



Journey of Survivance from a Cultural Practice to Legal Precedent in Kashmiri Rhetorics: An Indigenous Study of Memoirs of Basharat Peer and Rahul Pandita

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ABSTRACT

This research focuses on the practice of survivance and its journey from a cultural practice to legal precedent for likely move to constitutional praxis in the Kashmiri context. It analyzes this practice as a priori argument of the Kashmiri narrativized rhetorics selecting two memoirs, Basharat Peer's *Curfewed Night* and Rahul Pandita's *Our Moon has Blood Clots*, representing two Kashmiri communities. The objective is to pinpoint survivance practices as the basis of the Kashmiri assertion for indigenous sovereignty over the land, assuming Kashmiri narrativized rhetorication of the Kashmiri culture assists survivance practices transforming them into legal precedents even if they are oral testimonies of the indigenous legal claims likening them to the Vizenorian claim of the fourth person. The research validates this argument that the Kashmiri survivance practices enter the political realm and compete with paracolonialism in legal validation of the native claims but fall short of claiming constitutional praxis which requires further research through a legal standpoint regarding their affectivity in this arena.

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"Survivance is the heritable right of succession or reversion of an estate and, in the course of international declarations of human rights, is a narrative estate of native survivance." (Vizenor "Aesthetics of Survivance", 2008, p.1)

1. Introduction

The trope of survivance, (G. Vizenor, 2008) calls theories ("Aesthetics of Survivance" p. 1) on account of the diversity of available cultural practices used under its banners, is not only "elusive" but also "invariably true and just" when employed by the indigenous community (p. 01) in its indigenous struggle to win political recognition. Its cultural significance lies in the community's assertion of the right to its culture. This trope, however, poses serious challenges when different communities employ in the same cultural settings such as of Kashmir where various other political and cultural tropes continue eliciting varying responses.

In such a context, survivance, when it empowers the indigenous community to negotiate with the colonial power," Byrd (2011) becomes a political tool. It is not just a cultural practice, yet the cultural condition must be paracolonial (Powell, 2002) – a prerequisite for the indigenous community to consciously employ these practices. The journey of this practice from a cultural act to a political practice/tactic/strategy poses various questions

when used as a precedent to win legitimacy in the legal realm, be it constitutional legislation or judicial proceedings even if the evidentiary presentations are oral ones such as the fourth person of the sworn witnesses. In this context, the presentation of oral stories accompanied claims for the legality of indigenous sovereignty ("Aesthetics of Survivance," p. 2) becomes a survivance practice. Other such oratorical survivance practices, other than the fourth witness, too, provide precedents to indigenous legality. When such a practice becomes a statement of a claim to natural estates in narrativized form, it transforms into a legal assertion (p. 11). That is why Carlson (2011) finds legal etymological semantics of the trope that Vizenor manipulates into its cultural redefinition (p. 13). It points to the suitability of this trope for its appropriation to the Kashmiri context. When looked from this perspective, two memoirs from Kashmir, *Curfewed Night* by Basharat Peer, a Muslim, and *Our Moon has Blood Clots* by Pandita (2013), a Pandit, show ample pieces of evidence regarding the presence and employment of these cultural practices for legitimacy as well as ambivalent assertion for constitutional praxis.

The appropriation of survivance and its journey from a cultural to legal trope require suitability of documents to evaluate indigeneity. In the case of Kashmir, both memoirs are indigenous written by two representative individuals of respective indigenous communities, and both come up to the benchmark of indigeneness, demonstrating resistance, expressing political suppression, and demonstrating cultural practices resisting paracolonialism (Byrd, 2011; Moreton-Robinson, 2015; Powell, 2002). Also, both Kashmiri narratives demonstrate that indigenous cultural practices that seek to assert indigeneity have wider social acceptance. They gradually enter the political realm and win legitimacy either for the legal assertion of sovereignty or constitutional praxis in legislative terms. The host of questions arising from this argument elicit answers as given in the following review of the journey that survivance practice undergoes with Powell (2002); G. Vizenor (2009a) and Carlson (2011), and its appropriation to the Kashmiri context unwittingly demonstrated by Peer (2010) and Pandita (2013) in their memoirs. The research also focuses on whether this legitimacy could help the Kashmir culture win its indigenous right to indigenous sovereignty to move it to constitutional praxis.

2. Literature Review: Journey of Survivance from a Cultural to Legal Practice

The employment of the "theories of survivance" ("Aesthetics of Survivance" p. 1) as cultural practices has led the indigenous scholars to pinpoint this move of the native and indigenous population as "a sense of native motion" Byrd (2011) and an effort to save their possessions and sovereignty in the likely dispossession efforts Moreton-Robinson (2009a) made by paracolonialism. Its exhaustive etymological and semantic analysis demonstrates that it harbors a wide array of meaning employability in an indigenous context, "demonstrating multifarious cultural practices" (Abbas, Kharal, & Shahzadi, 2021) after it undergoes semantic transformations. Vizenor, however, denies its being theories, linking the practice to the theoretical perspectives employable to irony, arguing it is a "rhetorical or wry contrast of meaning" ("Aesthetics of Survivance," p. 11). Therefore, it is a type of indigenous rhetoric having creative and dynamic nature to survive (Stromberg, 2006) against heavy odds of paracolonialism due to its "wry" nature (p. 11). Also, due to its interrelations with indigeneness, it is a vital part of the indigenous theoretical perspective with likely ramifications on social, political, and ultimately indigenous legal landscapes.

Where the metaphorical journey of survivance practices in rhetoric toward constitutional praxis is concerned, it initially starts fluctuating in the realm of social activities. Although etymologically and semantically it emerges in the French context with different derivatives Kamuf (1991) American Indian writers and poets stretch its meanings to their personal, American Indian, context, transforming it into a theoretical trope encompassing practices such as the use of pictorial arts, narratives comprising images, the right to property and possession ("Aesthetics of Survivance," p. 19), comments of vital humanistic teases, use of irony, comments of moral courage to speak (p. 1-12) in narratives, claims to estates, mention of the signs of higher civilization, and demonstration of indigenous tragic wisdom (p. 1-12). Not only do these cultural practices offer clues to cultural indigeneity and about the heirs to the estates, but also they point to the legal claims, even though, from the position of an "oral testifier" (p. 02). Although such narratives find places in translation done by paracolonial tools, Vizenor, the real theorist of this term, excludes such translated stories of the indigenous culture by outsiders, rejecting them arguing that these representations are

unreal, having practices of the “simulated tribal cultures” (p. 27). These narratives may exist in any form but in dominating cultural practices they are merely tools of “consumerism” he adds saying this native sense resides (*Survivance: Narratives of Native Presence*, 1999, p. 58) in the indigenous consciousness that reverts to the memories of the cultural markers be they animals (“Aesthetics of Survivance”, p. 14), images, (p. 14), ironic narratives or rhetoric (Powell, p. 404). When such narratives, having survivance practices couched in them, enter the realm of narratives, and become part of the culture, they stay in the public consciousness and often emerge in the presence of the paracolonial tools with the ambivalent purpose of the assertion of indigenosity. Following their entry into narratives and memoirs, they gradually become vital parts of political documents. In this backdrop, memoirs or autobiographies have an authenticity, for the authors are scripted testifiers instead of Vizenorian “oral testifier[s]” (“Aesthetics of Survivance,” p. 02). Also, these documents present first-hand experiences contrary to the Vizenor’s fourth person (p. 14). The emphasis of Vizenor, however, is on its legal aspects in setting precedents which comes handy in the case of memoirs, for they are indigenous, native, and first-hand accounts.

As Vizenor’s contention that survivance emerges in cultural practices in the shape of familiar words, common greetings, native tropes, ironic remarks, comments in commercial transactions, and “imagic scenes” (p. 01), he means that it is a “singular human practice” (p. 02). Therefore, such practices are indigenous as well as native and carry wider connotations, bordering political subtleties. Commenting upon this political connection of survivance, Blaaser (1996) argues that survivance gives the natives a sense of being “Destined to liberate and heal” (p. 107). This aspect of the argument is suggestive of the liberation or resistance movements that often emerge in the form of robust and resilient local practices and engage in negotiating indigenosity with paracolonial culture. Therefore, Vizenor deliberately blesses it with legal nuances.

Regarding its legal connotations, Vizenor presents the story of his Fourth Man, Charles Aubid, in “Aesthetics of Survivance.” Aubid does not accept the white man’s argument of the acceptance of a written precedent and the unacceptance of an oral precedent when deciding a case regarding white earth reservations in America (p. 03). This issue of precedent, Vizenor elaborates, is that “rules of evidence and precedent” differ from culture to culture (p. 03). Therefore, refuting such rules in one and accepting in another instance is not a question of legitimacy settled likewise. It is a question of indigenosity. That is why he asserts in the same treatise that it is a “heritable right [of the natives] to succession or reversion [to] an estate” (p. 02) based on which a precedent is formed. And such stories, he says, are “narrative estate of native survivance (p. 02). This statement of Vizenor not only involves the right of the natives to rule the estate but also their right to lay claims on its indigenous sovereignty.

The use of survivance as a legal term, also, ricochets to Vizenor. Carlson (2016) refers to Vizenor’s claim of right to succession to the estate (*Imagining Sovereignty*, 2016, p. 146) as it is found in Vizenor’s scholarship. Although Carlson states that there is no such word in legal parlance, he refers to “survivorship” to claim that it “is a concept of property inheritance” (p. 146). By calling it a metonymic link between discourse and survivance (p. 146), Carlson argues that when Vizenor refers to survivance, he essentially means it a right to succession even if colonialism has taken over, dominated the indigenosity, or retreated. Yet, his argument’s Eurocentric approach becomes obvious when he attributes its metonymic use to “lateral reading” – an experience of the “western tribe” (p. 146). He also links this term to the American Indian context, adding it is a “political act” that centers upon indigenous sovereignty with the purpose to assert a right over it and make others feel this assertion (p. 152). Supporting his premise, he claims that the indigenous community is the ultimate decider to use this term (p. 18) that he clarifies concerning American Indian stance of Vizenor, saying;

The essence of survivance for Vizenor, then, is the act of nurturing “postindian” creation of counternarratives and the employment of reading practices that clear away colonial simulations to create a space for the recreation of the real, the sovereign right of indigenous people to determine how or how much, they are seen by others. (p. 24-25).

Despite having cultural connotations for "postindian" (p. 24) narratives and their reading, the political context is clear. Hence its employment in a legal sense becomes appropriate. Regarding the legality of this Indian discourse in the United States about the use of survivance practices, another scholar Madsen (2010b) echoes Vizenor, saying Vizenor's writing demonstrates "deconstructive hermeneutic discourse of survivance" whose ultimate objective is to end the "monologic US colonial structures" (p. 14). This political use of survivance by Vizenor links it to legitimacy, a requirement of its use in the legal arena (*Native Authenticity: Transnational Perspectives*, p. 14). Moore (2008) too, seconds Madsen's argument when he states that it has a "political leverage" (p. 490). That is why Carlson has Vizenor's readers feel the ramifications of this "praxis which a convergence of theory and practical action" and that Madsen synergizes with "aesthetics and politics" (Carlson, 2011). Although Vizenor himself participated in the practical constitutional legislation for American Indian tribes, the argument takes research too far due to the constraints the Kashmiri context confronts in argumentation. The reason for survivance being constitutionally valid, Carlson argues, lies in the "conceptual clarity" that Vizenor provides in this connection (p. 19). It wrests the postindian readers from "political discourses of the colonizers" (p. 24) and empowers them to employ indigenous discursive practices instead. He further argues that although Vizenor's constitutional suggestions and validity may face rejection from the US courts (p. 35), it, nonetheless, assists in "highlighting an important performative conjunction between legal and literary language" (p. 37). This also helps writers from other contexts to draw conclusions about their literary writings and employ survivance practices, consciously or unconsciously, weighing their politico-legal value and constitutional validity in their contexts. Raising questions about the Kashmiri context and validity of this argument regarding Peer and Pandita's memoirs facilitate readers to conclude that Kashmiri survivance practices, after having confronted colonialism and paracolonialism simultaneously, are alive, robust, and vibrant, and may help indigenous people to materialize constitutional praxis. It is yet to prove how this becomes a dialectical argument if it is a form of rhetoric.

3. Survivance as a Rhetoric and Its Political Impacts

The rhetorical features of narratives having survivance practices their central concerns show aesthetic appeal, but their real objective is political. Stromberg (2006) calls American Indian narratives rhetorics of survivance (p. 01). It is because survivance practices are in discursive forms, are narrativized in fiction or personal stories, and are parts of a culture. Therefore, they are rhetorics and hence epistemic with an objective to create knowledge (p. 01) or persuade others (p. 01) in the Grecian sense. Burke (1969), regarding rhetoric, argues;

For rhetoric as such is not rooted in any past condition of human society. It is rooted in an essential function of language itself, a function that is wholly realistic, and is continually borne anew; the use of language as a symbolic means of inducing cooperation in beings that by nature respond to symbols (p. 43).

This argument of Burke relates to the American Indian context in that American Indian writers narrate their stories through various means with the sole purpose to persuade readers. Vizenor also has written several folk tales using American Indian myths, symbols, and folk tales to persuade others (Booth, 1983) which if measured on the yardstick of narrative rhetorics, demonstrate this. Booth further elaborates it saying, "One of the most obviously artificial devices of the storyteller is the trick of going beneath the surface of the action" (p. 03) to "impose his fictional world upon the reader" (p. xiii). Narratives, hence, become impositions of the writer's rhetorical purpose meant to "control...reader" (p. xiii), a purpose akin to persuasion. Also, the rhetoric demonstrates strategies of ethos, logos, pathos, and *kairos* (Burke, 1969; Helsley, 1996) as the essential strategies to convince readers regarding the veracity of the purpose of the writer. When Vizenor argues that stories are "more than survival" and empower the people to "make, re-make, [and] un-make the world" (G. R. Vizenor, 2000), he means these survivance practices narrativized by American Indians have the power to persuade and remake the socio-political structure of the society due to the effective use of these rhetorical. Despite having this holistic Eurocentric worldview, this argument empowers the indigenous epistemology to evaluate the rhetoric "with which to articulate the critique" (Powell, 2002) of the indigenous narratives. In both cases, Powell and Vizenor see American Indian narratives persuading English readers through oblique references to their identities, indigenous sovereignties, and constitutional praxis so that they could come

to terms with the American Indian cultural sovereignty that Vizenor not only stipulates but also discusses in legal terms, involving survivance and postindian context (Carlson, 2011). Applying the same argument of involving survivance and its rhetoric to the Kashmiri context, albeit in the shape of narrativized memoirs, seems it is leading to the point where it also highlights “an important performative conjunction between legal and literary language” (Carlson, 2011).

Vizenor and Carlson show the application of narrative rhetoric in constitutional praxis disregard of the fact that narrativizing figures may have no idea of its constitutional validity. In the light of this premise, Peer and Pandita seem to have a clear sense of their separate political identities in the Kashmiri culture. Hence, their purpose of rhetoricating their personal narratives in the broad spectrum of the Kashmiri culture, demonstrating its survivance practices having clear political and legal connotations bordering constitutional praxis, becomes obvious, too.

4. Rhetoric of Kashmiri Survivance Practices

Appropriating survivance practices to Kashmiri narratives, thus, becomes easy as several Kashmiri literary documents of the colonial era highlight the existence of Kashmiri narratives and their rhetorical purposes, (James Hinton Knowles, 1885) having not only the wit but also the very genius of the Kashmiri culture couched in them (J Hinton Knowles, 1893). Local Kashmiri writers, too, stress upon the narratives of indigenous culture, for “the Kashmiris seem to have interested in cultural pursuits” (Kalla, 1985) with “Folk dances and folklore receiv[ing] special attention” (p. 7). Foreign writers, too, keenly observed the Kashmiri narratives, evincing specific cultural traits (Lawrence, 1895). Although researchers call these accounts prejudicial and biased, yet, they argue, the accounts demonstrate “survivance practices the Kashmiri culture adopted from time to time” (Abbas, 2020). And as it is similar to the American Indian survivance practices whose ultimate aim is to win legal legitimacy and move ahead for constitutional praxis, the Kashmiri personal narratives, too, demonstrate the same objectives of constitutional praxis if viewed from the indigenous critical perspective with survivance practices as the central idea of critique. Hence, the case of *Curfewed Night* by Peer (2008) represents the Muslim community, the majority community in Kashmir culture, while *Our Moon has Blood Clots* by Pandita (2013) represents the minority community, the Pandits. Both communities form the pillars of the Kashmiri plural culture, representing “plurally indigenous Kashmiri culture” despite differences in their cultural practices (p. 358). As these personal narratives are rhetorication of the Kashmir culture, they demonstrate survivance practices (p. 357-358) that lead to political strategies having the legitimacy of indigenous sovereignty. It means they are suitable in the existing constitutional position of the Kashmiri culture undergoing paracolonialism. Interestingly, the context has lost its autonomous status in post-abrogation of Article 370 and 35A (Ivan, 2019) in the political sense but the personal narratives under analysis emerged in the pre-abrogation era, offering little help in making headway in critiques or hermeneutics about it. The focus of this research, therefore, is the pre-abrogation era in which these narratives appeared and caused ripples in the indigenous epistemic drives.

5. Case of *Curfewed Night* and *Our Moon Has Blood Clots*: Kashmiri Rhetorics from Cultural Survivance to Constitutional Praxis

In the case of *Curfewed Night* and *Our Moon has Blood Clots*, the fact is both narratives are personal or first-hand accounts, and both are rhetorics, the reason that they show the effectivity of the rhetorical strategies (Burke, 1969; Helsley, 1996) intended to persuade the readers and support implicit or explicit claims to indigenous sovereignty (Abbas et al., 2021). Also, it is because both writers are natives from the same land, the same culture, the same linguistic heritage, and the same historical background, though, with different theological underpinnings which do not matter much in the plurality of the Kashmiri culture. Even in writings, both display some common cultural and writing conventions. For example, both demonstrate the same non-linearity in narratives (Pandita, 2013; Peer, 2010) and the same cultural mores and conventions for expressing indigenous claims. Yet, both represent different communities within the same culture, the Muslim community, and the Pundit community. Therefore, both have some common and some different survivance practices whose rhetorication demonstrate different authorial intentions, representing their

respective communities which, in turn, show their implicit will for the legitimacy for their respective cultural and communal heritage.

In the case of Peer's memoir, the metaphor of *Curfewed Night* and its titular significance points to different Kashmiri cultural practices in vogue in narratives in the shapes of folklores and myths such as of Habba Khatoon (p. 137), of Amiran and Thorpe's love tale (p. 129), of the story of indigenous man, Yousuf Shah Chak (p. 137), of Zain Shah's rule (p. 175) and of the romance of Nagiri and Heemal (p. 229). These references are, specifically, linked to the Muslim rule and Muslim communal color in the Kashmiri landscape. Peer mentions that "I had a sense of the alienation and resentment most Kashmiri Muslims felt and had against Indian rule" (p. 11). Not only the stress upon his theological linkage is apparent in it but also the alienation associated with it is obvious. This also reverberates in common survivance practices such as the use of "kahwa", *samovar* (p. 37), Kashmir spices (p. 37, 122), fruits (p. 18), epistemology (p. xv, 11), and desires for political segregation (p. 30). Theologically, some of these purely Kashmiri mores are linked to religion. Although these practices do not find extensive references in his narrative, they demonstrate a protracted history of the Kashmiri culture with a pragmatic approach of Peer's father advising him that constitutional praxis means to have a separate country that takes a long time to achieve (p. 30). Implicitly or explicitly, Peer is fully aware that cultural practices that ensure survivability, if practiced regularly, could turn into political acts, and could be used for constitutional rights later. The failure of various commentators (Dalrymple, 2010; Mir & Mohindra, 2015; Tripathi, 2010) to understand Peer's real objective means they have ignored indigeneity Peer intends to use when pointing to the discourse of pathology practiced by paracolonial power (*The Good Indigenous Citizen*, 2009, p. 63-66). Even in "human jumble" Peer could identify Kashmiriness in every person that adopts a singular survivance practice (p. 17) which becomes an explicit expression of survivance practice in the shape of *Azadi* as Peer himself feels that he is no more "I" but "we" (p. 17-18). His simple and lone act proves his loyalty to his community and his desire to become part of the indigeneity of his community. This is also part of survival, making adoption of survivance practices easy.

Also, Peer has transformed love stories into a battleground to assert indigeneity that points to the constitutional praxis that takes a Kashmiri heart and tongue to express it appropriately. Yet, when it comes to legitimacy in the legal realms, he seems to feel that the Kashmiri cause, specifically, in the existing political scenario of dominating paracolonial culture, does not fit to have legal backing despite having international recognition. Though he says that Kashmiris feel that they must read, write, and make their land come to terms with the present situation (p. 2, 3, 6, 10) yet with nonviolence. His stress on reading as a survivance practice includes all types of documents; be they theological or colonial (p. 2, 10). He knows it very well and still makes a mockery of the legal ways (p. 92-93, 145, 147) practiced by paracolonial culture where a wrong translation could send a native person to gallows. Constant reminders of the Kashmiri culture, its geographical prairies (p. 7-8), its flora and fauna (p. 7-8), and its language and public life (p. 8), however, are survivance practices which not only show the use of tricky teases but also of the acts of tragic wisdom and higher civilization ("Aesthetics of Survivance", p. 1-3). That is why Peer takes little time in berating the local laws framed or legislated by paracolonialism or paracolonial-indigenous tools and contempt expressed by the natives for such legal machinations. Therefore, this pre-abrogation state he presents in his memoir deserves to be called Kashmiri rhetoric having specific survivance practices but the limbo that followed it could not lead to constitutional avenues to open for the indigenous culture to make inroads for implementation. For example, Peer presents the case of a Kashmiri professor and Afzal Guru saying;

My mind wandered to another Kashmiri who had been executed in Delhi in 1984 – Maqbool Bhat, the founder of the armed struggle in Kashmir. Even today, Bhat's execution fuels anti-India rage in many Kashmiris (p. 96).

These two sentences demonstrate Kashmiri culture's rhetoric bordering armed struggle, making even an erudite journalist like Peer interrogate the very foundations of the legitimacy of the paracolonial democracy. It also demonstrates this rhetoric, if ever erupted in English or Urdu in Kashmir in this post-abrogation period, would not only be stronger but also more robust than before, due to having strong political and constitutional implications in the form of, maybe, praxis. Therefore, when Peer insists on proving his case of indigenous oppression at

the hands of paracolonialism unjust and illegal, he fails in making the case of constitutional praxis clear and viable. It is because of his being too long under paracolonialism and on account of his Eurocentric view through which both, indigenous population and paracolonialism, are viewing the Kashmiri ontological landscape. Hence, the legitimacy of his political survivance practices fails to guarantee Kashmir's constitutional praxis or does not seem to guarantee it soon.

Regarding Pandita's *Our Moon has Blood Clots*, the same argument of *Curfewed Night* and rhetoric of Kashmiri survivance applies due to the relevance of cultural practices in vogue in both communities. Pandita refers to specific Kashmiri survivance practices like Basharat Peer underlining epistemological strands (p. 27) and trickster strategies adopted for survival (p. 5-6) but with the assertion to have lived in the land for "thousand years" (p. 1). It is a specific reference to indigeneity as well as the memory of living in an estate ("Introduction," p. 05). His reference to his family of Pandits, residence in Sri Nagar, and constant migration (p. 06) remind readers of Pandita being an indigenous resident, while references to the old Pandit scholars (p. 13) point to indigenous epistemology. Backed with these logos and ethos (Burke, p. 7-8), he continues pinpointing cultural survivance practices applied through pathos as the abuse of the Pandits (p. 83), outright killing by the militants (p. 59, 60, 90), exile (p. 10), and sufferings in India, away from Kashmir (Abbas, 2020), demonstrate. All these facts, having the support of statistics, lead to spot survivance practices that the narrative rhetoric of Pandita displays. These cultural practices, however, have the same common strand of care (Pandita, 2013), love for neighbor (p. 27-28), the friendship of schoolmates (p. 24), and references to pure Kashmiri cultural markers (p. 109) with allusions to Pandit culture such as "disposition, temperament, features, and his spirit" (p. 166). It demonstrates that Pandita has almost the same Kashmiri strand of survivance practices that Peer has presented in *Curfewed Night*.

There are, nonetheless, some differences in the approach of both communities. How this cultural survivance reaches the political arena to become a politico-legal strategy and enters the constitutional arena is a tricky question with Pandita. It is because of the slippery quality of his narrative that borders outright voice against the majority community yet does not cross the boundary of polite and just critique. He demonstrates his relationship with his community due to "having close cultural affiliations with the prevalent paracolonialism, yet he sides the indigenous culture" (Abbas, 2020), the reason that he sees his community's future with the majority indigenous community rather than the paracolonial brethren. Some critiques of his memoir, too, like that of Peer, are shallow and superficial and target the Kashmiri struggle or survivance practices (Simeon, 2013; Vashisht, 2013) linking his argument to Hindu oppression in Kashmir rather than Pandit oppression even though Pandita does not include himself in the Hindu community. He shows it through invectives unleashed on Pandits in Jammu by their theological brethren (p. 83). In this connection, his rhetoric of the Kashmiri cultural practices synchronizes with that of Peer.

Interestingly, it does not assert the political indigeneity as forcefully as *Curfewed Night* by Peer does. Whereas *Curfewed Night* shows it in the very title, Pandita stresses more on return to the estate (*Manifest Manners*, p. vii) in the introduction. Yet, this argument does not avoid expressing his stand of having a claim to the indigenous estate, a hallmark of a political claim that leads to legal legitimacy, or better to say, constitutional praxis, if required. In reality, it is more than an estate when Pandita refers to a letter by the end of his narrative saying;

There is a freedom deficit which all of us are experiencing daily. We have been many times communicated indirectly that our speaking out the truth will bring trouble to us. In this atmosphere many of us chose to keep our experiences to ourselves (p. 164).

Pandita is explicit here about the inference he has made about freedom and estate. The word freedom shows that Pandita sides with the majority community in an attempt to preserve the indigeneity of his culture. The first-person plural reinforces this resolution with further stress upon the community as a cultural community, the Kashmiris, instead of only the Pandit community. It shows the power of persuasion in his narrative rhetoric and its indigeneness concerning the Kashmiri culture because of the employment of these purely Kashmiri survivance practices. Their journey, however, from social practices to political tactics and

strategies is nascent as well as implicit, though, not as forceful, and resolute as in Peer. Rather his survivance practices are more related to cultural practices having imagic teases and tragic wisdom ("Aesthetics of Survivance," p. 1-2) with little trickstery and epistemic (p. 2) references, while Peer's emphasis is more on political oppression, trickstery, and discursive practices that sometimes border militancy when the situation seems suitable.

The argument initiated in the beginning as the metaphor of a journey, nonetheless, seems to have non-linearity a la the narratives. Therefore, this metaphor of survivance, too, is nonlinear having ebbs and flows. These ebbs and flows synchronize with the throb of the culture. They emerge in political and legal realms when the situation suits and subsides when the native landscape seems unsuitable. In this situation, such discursive practices having politico-legal connotations do not emerge vociferously. The words of Peer's father resonate in the backdrop of this argument when he says, "From what I have read I can tell you that any movement that seeks a separate country takes a long time" (p. 30). The journey of survivance, therefore, resonates in the journey of freedom for the land that is akin to its journey from a cultural practice to a legal tactic. It, however, reaches its ultimate end toward constitutional praxis, depending upon situational suitability.

6. Conclusion

Concluding the argument of the rhetorics of survivance and its journey from a cultural to socio-political practice, and then ultimately its transformation into constitutional praxis in the case of Kashmiri narratives seem valid on the grounds that Kashmir narratives are rhetorics, despite having communal colors. They have almost all the survivance practices be they cultural, social, geographical, or political, and have the potential of entering the constitutional arena. Analysis of the indigenous narratives of Basharat Peer's *Curfewed Night* and Rahul Pandita's *Our Moon has Blood Clots* demonstrate that the Kashmiri culture is not only robust but also resilient when it comes to deploying survivance practices, specifically, in its rhetorics on account of having a long tradition of narrativization of native cultural practices. Despite having a sense of a separate community both, Peer and Pandita, display common cultural practices clearly evincing Vizenorian features of survivance of the fourth person, tricky tease, tragic wisdom, prairie features, imagic teases, and even trickstery. These survivance practices are common in the cultural practices disregard of the community and communal affiliations. Peer and Pandita, both, underline common Kashmiri cultural survivance practices. Yet, when it comes to specific communities both, Peer and Pandita, differ. Where the Muslim community vies for complete freedom that borders constitutional praxis in Peer, Pandita stays ambivalent about it. His narrative does not spell it vociferously as Peer's does. In the case of Peer, notwithstanding the ground realities, the constitutional praxis somewhat stays unclarified which could be a gap in the metaphorical journey of the rhetorics of survivance. And it may bridge itself when the circumstances seem suitable and appropriate. Currently, further research into Kashmiri narrative practices with reference to the indigenous critical perspective requires grounding the Kashmiri survivance practices into existing legal studies. This angle may demonstrate its validity regarding constitutional praxis which now seems latent in the existing scenario.

References

- Abbas, M. (2020). *Kashmiri Rhetorics of Survivance: A Comparative Analysis of Basharat Peer's Curfewed Night and Rahul Pandita's Our Moon has Blood Clots*. (Master of Philosophy (MPhil)), National University of Languages, Islamabad,, Pakistan. Retrieved from <http://norr.numl.edu.pk/repository/listing/content/detail/1079>
- Abbas, M., Kharal, A. A., & Shahzadi, K. (2021). Kashmiri Rhetoric of Cultural Survivance: An Analysis of Curfewed Night by Basharat Peer through Indigenous Critical Perspective. *Pakistan Journal of Social Sciences (PJSS)*, 41(2), 354-364.
- Blaeser, K. M. (1996). *Gerald Vizenor: Writing in the oral tradition*: University of Oklahoma Press.
- Booth, W. C. (1983). *The Rhetoric of Fiction*: University of Chicago Press.
- Burke, K. (1969). *A rhetoric of motives*: Univ of California Press.
- Byrd, J. A. (2011). *The transit of empire: Indigenous critiques of colonialism*: U of Minnesota Press.
- Carlson, D. J. (2011). Trickster hermeneutics and the postindian reader: Gerald Vizenor's constitutional praxis. *Studies in American Indian Literatures*, 23(4), 13-47.

- Carlson, D. J. (2016). *Imagining Sovereignty: Self-Determination in American Indian Law and Literature* (Vol. 66): University of Oklahoma Press.
- Dalrymple, W. (2010). *Curfewed Night by Basharat Peer*.
- Helsley, S. L. (1996). *Encyclopedia of rhetoric and composition: Communication from ancient times to the information age*. New York: Francis and Taylor Group.
- Ivan, F. (2019). The Disappearance of Kashmiri Autonomy: What the Indian Government Needs to Do. Retrieved from <https://kingsthinktank.com/2019/11/22/the-disappearance-of-kashmiri-autonomy-what-the-indian-government-needs-to-do/>
- Kalla, K. L. (1985). *The literary heritage of Kashmir*: Mittal Publications.
- Kamuf, P. (1991). *A Derrida reader: Between the blinds*. New York: Columbia University Press.
- Knowles, J. H. (1885). *A Dictionary of Kashmiri Proverbs & Sayings: Explained and Illustrated from the Rich and Interesting Folklore of the Valley*: Education Society's Press.
- Knowles, J. H. (1893). *Folk-tales of Kashmir*. London: Kegan Paul, Trench Trubner, & CO.
- Lawrence, W. R. (1895). *The valley of Kashmir*. Warehouse, London: Oxford University Press.
- Madsen, D. L. (2010a). *Introduction. Contemporary Discourses on 'Indianness'*. Albany, New York: Sunny Press.
- Madsen, D. L. (2010b). *Native Authenticity: Transnational Perspectives on Native American Literary Studies* (1 ed.): State University of New York Press.
- Mir, M. A., & Mohindra, V. (2015). Writing Resistance: A Study of Basharat Peer's *Curfewed Night*. *International Journal of Research in Humanities, Arts and Literature*, 3(2), 21-24.
- Moore, D. L. (2008). *Cycles of Selfhood, Cycles of Nationhood in Native American Literatures: Authenticity, Identity, Community, Sovereignty*. Lincoln, Nebraska: University of Nebraska Press.
- Moreton-Robinson, A. (2009a). Imagining the good indigenous citizen: Race war and the pathology of patriarchal white sovereignty. *Cultural Studies Review*, 15(2), 61-79.
- Moreton-Robinson, A. (2009b). Introduction: critical Indigenous theory. *Cultural Studies Review*, 15(2), 11-12.
- Moreton-Robinson, A. (2015). *The white possessive: Property, power, and indigenous sovereignty*: University of Minnesota Press.
- Pandita, R. (2013). *Our Moon Has Blood Clots: The Exodus of the Kashmiri Pandit*. New Dehli: Random House India.
- Peer, B. (2008). *Curfewed Night*. New Dehli: Random House India.
- Peer, B. (2010). *Curfewed night: a frontline memoir of life, love and war in Kashmir*: HarperPress.
- Powell, M. (2002). Rhetorics of survivance: How American Indians use writing. *College Composition and Communication*, 53(3), 396-434.
- Simeon, D. (2013). Book review: Superflous people - Rahul Pandita's 'Our Moon has blood clots'. Retrieved from <https://dilipsimeon.blogspot.com/2013/05/book-review-superflous-people-rahul.html>
- Soni, A. (2013). Pandita's Book on a Kashmir Exodus. *The Wall Street Journal*, 22.
- Stromberg, E. (2006). *American Indian rhetorics of survivance: Word medicine, word magic*. Pittsburgh: University of Pittsburgh.
- Tripathi, S. (2010). *Curfewed Night, By Basharat Peer*. Retrieved from <https://www.independent.co.uk/arts-entertainment/books/reviews/curfewed-night-by-basharat-peer-2050882.html>
- Vashisht, S. (2013). Book Review - Our Moon has Blood Clots. Retrieved from <https://swarajyamag.com/reviews/book-review-our-moon-has-blood-clots>
- Vizenor, G. (2008). *Survivance: Narratives of native presence*. Nebraska: University of Nebraska Press.
- Vizenor, G. (2009a). Introduction: Literary Aesthetics and Survivance. *Native Liberty: Natural Reason and Cultural Survivance*, 1-14.
- Vizenor, G. (2009b). Survivance Narratives. *Native Liberty: Natural Reason and Cultural Survivance*, 57-85.
- Vizenor, G. R. (1999). *Manifest manners: Narratives on postindian survivance*. Nebraska: University of Nebraska Press.
- Vizenor, G. R. (2000). *Fugitive Poses: Native American Indian Scenes of Absence and Presence*. Nebraska: University of Nebraska Press.