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## Book Reviews

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Kirti Singh, *Separated and Divorced Women in India: Economic Rights and Entitlements*. New Delhi: SAGE Publications jointly with IDRC, 2013. 255 pages, ₹ 995.

In the year 1884, Friedrich Engels wrote that ‘the legal inequality of [men and women]...is not the cause but the effect of the economic oppression of the woman’. This fact proves to be true when one looks at the invisible world of single women in the Indian context. Advocate Kirti Singh in her seminal work strikingly raises the issues of these women who are being separated or divorced. She undertook a survey of more than 400 women in four regions across India to assess the economic rights and entitlements of separated, divorced and deserted women. The study is timely and relevant as not much attention has been given to these problems so far.

The survey focuses meticulously on the economic position, status and style of living of the spouses and children during the subsistence of marriage and on the changes that took place after separation or divorce. It is a premier study that examines the change in financial status of both the partners to the marriage after the relationship ends. The discrepancy is noted in terms of time spent by both the spouses doing domestic work and employment, besides the manner in which the income and assets is divided among spouses post separation. The study comprehensively evaluates the impact of divorce on careers and mode of earning of the spouses besides examining the experiences women face while interacting with the justice delivery mechanism.

While exploring the economic rights and entitlements of separated and deserted women within the Indian legal system, the book rightly argues that women are being denied the right to acquire marital property in spite of their financial as well as non-financial contributions within the marital home. In fact, the work done by women within the domestic arena is hardly considered productive. Laws and policies have failed to recognise the economic value of unpaid labour of women within

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the family. This conventional approach of non-recognition of household and care work adds to the woes of women and thus further devaluing them as wives, mothers and daughter-in-law. The author has tried to capture the struggles women face economically as well as socially once they are separated or divorced.

The study further depicts that a majority of women with no guarantee of social or economic rights are dependent on their husbands or parents. Under personal laws as well as under civil laws, the only right a woman has is to request for maintenance from her husband in the event of judicial separation, desertion or divorce, as an ancillary relief. This makes an impact on women's economic lives post separation. The book meticulously attempts to document the experiences of women who are separated or were deserted and examines the difficulties they encounter while bringing up their children. Family laws, except in the case of Goa, are guided by the 'Separation of Property Regime' where the husband is the owner of his property and the wife is the owner of her property as they were prior to the marriage. The study provides an insightful theoretical analysis that justice is elusive and that laws have failed to redress the structural inequalities within the social set-up. It provides conclusive evidence to support recommendations for equitable division of matrimonial property and suggests that the 'Community of Property' regime should be made a part of law for all Indian women.

The research looks at the response of police, courts and policy makers towards women who knock on the doors of the court to seek justice. The accompanying narratives of cases and their outcomes suggest that women who entered the domain of law to seek justice end up being victimised by the law and the legal system. As litigants, women are compelled to face obstacles like lengthy legal procedures, discrimination and biases within the legal system and the injustice done by patriarchal laws. Many women who came to claim maintenance were awarded symbolic amounts. Factors like caste, religion, education, community or any other could not help to eliminate women's tribulations nor offer any options. Thus, an educated woman in the city experiences the situation in the same way as an illiterate woman once she enters the domain of the courts, says the study. The law expects women to prove the income of their husband. Furthermore, women face difficulties in getting their *streedhan* or dowry back. Hence, it may be deduced that the mere existence of the law does not translate into justice. The findings suggest 'poor women struggle to survive while the middle class plunge into poverty' (p. 188) and in some way 'the women from North India suffer more heavily because of patriarchal attitude and have less agency

and freedom' (p. 188). These conclusions are based on an empirical study and rely on both qualitative and quantitative data.

The author draws upon a varied range of data to gain insight into the economic position of women who become single. The analysis forcefully demonstrates the importance of the state's intervention at different levels to provide relief to women who face adversities in their life within marriage and outside it within the courts approached to fight their battles for justice. The state must take a proactive stance to respond to the situation by ensuring entitlements and social security to women to ensure them a dignified life after separation/divorce/desertion. It is a valuable piece of research that explores the possibilities of dynamic thinking on the issue and provides a multidimensional and integrated view of the situation. This book is recommended not only to law makers but all students, scholars, activists and policy makers.

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Kannabiran Kalpana, *Women and Law: Critical Feminist Perspective*. New Delhi: SAGE Publications, 2014. 305 pages. ₹ 995.

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The Declaration of Rights for Women, written in July 1876, states that 'We ask justice, we ask equality, we ask that all the civil and political rights that belong to citizens of the United States, be guaranteed to us and our daughters forever.' And almost 140 years later this demand needs to be rewritten, reaffirmed and reestablished in the Indian context where the law exists but justice remains evasive. Despite the constitutional guarantee of equality and justice, inequality persists within the social as well as legal domain. In other words, it may be said that though the law provides space to women to voice their concerns and to negotiate for their entitlements, it however fails to provide justice to them. In fact, the justice delivery system has neglected dealing with the question of women as citizens and acted as a subversive site where patriarchy, discrimination and dispossession intersect. The narrow interpretation of the ideological framework that determines the concept of women and law does not recognise the fact that women are not a homogeneous section of the population; rather, they are members of multiple layers and subgroups. The law, in fact, violates women by denying them their

due, by creating an unequal social order and by construing the lives of women narrowly. This is the overarching conclusion that emerges from the various essays in the volume. In fact, that the law itself perpetuates violence is the message conveyed by different articles in this volume.

The women's movement in India has persistently struggled to create a radical space using the constitutional paradigm to continuously engage with the law by using its 'legislative, interpretive, positive, restitutive and punitive' dimensions (p. xv). Rape, sati and dowry deaths are the most compelling issues that have received recognition, according to Kannabiran. However, beyond these burning topics, there are other realms like property, maintenance, residence, family law, employment and labour laws, right to health, access to forests and land rights that are dealt with in this book, which is a compilation of 11 essays that raise questions pertaining to complexities in the intersection of women's rights and repressive legislation, from an interdisciplinary perspective. Focusing on theoretical, empirical and legal aspects, these contributions are authored by lawyers, activists and scholars who map political and legal frameworks by looking through the gender lens at the rights of women in different situational contexts and social locations.

In her essay, Kalpana Kannabiran painstakingly explores the issue of sex discrimination while examining the judicial precedents set up by High Courts and the Supreme Court of India. She interprets the judgments through the gender lens using constitutional benchmarks of substantive equality to understand the ideological underpinnings of judicial deliberations. Through her careful analysis she displays that both facts and laws are intermeshed and embedded in an ideological apparatus guided by patriarchal understandings. She suggests that the radical interpretation of constitutional provisions will open up the possibilities of ending gender discrimination.

Furthermore, religion is used by the state as a tool to deny rights and to discriminate against women. Zoya Hasan critically examines the implications of the interface between politics and religion for Muslim women's rights. She rightly points out that communalisation and politicisation of religion is being done to sideline the women's rights agenda as is evident from the controversial debates around the issue of the Uniform Civil Code. According to her, the concept of minority rights is used as an instrument to negate gender interests within the tightly controlled identity discourse. This is apparent in the Shah Bano case that raised a debate regarding the implementation of Section 125 of the Criminal Procedure Code and the Muslim Women's (Protection of Rights on Divorce) Act, 1986. The author observes that 'notwithstand-

ing the liberal interpretation, the issue of discrimination on the basis of religion has not gone away: it remains significant' (p. 266). Hasan further highlights with precision the emergence of Muslim women's activism that challenges the authority and domination of religious elites while reframing the category 'Muslim women' in order to assert their political agency and simultaneously learning to identify themselves with secular women's groups while at the same time finding 'the ways to engage with and challenge structures of power and authority within the community and state at multiple levels' (p. 272).

In particular, Anita Tiphagne in her powerful essay reveals the manner in which the state abuses its power by oppressing tribal women in Tamil Nadu in the name of combing operations during the police search for Veerapan, the notorious sandalwood smuggler. She specifies that the state has, in such cases, acted as a perpetrator of violence in the guise of protecting and upholding justice and, in the process, brutalised men and women of all ages by illegally detaining and torturing them. This is mainly because the agency responsible for maintaining law and order enjoys privileges that make them immune to legal sanctions. In this form of state-sponsored violence, women are the worst sufferers as they have been 'branded and blamed for the loss of dignity' (p. 279) by their families as well as communities on top of facing humiliation, sexual violence and horrendous torture. These are grave violations of all the principles enshrined in the Constitution or the International Human Rights Declarations. Justice remains elusive in such events.

Land and forest are critical resources that have helped sustain communities while enabling women, who have a complex relationship with nature, to live with dignity and freedom and earn their livelihood. Adivasi women have played an active role in struggles to resist the state's attempt to curtail people's right to access forests and their resources. Sagari R. Ramdas evaluates in great detail the implementation of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in Andhra Pradesh. While scrutinising the discourse around legislation she argues that it is used as 'a tool by the state to execute its hegemony over forest resources and regulate freedom of citizens by retaining the power of final decision regarding governance of forest resources' (p. 61). The author accurately concludes that the state through its action negates the autonomy of adivasi women by alienating them from community resources and undermines their democratic rights by adopting a gendered capitalistic patriarchal approach.

Similar views are expressed by Meera Velayudhan in her interesting essay, which elucidates women's land ownership rights in South Asia. Local inheritance practices are often patrilineal, she observes, and customary law denies women rights to land and property. She scrutinises women's role in conflicts and struggles relating to land rights in post-colonial South Asian countries and opines that although women play a greater role in farming, tilling, peasantry and other form of work on land, they are controlled by men. The 'male head of household' concept ignores the ground realities and undermines women's role and knowledge as agriculture workers, the author states. However, women are participating intensely in ongoing movements for land rights and other resources, she concludes.

On account of their increasing marginalisation in terms of land ownership and right to common property resources, women are joining informal workforces in large numbers, resulting in the feminisation of poverty and casualisation of labour. Despite increasing women's involvement and employment in the unorganised sector, their work has been invisibilised in the current economy and many are compelled to work as unpaid workers. Padmini Swaminathan traces the trajectory of exclusion of women from the visible workforce and their simultaneous inclusion as marginal workers in the growing informal economy where they are denied any protection by labour laws. She appropriately observes that the data that have been gathered do not capture the emerging realities relating to women's work participation and that there is a need to question the public policies that are perpetuating domestic tasks as women's work, reinforcing women's role as unpaid workers.

The workplace can become democratic and egalitarian when the women's movement and trade unions engage with the issue of discrimination in employment, help women to participate in collective bargaining and to engender leadership in the era of globalisation, argues Nagasaila. In her enlightening essay, she analyses the implementation of labour laws—the Industrial Dispute Act, Trade Union Act, Maternity Benefit Act and the Equal Remuneration Act, as applicable to women, while tracking the judicial precedents set by High Courts and the Supreme Court, and demonstrates that the concept of the 'dominant worker norm' is widespread. This premise is based on the recognition of an 'able bodied male worker belonging to the majority community' (p. 144), which excludes not only women but also differently abled workers, and workers belonging to minority and other vulnerable communities. She extrapolates that changes can be accomplished by a collective bargaining process that is based on an inclusive approach.

According to her, gender equality within trade unions is essential to establish an egalitarian workplace.

The neoliberal regime has also led to the restructuring of the state and the rolling back of welfare provisions and support services, steps that have made a drastic impact on the lives of the poor and the differently abled. More specifically, the concerns of women who suffer from disability are invisibilised. Their powerlessness, vulnerabilities, isolation and victimisation have been ignored by the legal system, which allows the legitimisation of abortion of potentially disabled children. Anita Ghai and Rachana Johri in their seminal essay argue that the technology of sex selection is being used for selection on the basis of disabilities while promoting the concept of desirable traits or 'designer babies' based on subjective choices, thus reifying existing social hierarchies. The paper questions the ideology that legitimises abortion when prenatal testing reveals a birth abnormality as sanctioned by the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act (or PNDT Act), 1994.

The dominant framework that guides the laws and policies relating to women's health perceives women essentially as reproductive machines with inherent 'problems relating to sexuality' (p. 206) and therefore requiring 'protection' (p. 206). A strong combination of patriarchy and feudalism determines the National Health Programme, which uses an indicator-driven approach rather than addressing issues like structural barriers to women's access to health services and gross gender inequities, opines Shruti Pandey. According to her compelling argument, the general legal framework dealing with health is narrow, myopic and gender blind. It is based on a fragmentary piecemeal approach, which is archaic, regressive and conservative. While examining judicial precedents in health-related cases and implementation of the Medical Termination of Pregnancy Act, 1971, as well as the PNDT Act, she suggests reworking of modalities and warns that the economic liberalisation agenda is affecting women's right to health and commodifying women's bodies in the name of health care.

Indira Jaising in her influential piece examines the intersection of women's claims within the domestic space and the manner in which they are adjudged under the provisions of the Protection of Women Against Domestic Violence Act (PWDVA), 2005. She elaborates the manner in which this law is enacted to provide relief to women who face violence within the home. While pointing out the tribulations that the women's movement faced in order to bring the law into action, Jaising also shares her enriching experiences relating to monitoring and evaluating this

law. She correctly points out that though the tools to ensure that violence cannot be tolerated within homes have been put in place, there is still a need to expand and think beyond the law in the larger social domain.

Flavia Agnes while examining the economic entitlements within matrimony elaborates that although the PWDVA protects the right to residence in the marital home, the provisions relating to the rights of women to matrimonial property on separation are still not available. Through her concrete detailed analysis she argues that the courts uphold the formal rather than substantive equality while adjudicating women's economic rights within the matrimonial relationship and suggests that the property distribution must take into account, the material circumstances of women.

Together, through these different essays, the book reflects on the fact that law makes a strong impact on the daily lives of women—within families, at the workplace, in general as well as in special circumstances, and that the law has been utilised more as an instrument of oppression by the state. It provides an insight into the manner in which law operates and impacts everyday living. The pieces in the volume depict the manner in which law often trivialises women's concerns and subjectivities. By making visible the deep gender bias of existing laws, the volume maps the manner in which women have been continuously denied justice. The essays contextualise the ways in which the legal system perpetuates violence and injustice in different forms. The authors raise pertinent questions relating to gender justice in a lucid manner covering various aspects of women's lives. This book is an eye-opener to anyone interested in the field of women and law and will help the reader to gain a wider perspective on the issue. It fills gaps in scholarship in a timely and valuable manner. The collection is a must-read by all those interested in diverse issues relating to women and law.

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