes ‘resistance to vulnerability,’ and so ‘models itself on mastery.’<sup>68</sup> Another way of thinking about resistance, she states, is to theorise it as a ‘*social and political form* that is informed by vulnerability.’<sup>69</sup> In the second theorisation of vulnerability, Butler argues, ‘there is a renewal of popular sovereignty outside, and against, the terms of state sovereignty and police power, one that often involves a concerted and corporeal form of exposure and resistance.’<sup>70</sup>

It is this emphasis on vulnerability as a resource for political action, and ultimately a resource for popular sovereignty that comes across in the rising crescendo of people’s voices demanding azaadi or freedom in *Blood Leaves its Trail*. The evocative title of the film is explained as a chant from villagers in the aftermath of the murder of three of their fellow inhabitants. Shezad Ahmad, Riyaz Ahmad, and Reyaz Shafi from Nadihal village in Barramulla in 2010 were lured by the army on the false promise of jobs. The men were taken to Machil forest, and murdered by the 4<sup>th</sup> Rajputana Rifles.<sup>71</sup> Their bodies were then passed off as Pakistani terrorist bodies,

possibly in the effort to claim a reward for killing terrorists. Iffat Fatima explains in the voice-over that during the outcry, when the bodies were found, the villagers chanted - *Khoonan Dyut Baarav* – or blood will leave its trail. At a book launch event for *Witness*, a photojournalist visual history of Kashmir since the 1990s, novelist Mirza Waheed in conversation with filmmaker and book editor, Sanjay Kak, (School of Oriental and Asian Studies, London, 2017) had a slightly different translation of the phrase *Khoon Diy Baarav*: ‘blood howls.’ This notion of blood howling from a deep and dark well of injustice is pervasive in the film; here the bodies of the disappeared, the tortured, and the dead are embodied, presented, in their families, in their loved ones, in their fellow Kashmiri denizens as they assemble, shout, make speeches, chant, and dance the lyrics of freedom. The film’s visuality makes the meaning of the lyric *har jazba bole azaadi* (each sentiment or passion demands freedom) visceral and embodied.

What is emphasized in the film is not only the protests, but the effort it takes to organize and collate knowledge of human rights violations and organize acts of resistance. These efforts are shown through the filmmaker’s travels with Parveena Ahangar to different corners of the Kashmir Valley in conditions of pervasive militarization. Here, the extraordinary acts of forming people’s collectives through the sharing of grief and experience, the collation of documentation regarding human rights violations such as indefinite detention, disappearances, mass graves, and the absolute insistence on a continual public memory of events regarding each injustice takes place through networks of villages, associations and organisations. In a broader context (beyond the film’s focus on APDP), these networks of associations and organisations (concerned with human rights and politics) seem widespread. For example, the Jammu and Kashmir Coalition for Civil Society (JKCCS) has produced

human rights reports in association with the International People's Tribunal, Kashmir.<sup>72</sup> Haley Duschinski and Bruce Hoffman have discussed the ways in which village associations form and interact with other networks such as the Kashmir Bar Association (a lawyers association) to push for investigations into human rights violations in order to document them even if they are unable to get justice.<sup>73</sup> In these people-centered networks, the relationship between vulnerability, grief, memory and injustice is absolutely clear as is the courage and audacity of those seeking accountability. And these organisations are not premised on the logic of masculinist sovereignty or vanquishing vulnerability. Rather, it is vulnerability that becomes a resource for political and social organisation and action.

The above point raises the issue of violent means of resistance in Kashmir. Throughout the film, *Blood Leaves its Trail* does not condemn Kashmiri militancy in detailing the injustices of the Indian state. While this interpretation may depend on audience reception, the film emphasizes the different forms of resistance. So rather than representing the women members of APDP simply as grieving mothers or half-widows, *Blood Leaves its Trails*, leaves the viewer without doubt of their support for the struggle for Kashmiri sovereignty. In an early moment in the film, Ahangar and Iffat watch state security forces frisking Kashmiri men as they sit in traffic that has been stopped. Ahangar sarcastically says – ‘look at them – ‘they are the landlords we are the tenants.’ This awareness of being occupied by the Indian state is pervasive in the film. At another moment in the film, the camera follows Haleema Begum, a half-widow, whose husband had crossed over to the Pakistan-controlled Kashmir, became a militant, returned, and was enforced disappeared. The village women whom she works with in the paddy fields sing songs celebrating Rashid Saab, her militant husband. Haleema Begum recites a ‘ladishah’, a folk-verse, regarding the promise of

Kashmiri freedom from India. The verse conveys the injustice of Kashmiri collaborators with the Indian state and their betrayal of Kashmiri aspirations for freedom. The *ladishah*'s repeated refrain is: 'Kashmir will flee Hindustan.' The film, therefore, does not condemn violence as struggle for Kashmiri sovereignty, but avoids the gendered trap of simply placing the mothers and half-widows as grieving victims.<sup>74</sup> In this, the film appears to echo Aliya Anjum's description of Parveena Ahangar as a victim-activist rather than a victim alongside a host of other powerful Kashmiri women who constitute part of the gendered resistance against India's occupation.<sup>75</sup>

A relevant question to pose to Butler's theorization is whether vulnerability can also inform an armed resistance. Citing Gandhi, Butler's draws on techniques of non-violent resistance to think through the ways in which 'bodily vulnerability' is 'marshaled or mobilized for the purposes of resistance.'<sup>76</sup> As Butler herself points out, simply validating non-violence may be problematic in that 'these practices can seem allied with self-destruction.'<sup>77</sup> So, Butler's argument for rethinking vulnerability and resistance may need to be qualified. Arundhati Roy, for example, has refused to condemn the armed struggle waged by the Naxalites in India. She has argued against the non-violence of Gandhianism by saying, 'Can the hungry go on a hunger strike?'<sup>78</sup> In the case of Kashmir, the impunity with which the Indian state has committed a massive and brutal human rights violations is staggering. It would be for the Kashmiris to decide how they might want to resist such an occupation. A more realistic understanding of any violent occupation would be to understand the ways in which militant and non-violent techniques of protests often work in tandem with each other as part and parcel of a broader notion of resistance. And it is possible to also say that these differing forms of resistance arise from wounds of vulnerability.

In thinking through Butler's discussion regarding vulnerability as a resource for resistance, it may be worth it to recall and redirect Achille Mbembe's discussion regarding necropolitical sovereign power. Mbembe's essay 'Necropolitics' begins with the question, 'What place is given to life, death, and the human body (in particular the wounded, slain body)? How are they inscribed in the order of power?'<sup>79</sup> In thinking about gendered resistance in Kashmir, we may well ask a different question. How does the wounded and slain body reinscribe the order of power? Such a question would return us to the problem of reenvisioning sovereignty. Butler refrains from the issue of reenvisioning sovereignty as she appears to equate sovereignty with masculinity, preferring to rethink and reformulate vulnerability and resistance. Yet, it seems necessary to reenvision sovereignty in the face of the continual cycles of violence and gendered (in) security that hegemonic masculinist forms of sovereignty generate. In this sense, Mathur is right to argue that the problem with current poststructuralist understandings of sovereignty is that they privilege death even as we need these forms of diagnoses in problematizing the form of sovereignty we experience as political authority. So, while the necropolitical imperatives of the nation-state can be diagnosed through the theoretical paradigm of the state of exception, what remains to be done is to reenvision sovereignty through the experience of activism against its forms.

In this context, a study of Kashmiri women's activism and resistance may make a valuable contribution towards debates in sovereignty studies for thinking through the ways in which sovereignty may be re-envisioned through the context of a geopolitical dispute and Kashmiri struggle for self-determination. Here, we need to see the links between the vulnerability of bodies, a gendered resistance – informed by vulnerability, and the demand for a sovereignty based on a future promise of

accountability and justice. Can vulnerability, in this sense, be used as a resource not only for resistance but for the reconceptualization of sovereignty itself?

Noor Ahmad Baba has discussed some proposals for peace in Kashmir, which include demilitarisation and regional autonomy for the different regions of Jammu and Kashmir.<sup>80</sup> Based on an ethos of greater cooperation between the nation-states of India, China and Pakistan through the South Asian Association Regional Framework (SAARC), Baba suggests that the notion of soft national borders could benefit Kashmiris, giving each region of Kashmir greater autonomy. While the solution needs to come from Kashmiris themselves, Baba argues that ‘the intelligentsia, the academic community, human rights groups and people interested in peace-building and human security, the business community across the region and environmental groups, the media and, most particularly, the political leadership’ could seize the opportunity and act as ‘agents of change in the region’s paradigm shift.’<sup>81</sup> Baba’s proposal still relies on a current model of sovereignty. But the emphasis on ‘human security’ and the contribution of people-centred collectives alongside academic expertise and political leadership for a solution to the problem of necropolitical sovereignty in Kashmir is useful in rethinking the current model of nation-state sovereignty.

In the collectives that have formed in Kashmir such as APDP or other activist organisations, there is a reaching out for the solidarity of Kashmiri, Indian, and transnational networks (e.g. academics, artists, media, political leadership and human rights groups) to ensure accountability and justice. In writing about one such collective, Haley Duschinski and Bruce Hoffman’s characterise it as ‘a people’s authority’ formed to challenge the cover-ups by Jammu and Kashmir state politicians in collaboration with the Indian Army.<sup>82</sup> This people’s authority is organised on the hope that no one else will face the same wounds, thus acknowledging that bodies are

indeed vulnerable – relational with other bodies, with the infrastructure that they rely on or the world that we live in as Butler suggests. These collectives could form the model of a different form of sovereignty, a more porous, reciprocal form of sovereignty, recognising an interdependence with other people-centred networks. Perhaps existing networks and knowledges of local, regional and transnational human rights groups could be drawn on to reconfigure what a people-centred sovereignty might look like. A non-hierarchical popular and democratic sovereignty instead of an authoritarian sovereignty may be possible. Instead of a territorial nationalism, an interdependence between people across porous borders is possible. Crystal Hawk's understanding of sovereignty as interrelational between gendered bodies and the environment could be drawn on as a guide. Baba's notion of permeable borders could also be linked to the relationality of bodies. But consideration of the vulnerability of bodies and environment would be key to rethinking sovereignty. It is perhaps through this work of articulating the relationality of the vulnerable sovereignty of bodies and the body politic that we may be able to ensure the most possible form of justice for those wounded and resistant bodies living the nightmares of necropolitical sovereignty. In the context of Kashmir, it is important to remember as Noor Ahmad Baba argues that any formulation of sovereignty needs to come from inside Kashmir as there is no 'ready-made, off-the-peg solution.'<sup>83</sup> The suggestion for rethinking sovereignty can only be a potentiality rather than a prescription.

In Kashmir, in a region that is ringed by mountainous terrain, yet formed an important part of the Silk Route, such a reimagining of its nationhood and sovereignty – of porous borders and a permeable autonomy and authority - does not seem geographically impossible. Beyond Kashmir, re-envisioning sovereignty as a political project is an issue to consider on a planetary level. Here, our vulnerability, in the face

of the environmental toxicities of geopolitical wars waged in the name of national interest, capitalist accumulations, and of climate change (to name a few global challenges), makes re-envisioning sovereignty a challenging imperative.

## Notes

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<sup>1</sup> The APDP was co-founded by Parveena Ahangar and Parvez Imroz in 1994. It is currently led by Parveena Ahangar, herself a victim of enforced disappearance. According to the International Commission of Jurists, enforced disappearance is a ‘complex crime’ involving two elements: ‘deprivation of liberty by state’ or state-authorised agents; and ‘refusal to acknowledge the deprivation of liberty’ or ‘concealment of the fate of the disappeared person’ (10). Hence, the families of those disappeared are also victims of enforced disappearances. *Blood Leaves its Trail* focuses on the women-led APDP. There is another APDP (part of the Jammu and Kashmir Coalition for Civil Society), headed by the lawyer Parvez Imroz. Parveena Ahangar and Parvez Imroz were awarded the 2017 Rafto Human Rights Prize by the Norwegian Thoralf Rafto Human Rights Foundation for their decades long work addressing basic human rights in Jammu and Kashmir, one of the world’s most militarized zones.

<sup>2</sup> Since the late 1980s, the Indian state has a record of over 10,000 enforced disappearances, reports of 7,000 mass graves, and over 70,000 deaths (including extra-judicial killings), rape, torture, and detention in Kashmir. See *Structures of Violence*, 3.

<sup>3</sup> For a cinema studies reading of Iffat Fatima’s techniques used in *Blood Leaves its Trail*, see Max Kramer, ‘Mobilising Conflict Testimony.’

<sup>4</sup> Throughout this paper, I use the term Kashmir as a shorthand to refer to Indian-occupied Jammu and Kashmir.

<sup>5</sup> Kazi, *Between Democracy and Nation*, xi – xii.

<sup>6</sup> *Ibid.*, xii.

<sup>7</sup> See Essar Batool et. al. *Do You Remember Kunan Poshpora?*

<sup>8</sup> See responses by artists, writers, and scholars to the event of Asifa Bano’s rape and murder at *The Polis Project*. <<http://www.thepolisproject.com/asifa-a-story-of-militarisation-violence-and-justice/>>

<sup>9</sup> *Ibid.*, 138.

<sup>10</sup> Ather Zia, “The Spectacle of a Good Half-Widow”; Inshah Malik and Manolagayatri Kumarswamy, “Sexuate Agency and Relationality.” For a discussion of the risk of promoting the grieving mother image, see Deepti Misri’s “‘This is not a performance!’” Public Mourning and Visual Spectacle in Kashmir.

<sup>11</sup> *Ibid.*, xxviii – xxix.

<sup>12</sup> Kazi. “Rape, Impunity, and Justice.”

<sup>13</sup> “Can the Kashmir Conflict be resolved at the ballot box” (*Al Jazeera*, April 26, 2017).

<sup>14</sup> Kazi, “Law, Gender and Governance in Kashmir,” 152.

<sup>15</sup> Lamb, *Incomplete Partition*. Schofield, *Kashmir in Conflict*.

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- <sup>16</sup> Duschinski and Ghosh, “Constituting the Occupation: Preventative Detention and Permanent Emergency in Kashmir,” 5.
- <sup>17</sup> *Ibid.*, 6.
- <sup>18</sup> *Ibid.*, 11.
- <sup>19</sup> *Ibid.*
- <sup>20</sup> Agamben, *Homo Sacer*, 123.
- <sup>21</sup> Hussain, *The Jurisprudence of Emergency*, 13.
- <sup>22</sup> *Ibid.*, 318.
- <sup>23</sup> Mathur, *The Human Toll*, 153.
- <sup>24</sup> *Ibid.*, 71.
- <sup>25</sup> *Ibid.*, 133.
- <sup>26</sup> *Ibid.*, 153 - 154.
- <sup>27</sup> Gregory, “The black flag.”
- <sup>28</sup> Junaid, “Death and Life Under Occupation.”
- <sup>29</sup> Duschinski and Ghosh, “Constituting the Occupation: Preventative Detention and Permanent Emergency in Kashmir.”
- <sup>30</sup> Asad, “What do Human Rights Do?”; Brown, “The most we can hope for.”
- <sup>31</sup> For a guide to UN Resolutions, see Karel Wellen, *Resolutions and Statements*.
- <sup>32</sup> “Over 100 civilians killed” (*Kashmir Media Service*, October 17, 2016).
- <sup>33</sup> Pant. 2016. “British PM Theresa May visits India,” *The Diplomat*, November 7. <http://thediplomat.com/2016/11/british-pm-theresa-may-visits-india-whats-on-the-agenda/>
- <sup>34</sup> “US says does not support declaring Pakistan a terrorist State” (*Indian Express*, October 7, 2016).
- <sup>35</sup> “UN Rights Chief Seeks Access to Kashmir.” (*The Telegraph*, September 14, 2016).
- <sup>36</sup> *Ibid.*
- <sup>37</sup> *Ibid.*
- <sup>38</sup> *Ibid.* Pakistan had, in fact, invited the UN High Commissioner to Azad Kashmir for an investigation, contingent upon India’s invitation to the same team.
- <sup>39</sup> Al Hussein, “Opening Statement,” (OHCHR, September 13, 2016): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20474>
- <sup>40</sup> *Ibid.*
- <sup>41</sup> *Ibid.*
- <sup>42</sup> Parker, “The Right to Self-Determination.”
- <sup>43</sup> *Ibid.*
- <sup>44</sup> *Ibid.*
- <sup>45</sup> *Ibid.*
- <sup>46</sup> See note 18.
- <sup>47</sup> Hoffman, *Gender and Sovereignty*. See Elshtain, *Sovereignty: God, State and Self* for a historical understanding of the theological and political articulation as well as critiques of sovereignty.
- <sup>48</sup> Hoffman, 79
- <sup>49</sup> *Ibid.*, 80.
- <sup>50</sup> *Ibid.*, 29
- <sup>51</sup> *Ibid.*, 212 - 213
- <sup>52</sup> *Ibid.*, 213
- <sup>53</sup> Weber, *Queer International Relations*; Rifkin, *The Erotics of Sovereignty*.
- <sup>54</sup> Smith, “Native American Feminism,” 118

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- <sup>55</sup> Ibid.
- <sup>56</sup> Ibid., 127-128
- <sup>57</sup> Ibid., 128
- <sup>58</sup> Ibid., 129
- <sup>59</sup> Ibid.
- <sup>60</sup> Ibid.
- <sup>61</sup> Ibid., 19
- <sup>62</sup> Butler, “Rethinking Vulnerability and Resistance,” 12.
- <sup>63</sup> Ibid., 19
- <sup>64</sup> Ibid., 24
- <sup>65</sup> Ibid.
- <sup>66</sup> *Blood Leaves its Trail*
- <sup>67</sup> For more information, see APDP’s webpage: <http://apdpkashmir.com>
- <sup>68</sup> Butler, “Vulnerability and Resistance.” 25.
- <sup>69</sup> Ibid.
- <sup>70</sup> Ibid., 26.
- <sup>71</sup> “Six Army Men Sentenced to Life” (*Indian Express*, September 7, 2015).
- <sup>72</sup> For more information about JKCCS, see <https://jkccs.wordpress.com>
- <sup>73</sup> Duschinski and Hoffman. “Everyday Violence.”
- <sup>74</sup> See Deepti Misri “”This is not a performance!” Public Mourning and Visual Spectacle in Kashmir’ for an account of the trap of the grieving mother frame.
- <sup>75</sup> Anjum, “The militant in her.” (*Al Jazeera*, August 2, 2011).
- <sup>76</sup> See note 73.
- <sup>77</sup> Ibid.
- <sup>78</sup> “They are Trying to Keep me Destabilised.” (*The Guardian*, June 5, 2011). Roy, *Walking with Comrades*,
- <sup>79</sup> Mbembe, “Necropolitics.” 12.
- <sup>80</sup> Baba, ““Resolving Kashmir: Imperatives and Solutions.”
- <sup>81</sup> Ibid., 77.
- <sup>82</sup> Duschinsky and Hoffman. “Everyday Violence.”
- <sup>83</sup> Baba, “Resolving Kashmir: Imperatives and Solutions,” 77.

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