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# Violence, Law and Feminist Politics

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## A. Suneetha

Since the 1980s, feminist politics has struggled to make visible an entire range of social practices that are inimical to women, bringing them under the broad rubric of violence. By critiquing the institutional matrix of the modern Indian state and disciplinary knowledge that upholds these institutions for their blindness and complicity in these social practices, feminist initiatives concerning violence against women have brought the state, civil society, communities and families as responsible actors into the debate. Consequently, over the past three decades, the process of demanding changes in these institutions and practices was accompanied by the collection of substantial evidence about different forms of violence and the inadequacies of state agencies in dealing with such violence. The methods adopted range from survey-oriented epidemiological and behavioural studies to case studies and experiential narratives along with analyses of judicial pronouncements, records and procedures of public institutions.

Increasingly, this proliferation of knowledge and the political critique by Indian feminism against violence has begun to focus on law, especially the legal prohibition of violence or to put it in another way, women's right against such violence. A predominant question that resonates through this critique is: is women's right against violence being respected/honoured in all families, communities and contexts? And if not, how can this right be respected and implemented? Even as one recognises the importance of such a question for feminist politics, other equally important questions related to women's experiences of violence, rights and law have emerged to demand our urgent attention.

For instance, to what extent does the law promote the 'individual' woman as the seeker of justice? How do we make sense of the subjectivities that laws against domestic and other violence engender or produce?

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And are these subjectivities in consonance with the notion of the 'agential subject' of rights activism? More importantly, are they in consonance with feminist politics?

Second, is it possible, useful or necessary for feminist politics to encapsulate all of women's ways of dealing with violence and suffering into the language of law and rights, that too across castes, communities and across different contexts? How has the law functioned for those women who are also located on axes of castes and communities that fall in the 'welfare' register of the Indian state, but whose access to the institutions and discourse of citizenship is limited? What kind of accounts are available to us of the ways in which 'communities' and women in these communities deal with such suffering and violence? How do we understand these accounts?

Third, how do we, as researchers, lawyers and activists, critically engage with the politics of producing the knowledge about this violence? The methods that are available to us—of producing or reading experiential narratives in activism, legal petitions or ethnographic accounts or interviews, judgements and institutional records—of *narrativising* a woman's experience of suffering and violence into that of a 'record' involve several levels of mediation. Do we have the conceptual tools to understand the effect of such mediation on the 'record' that we create? To what extent does the imperative of law operate in such narrativisation? And how do we reflect upon the ethical, political dilemmas and questions that accompany researching this issue in our disciplines, institutions and practices?

Some of these questions are dealt with in the six articles in this special number.<sup>1</sup> Ethnographic and in-depth accounts of women's suffering, of counselling centres, agreements reached in local dispute resolution forums, caste Panchayats, documentary films and Law Commission reports form the basis for these articles. By bringing to the discussion table a rigour borne out of serious investment in the issue, the authors raise new questions and issues for further debate.

Aparna Rayaprol and Sawmya Ray's article looks at the relatively unknown domain of feminist 'lawyering' in India. Based on interviews with feminist lawyers (women and men) in Bombay, Hyderabad, Bangalore, Chennai and Cuttack, it discusses their perceptions of the possibilities and disabilities in the laws available to women against violence. The crucial role played by the lawyers who mediate women's

complaints in the largely misogynist culture of Indian courts is touched upon here. It also probes the difficulties that they face as advocates of women's rights. Procedural problems, biased counselling, pressure for reconciliation, patriarchal culture of the courts, demand of proof and problems of interpretation are some of the problems that prevent a woman's complaint being entertained in law courts.

In her article, Madhumeeta Sinha brings into the discussion another important mode of mediating the experience of gendered violence in the public sphere—the feminist documentary film. Emerging in the midst of the women's movement in India, such films attempt to record and carry forward some of its agendas. She chooses two films: Deepa Dhanraj's *Something Like a War* and Reena Mohan's *Skin Deep* to demonstrate how they deal with the question of violence and women's subjectivity. Though they are unlike each other in theme and form, the two films are linked by their attempts to *witness*, and to render an account of the violence that women are subjected to. While in Deepa Dhanraj's film, one is invited to witness women being subjected to medical and social violence, in Reena Mohan's film, one is made aware of how, and why, and the extent to which, women themselves participate in the violent body images that make them into subjects.

The question of familial violence is approached through the mode of personal biography by Rukmini Sen. Remarking on how the suffering in her personal life did not find a place in the courtroom, she posits that there is a disjuncture between the 'subjectivities of pain and suffering' anchored in women's everyday experience and courtroom practices that are anchored in 'evidence based on science'. Distinguishing between violence, suffering and silence, she points out that while the women's movement succeeded in getting violence recognised, the everyday suffering and the pain of silence remained un-politicised. Demonstrating the way personal narratives capture the experience of everyday suffering and pain in marriage, she proceeds to look at how they get translated into legal documents. She argues that they sought to define violence, whether dowry related or domestic, in terms of physical violence. Mental cruelty, she notes, remained undefined till the new Domestic Violence Act 2006. Even though this Act does define emotional abuse that belongs to the everyday realm, she demonstrates that when we look at the way women's cases get written up (for instance, in a report by an NGO), it again gets

erased from the 'record'. She concludes by noting the near impossibility of capturing the woman's suffering and pain by the language of the law.

Pushpesh Kumar, in his article, recounts with disarming honesty and rigour the ethical, political and conceptual questions that he, as a male anthropologist, faces in narrativising the account of a Kolami tribal woman. In the process of his fieldwork, Bhim Bai confides in him about the familial and non-familial violence that she suffered, thereby establishing a relationship of *Sanma*. Writing as a biographer, he recounts the conditions in which he met her and probes the reasons why she may have confided in him. Going on to discuss her account, he delineates the contours of Kolam life, wherein a woman can enjoy sexual freedom and obtain the protective umbrella of the community, as long as she remains within its fold. Bhim Bai stands out as an exception in her community. She (*Sanma*) is considered 'different' in the community, on account of reaching her menarche later than other girls and suffers in her own natal family. The community that initially supports her when she breaks off her marriage that she unwillingly entered into, turns a blind eye to her problems once she enters a relationship with a non-tribal man. Consequently, she is deprived of a space to be listened to even when another non-tribal man inflicts sexual violence on her. Pushpesh does not find it useful to describe her as victim or an agent. His question about Bhim Bai can as well be asked about all non-tribal women and their situations—'do the structural and ideological dimensions of Kolami kinship "liberate" and "constrain" all Kolam women in similar ways or do the women who have different life histories or biographies experience them in differential terms?'

Vasudha Nagaraj's insightful article seeks to understand the practices of 'non-state agencies or local and customary forums'. Drawing on fieldwork among the several local dispute resolution forums and caste associations in the largest slum of the twin cities of Hyderabad and Secunderabad her experience as a lawyer in the family courts, the author sets out by asking the following questions:

In a context where the methods and practices of the formal law is much discussed, how does one even comprehend the methods and practices deployed by these forums? Is there something called a local practice which is distinct

and independent from that of formal law? What is the quality of resolution/relief of the compromise-settlement produced in these forums? How do legal institutions such as police stations and courts acknowledge the work carried out in these forums?

Through a careful reconstruction of the observed and recounted 'bond-paper panchayats', the author argues that while the 'informal' or 'local' is finely attuned to the operations of the formal law, the latter seems to be delegating its tasks of adjudication and judgement to the former, hemmed in as it is by lack of resources and limitations in understanding the nuances of familial disputes. The task of the local forum, in contrast to formal law, is not to decide who is right or wrong but to resolve the dispute, to the satisfaction of both the parties and bring peace to the disputing families. In this task, the bond-paper agreement that they draw up inhabits the space between the formal and the informal, in tune with the kind of authority that they possess. The local or informal, the author points out, is also now very much installed in the precincts of formal law, in the shape of Lok Adalats, Alternative Dispute Resolution Forums or the impending Gram Nyayalayas.

Suggesting that feminist theorising needs to focus on the changing contours of women's battles with domestic violence, Suneetha A. and Vasudha Nagaraj take a close look at women's interface with public institutions following the 'prohibition of cruelty to married women' through the addition of S498A to the Indian Penal Code (IPC) in 1983. The rights discourse on domestic violence rests on two assumptions that inadequate institutionalisation of rights, on the one hand, and inadequate individuation of women, on the other, prevent women from adequately using legal and other public institutions. To what extent can these two assumptions explain women's battles, is the question that they set out to address. Drawing on their research into the institutional responses to domestic violence, they first draw attention to the array of personal, political, social resources that women are required to mobilise in order to use the legal right against violence. Rather than punishing the husband, women's focus seems to be on preserving and reworking the marriage. Within the women's rights discourse, women's attempts to preserve the marital bond hardly matter, as rights are premised on the liberal imagination of subjectivity, which prescribes 'breaking out of subjection'.

Looking at ‘institutional transactions’, they discuss the withdrawals, compromises and reconciliations that occur at counselling centres and police stations and ask whether these should be seen as a consequence of the ‘institutionalisation of women’s rights’ rather than as its failure. They argue that the public institutions encompass not one but two modes of power. As these women’s lives or experience do not fit the notion of ‘citizen’, they are subjected to governmental power addressed to welfare subjects, in which familial disputes are placed and resolved. But this mode of power does not get accounted for in the rights discourse since it focuses on rule of law. They go on to look closely at the everyday mediations by women activists in issues of domestic violence and how legal rights figure in their activism. By pointing out that the resolutions offered go beyond the rights paradigm, they suggest that the right against domestic violence is seen as a political end, rather than as a guarantee against it.

The world over, feminist critique of certain social practices inimical to women as ‘violence’ has led to their prohibition in law and forced the state to create some public institutional spaces for women affected by them. However, an over-emphasis on the legal and institutional perspectives in our analyses of violence has meant that women’s actual experiences of dealing with such practices have not got the attention that they deserve. Through an imaginative use of different kinds of evidence and material, the contributors to this volume attempt to enlarge the current discourse around violence against women—the issues as well as women’s spirited responses to their debasement.

### Note

1. A few of these articles were presented at the sub-theme sessions on Feminism and Knowledge of Violence, 12th Conference of the Indian Association of Women’s Studies, Lucknow, 7–10 February 2008.