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Bringing Governance Home: Feminists, Domestic Violence, and the Paradoxes of Rights in India

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Abstract
Feminists have had spectacular successes transnationally in shifting the norms governing family life through legislation proscribing domestic violence. This article looks at the case of India and asks, how the pursuit of legal rights has shaped the Indian feminist conceptualisations of domestic violence. Through a mapping of feminist interventions on violence in the home since the 1970s, the article shows that Indian feminists have progressively adopted a strictly gendered conception of the phenomenon, which has run afoul of the constitutional equal protection doctrine for prioritising some women over others in the family and proved to be inadequate for addressing violence in non-heteronormative contexts. The article argues that rather than taking the prospects of legal rights against violence in the home to be self-evident, it is instructive to attend to the paradoxes generated by them.

Keywords Domestic violence · Family violence · Governance feminism · Indian feminism · Women's rights

Introduction

Reading trial court orders in domestic violence (DV) cases in India, one is struck by the repeated appearance of the following words:

> Domestic violence is undoubtedly a human rights issue and serious deterrent to development. The Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995) have acknowledged this. The United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in its General Recommendation No. XII (1989) has recommended that State parties should act to protect women against violence of any kind especially that occurring within the family.

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These lines tend to stick out since it is quite uncharacteristic of Indian trial courts to invoke international human rights instruments in their orders. What explains the divergent practice in this case though, is that these words form the opening paragraph of the Statement of Objects and Reasons appended to the Indian law on DV, the Protection of Women Against Domestic Violence Act, 2005 (PWDVA). Thus, irrespective of the outcome, Magistrates reproduce these lines in their orders, possibly to signal that they recognise the seriousness of what they are dealing with.

The PWDVA is a product of both local feminist activism against routine violence in the home and feminist mobilisations at the international level to locate a broad range of harms designated as Violence Against Women (VAW) within the international human rights discourse. Given this history, the ritual invocation of the above words in the court orders marks many things: a transnational feminist victory on a crucial issue affecting the wellbeing of women, namely, DV; its framing in terms of "human rights" and "development", the hegemonic twin-tropes through which contemporary notions of justice have come to be articulated; and the successful percolation of this vocabulary from the meeting halls of the United Nations (UN) in New York and Geneva to the trial courts in India, among others.

These are just some of the signs of feminism's success in our times that have led a group of legal scholars to call for the study of what they call "governance feminism" (GF) (Halley et al. 2006). The term governance here is understood in the Foucauldian sense as the "conduct of conducts" or the regulation of behaviour. In their original 2006 article, described GF as the "installation of feminists and feminist ideas in actual legal-institutional power" (2006, 340). In a later restatement, the authors gave the inquiry a more capacious scope, as "every form in which feminists and feminist ideas exert a governing will within human affairs" (Halley et al. 2018, ix). But to carry it out within law, they narrowed it down to "efforts feminists have made to become incorporated into *state, state-like, and state-affiliated* power" (Halley et al. 2018, x). This article studies the incorporation of feminist ideas in the law governing DV in India by asking how has the pursuit of legal rights shaped the Indian feminist conceptualisation of DV as a gendered wrong.

There is a particular significance to studying GF through DV for the latter has a special place within feminism. Feminist theorists have always relied on the liberal state's tolerance of DV against women to illustrate the ideological function of the public/private distinction (Jaggar 1983; Pateman 1983). Furthermore, feminist interventions in international law in the 1990s used DV to show how the law of state responsibility did not cover human rights violations committed in the home, typically against women and tolerated by the state, thereby casting women as the "paradigmatic alien subjects of international law" (Romany 1993, 87). We have come a long way since then. We currently live in a world where the traditional notion of state sovereignty has been set aside by establishing international legal responsibility of states for acts of violence committed by private actors. Most states are also no longer reluctant (at least formally) to enter the "private" domain of the home and intervene against violence. A World Bank survey reports that as of 2015, 127 countries around the world had laws against DV, most of them enacted in the previous twenty-five years (World Bank 2015, 22)—the same period that saw feminism's entry and installation into the "halls of power" (Halley et al. 2018, ix).

These laws provide rights to civil or criminal legal remedies against DV with a view to altering the distribution of power in the home. In other words, they deploy rights to *govern* the home. But they enact the feminist vision more closely, when along with declaring rights, they also define DV specifically as men's violence against women. This understanding of DV not only informs national laws but also their assessment metrics such as the World Bank's Women, Business, Law project that ranks states based on laws enacted by them to facilitate women's participation in market activities (World Bank 2015).

Notwithstanding these spectacular instances of feminist success with "bringing rights home" (Jaising 2009), deploying rights to undo gendered wrongs remains open to scrutiny given that rights also generate "paradoxes" for feminist goals, to recall Wendy Brown (2000). Rights *for* women challenge male domination, but at the same time lock women into an "identity defined by their subordination" (Brown 2000, 232). Similarly, rights for *women* tend to reflect the experiences and truths of some women while excluding others, but to talk about women's subordination generally also renders it vague and without redress. Consequently, in this article, while mapping feminist conceptualisations of DV in relation to state power in India from the 1970s to the present, I pay particular attention to the paradoxes resulting therefrom and how they are negotiated by feminists.

The article proceeds as follows: I begin by contrasting the feminist and statist discourses on DV in the early years of activism on the issue. Next, I offer an account of the embedding of feminist reason in the PWDVA, facilitated by global human rights governmentality, the outcome of which was the legal conceptualisation of DV as male violence against women. The two sections that follow discuss two sources of challenge to this feminist understanding, first, from constitutional equality doctrine and second, from queer interventions on DV. While others have cautioned against the "conceptual rigidities" that come along with an "empiricist-legal discourse" on DV (Suneetha and Nagraj 2006), I argue that the challenges to a feminist conception of DV are in the nature of paradoxes, owing to their irresolvability within a framework committed to securing rights for *women*.

Conceptualising the Domestic: Statist and Feminist Frameworks

DV emerged as a public issue in India in the 1980s, as women organised demonstrations in different cities across the country against the killing of young brides by their husbands and in-laws for bringing insufficient dowries (Butalia 2002; Kumar 1993). The eighties were also the period when the state responded to every feminist demand by enacting a law, leading feminist lawyer Flavia Agnes to quip that it was the "golden decade for Indian feminists" (1992, WS-19). The Indian Parliament added two new provisions to the penal code, one criminalising abuse of wives by husbands and in-laws, and the other pertaining to the death of new brides under suspicious circumstances.[1] It also enhanced the punishment under the previously enacted law

[1] Sections 498-A and 304-B of the Indian Penal Code, 1860.

prohibiting the exchange of dowry during marriage.[2] But as Geetanjali Gangoli notes in her discussion of the legislative debates leading to these changes, DV was predominantly understood as the outcome of power struggles among women in the joint family. Male legislators would object to framing the issue as a male versus female one, although no such suggestion was ever made. Gangoli remarks, that these legislators were possibly reacting to what they thought was the feminist critique of violence in the family (2007, 108).

By the end of the decade, feminists had started noting the failure of statist mechanisms for redressing DV (Gandhi and Shah 1992; Agnes 1992; Vanita 1987). Despite the state's eagerness in enacting penal provisions to sanction the abuse of wives, the law remained a mere prop. The police were inaccessible, corrupt, and represented the authoritarian face of the state. The courts were found to be no better, as judicial decisions seem to entrench rather than dislodge patriarchal attitudes operating outside the courtrooms. Thus, for instance, in the 1993 Supreme Court judgment, *Kundula Bala Subrahmanyam and Another v. State of Andhra Pradesh*,[3] while convicting the husband and the mother-in-law for the killing of the wife, the judge bemoaned the facts that in many such cases, the mothers-in-law played a pivotal role in the violence against young wives, while the husbands continued to be "Mamma's babies" even after marriage. He then went on to counsel husbands "to stand as a mountain of support" to their wives regardless of their fault.[4] In other words, the remedy against the evil mothers-in-law's violence was for husbands to reclaim their masculinity!

Feminist conceptualisations of violence at home differed from the state discourses sketched above. Right from the beginning of the campaign against dowry murders in the late 1970s, alongside visualising men's violence against their wives, feminists struggled to comprehend the involvement of senior women in the family in these incidents. A report on the mobilisations in Delhi in 1979, published in the feminist journal, *Manushi*, observed:

> As long as we women are divided against ourselves, as long as we see ourselves not as women but as some man's wife or mother, our struggle is hopeless. We are our own destroyers. We look to men for salvation—we hope for good husbands and brothers who will protect us. The woman who has been degraded, beaten, insulted through a whole lifetime takes her revenge on her helpless daughter-in-law—perhaps the first person who is in her power, whom she can beat and insult. How can her bitterness be transformed into a constructive protest, a collective rather than a personal anger? (Das 1979, 16).

As Madhu Kishwar, the co-editor of *Manushi* wrote, when women played the "the role of tyrants or agents of tyrants vis-à-vis other women" they did not enhance "the power of women as a group but rather the power of the male dominated family" (1983, 31). These analyses of violence entailed a larger critique of patriarchal kinship wherein women's subjectivity was determined by their dependence on male kin

[2] The Dowry Prohibition Act, 1961.

[3] 1993 Supreme Court Reports (2) 666.

[4] Supra n 3 at 690

(Krishnaraj 1991; Jethmalani and Prasad 1995). They reflected what Deniz Kandiyoti has theorised as women's strategic dealing, or "patriarchal bargain", under classic patriarchy: "The cyclical nature of women's power in the household and their anticipation of inheriting the authority of senior women encourages a thorough internalization of this form of patriarchy by the women themselves" (1988, 279). Violence was not an individual aberration, but intrinsic to the relations of power in the patriarchal family, made up of shifting hierarchies of gender and age. In other words, DV was structural. Addressing it required transforming how the patriarchal family was structured.

Thus, at the end of an eventful decade that saw the issue of violence at home spilling out on the streets, which in turn got the state to respond, albeit superficially, the feminist conception of DV as patriarchal violence remained marginal. Feminists situated DV within patriarchal kinship to explain men's violence against women, but also to account for women's "active collusion in the reproduction of their own subordination" (Kandiyoti 1988, 280). State discourses, on the other hand, sought to write patriarchy out of DV by portraying violence as exceptional to the traditional family ideal and as the outcome of irrational animosity among women. It is in this context that the opportunity arose to influence state power more closely. The next section will offer an account of how the opportunity to collaborate with the state occasioned by the particular circumstances of the 1990s, ultimately led to the enactment of the PWDVA.

A "Gender-Specific" Law on Domestic Violence: Transnational Histories

Departing from the methodological nationalism of existing accounts of the making of the PWDVA (Jaising 2009; Lodhia 2009), my starting point in this section is the thoroughly transnational nature of the process. The PWDVA was shaped by two mutually constitutive feminist currents, which had different conceptions of power in the domestic. In this section, I will describe those tensions within feminist ideas and how they came to be accommodated in legislating DV as a gendered wrong, and then draw certain inferences about Indian GF. By the end of the 1980s, the understanding of DV as something more varied and routine than the stock image of a young wife set on fire by the in-laws for bringing insufficient dowry had emerged among Indian feminists. This, along with a lack of faith in the police and the criminal justice system, had led to demands for a separate law that would address DV outside the framework of dowry and provide immediate civil remedies to the victims (Agnes 1992).

In 1992, the Indian government established the National Commission for Women (NCW), a statutory agency to monitor the enforcement of women's rights and state policies pertaining to women. Feminists had been part of the process that led to the formation of the NCW, even though they had concerns about its autonomy and effectiveness (Arya 2013). In 1994, the NCW, in consultation with feminist groups, drafted a Bill that reflected the analysis of DV rooted in patriarchal kinship outlined earlier. The Bill was widely commended for accurately identifying women's

economic dependence as the primary reasons why they tolerated violence and providing for civil remedies such as injunction against violence and ejection from home to address them.[5] Significantly, it did not frame DV in terms of male abusers and female victims, but described it as encompassing "all types of violence resorted to within the precincts of a home whether by male or female members of a family", while maintaining that "the overwhelming majority of victims of domestic violence are women" (Feminist Law Archives 1994). Consequently, only a woman could claim redress under this Bill, but she could claim them against her husband, his "relatives"—a gender-neutral term—and even hers.[6]

Such a legislative formulation of the gender of DV was, however, a departure from the policy prescriptions emerging from the international women's rights discourse that was gaining ground around the same time. As in India, DV acquired visibility at the international stage in the 1980s, with several UN agencies harnessing expert knowledge to understand the scale, causes and consequences of violence within the family (Joachim 2007). Although feminists were not directly involved in setting the agenda on the issue during this period, there was an uptake of feminist ideas in the conceptualisation of DV. These feminist ideas were that of dominance feminism, associated most prominently with the work of American feminist, Catherine MacKinnon. Dominance feminism, as Janet Halley summarises, "finds male domination in two distinct forms: in the false superiority of male values and male *culture*, and in the domination of all things F by all things M *as sexuality"* (2018, 34).

MacKinnon theorised sexuality as the foremost site of women's inequality: women were defined socially by their subjugation to men, which was enforced by rape or its threat. Thus, sexuality was gendered, and gender was sexualised, with the result that male and female identities were "created through the eroticization of dominance and submission" (MacKinnon's 1989, 113). DV fitted into this analysis of rape, since for MacKinnon, "assault by a man's fist is not so different from assault by a penis" (1989, 178). The argument went like this: if gender was the product of sexual dominance and submission, and if battery was triggered by "women's noncompliance with gender requirements" (1989, 178), then, although the state treated rape and battery as distinct issues, in the feminist analysis, they were one and the same. In the United States, dominance feminist theorising of DV in the shadow of theory of rape, helped conceptualise it as the instrumental use of violence by men to exercise control over their wives, and by extension, over women *as a class* (Houston 2014; Goodmark 2012). Consequently, these feminists favoured targeting DV using the state's full coercive power regardless of the victim's wishes, for under patriarchy, the extent of her subordination was such that her desires were also determined by patriarchy i.e., women acted under false consciousness (MacKinnon 1983).

The growing interest of UN agencies in DV over the 1980s led to the first ever comprehensive global study of the phenomenon. After going over all the available explanations for its "root causes", the study concluded that it was "a function of the

[5] Majlis, Comments on the Domestic Violence Bill for discussion (unpublished case note, 1995). Available with the author.

[6] Section 2(b), The Domestic Violence to Women (Prevention) Bill 1994.

belief, fostered in all cultures, that men are superior and that the women they live with are their possessions or chattels that they can treat as they wish and as they consider appropriate" (Connors 1989, 33). DV was essentially a problem of male domination. The 1990s witnessed the entrenchment of this formulation, as VAW became the preeminent global women's rights issue. Articulating VAW as "a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men…" (UNGA 1993) cast violence as a problem of categorical inequality. Halley notes that a crucial factor explaining the uptake of dominance feminist ideas in governance projects is its affinity with aspects of liberal feminism, and by implication its easy translatability into a language familiar to liberal legalism: "liberal feminism converts dominance feminism's super-capacious understandings of domination into *coercions* and uses them *within the liberal legal paradigm* to justify feminist social control initiatives…." (Halley 2018, 43). The VAW discourse is a case in point, that couched the dominance feminist conception of (sexual) violence as an instrument of patriarchy in the liberal feminist languages of un-freedom and inequality, and gave it a familiar legal form as discrimination on the basis of sex (UNCEDAW 1992). Where it overlapped with MacKinnon's analysis, despite not linking violence exclusively to sexuality, was that for MacKinnon, battering of women was "about sex both in the sexual and gender sense" (2006, 31).

Furthermore, within the liberal paradigm, freedom yielded to equality, with the result that the remedy to violence lay in advancing the latter. MacKinnon concurred: "Since solutions should fit problems, if battering is a social problem of sex inequality, its legal solution should lie through sex equality law" (2006, 33). Until the late 1980s, legal equality was predominantly thought of as treating the likes, alike and the un-likes, differently. Rejecting this doctrine as obfuscatory and *status quo*-ist, MacKinnon asked: "What is an inequality question a question of?" (2017, 111). Her answer: "Inequality is a question of hierarchy: who is on top and who is on the bottom" (2017, 118). MacKinnon thus sought to shift the focus from the *form* of inequality (sameness/difference) to its *substance* (dominance/subordination, or hierarchy). Achieving equality substantively then required not simply equal treatment or accommodation of difference, but efforts to dismantle hierarchy. While courts in a number of jurisdictions have since embraced the idea of substantive equality on a variety of justifications and as pursuing many different goals (Fredman 2016a, b), MacKinnon has steadfastly maintained that its "core insight is that inequality, substantively speaking, is always a social relation of rank ordering, typically on a group or categorical basis" (2011, 11). As we will see below, the VAW discourse' policy prescriptions embodied this hierarchy-focussed conception of substantive inequality, long before it adopted the terminology (UNCEDAW 2004).

Two points of distinction between the Indian feminist analyses of DV and the global VAW discourse may be noted at this stage. First, to the former, DV did not symbolise the domination of the category F by the category M, like it did to the latter. Indeed, as one Indian feminist scholar wrote about the prospects of feminism in India: "the feminist message in India misses its mark when it names men as oppressors" (Chitnis 1988, 92). Second, while the former's understanding of DV was rooted in a critique of the patriarchal family, it was absent from the latter. In fact,

while VAW gave the liberal state a justification to intervene in the "private" sphere, it coexisted with the idea of the family as the "natural and fundamental" unit of society in the human rights discourse. The state's entry into the private sphere was then premised on violence being an aberration to the normal state of the family, which meant that the limitation of the VAW discourse was already built into it. As Arati Rao wrote: "If the current human rights understanding of the family reifies existing gender inequalities, the amelioration of particular abuses will not change the structures of power that ground the ability to violate women's rights—in the family and elsewhere" (1996, 257).

Feminist misgivings such as Rao's about the strategic significance of VAW (Mertus and Goldberg 1993) however, did not affect its onward march and eventual institutionalisation within the UN. A key milestone in this regard was the appointment of the United Nations Special Rapporteur on Violence Against Women, Its Causes and Consequences (SR) in 1994. The SR's brief was to gather information on VAW from the UN member states and make recommendations in its annual reports, for its systematic elimination. The SR's second report, submitted in 1996, focused on DV. The report defined DV in dominance feminist terms: it was the instrumental use of violence to dominate and control women in the home, deriving from as well as sustaining dominant gender stereotypes (UNESC 1996a, 8). In order to establish state responsibility for private acts, the report analogised DV to a paradigmatic human rights violation: torture. The formulation was to prove hugely influential later. The report's second contribution with long-term, global influence was its template for a model law on DV. States were urged to enact domestic laws along the lines of the template to meet their international legal obligation.

Titled The Framework for Model Legislations on Domestic Violence (FML), the document listed the key elements that a comprehensive legislation on DV should have (UNESC 1996b). By "comprehensive" it meant a self-contained legislation that defined the wrong of DV and the relationships it sought to govern; specified the roles and duties of law enforcement agencies, prosecutors and judges towards protecting the victims; and provided for institutional mechanisms to render services such as shelter, medical treatment and counselling to the victims, among others. One of the aims of such legislation, the FML stated, was to recognize DV as "gender-specific violence directed against women" within the family (UNESC 1996b, 2). Cast in the dominance feminist substantive equality mould, this meant that the legal remedy against DV should be provided to women against men and not symmetrically against each other. The compromise in favour of a strictly gendered formulation of DV is revealed in the tension around the FML's conception of the "domestic". The main report of the SR, of which the FML was a part, criticised the "narrow confines of the traditional family" (UNESC 1996a, 7), and called for reconceptualising the rigid, state-defined notion of family around "expressions of ideals of nurturance and care" (UNESC 1996a, 8). Consequently, the FML proposed that the law's coverage should include female live-in partners, former wives/partners and female relations, in addition to wives. These moves to reconceptualise the traditional family and decouple legal protection for DV from marriage, however, did not extend to lesbian relationships, for it would have challenged the conception of DV as "gender-specific" violence against women, bearing out Eve Sedgwick's remark that "a damaging bias

toward heterosocial or heterosexist assumptions inheres unavoidably in the very concept of gender" (1990, 31).

The FML travelled around the world via the UN human rights monitoring mechanisms, as states now had the obligation to enact laws as part of their international legal duty to protect women from DV. It also travelled with the transnational feminist movement as feminists in diverse settings used it in their campaigns. This is how the FML came to India. The NCW's 1994 Bill on DV, mentioned earlier, had not made it to the Parliament. The committee that drafted the 1994 Bill, had rejected another draft Bill submitted to it by the noted feminist lawyer Indira Jaising, noting that it did not "at all take into consideration the social milieu and conditions in India" (Feminist Law Archives 1994). By the end of the decade, however, both Jaising and ideas developed elsewhere were to be central to the domestic discourse on DV. The shift could be attributed to the ascendance of NGOs both within civil society and in governance that the 1990s India witnessed due economic liberalization and a changed attitude towards foreign aid (Kudva 2005). Feminist NGOs in particular became instruments of transnational governmentality through human rights and development, with DV helping to produce women as both stable and universal subjects of these discourses (Grewal 2005). Urban feminist groups that earlier adopted a posture of "radical pragmatism" (Katzenstein 1989) combining agitational politics with securing practical necessities for victims, now assumed a transnationalised and professionalised role, working with the state to deliver the goals of human rights and development (Sen and Dhawan 2015; Suneetha and Nagraj 2006). The NCW Bill had already registered these shifts in giving NGOs a statutory role in facilitating women's access to legal remedies. By the end of the decade, feminist NGOs could also play a leading role in determining what those remedies were going to be.

Jaising had founded the Lawyers Collective, an NGO, in 1981, that provided legal services to a range of marginalised constituencies. In 1998, with funding from the Ford Foundation, she set up the organisation's Women's Rights Initiative (LCWRI), that led the campaign for a law on DV. The LCWRI, in consultation with lawyers, judges and feminist groups around the country drafted a new Bill that retained some of the elements of the 1994 Bill and added several new ones drawn from the VAW discourse. The LCWRI Bill exemplified a "comprehensive legislation", as envisaged by the FML, that laid down the rights and remedies available to victims of DV and the duties of the state functionaries. The most radical aspect of the Bill, building on the 1994 Bill, was a woman's right against ejection from the home, aimed at giving her control over the space that she inhabited in addition to her person (Sundar Rajan 2004). On the other hand, the most sophisticated aspect of the Bill was its definition of violence. Drawing on the SR's 1996 report, it categorised DV into physical, sexual, verbal/mental and economic abuse, which were further classified into specific illustrative acts. Making violence legible to the law by giving it an empirical form is an indispensable GF step, that serves not only the purpose of obtaining legal remedies, but also efforts to measure state responsiveness to rights such as the World Bank's WBL project, mentioned in the introduction.

Legal legibility of a gendered wrong also required specifying the victim and the abuser by gender. Here, the FML's suggestion that national legislation should recognise DV as "gender-specific violence against women" was compatible with the

existing Indian tradition of laws benefiting women alone. The LCWRI Bill defined the victim of DV as any "woman" in the family. But similar to the 1994 Bill, it defined the abuser using the gender-neutral term "person" in order to address violence committed by both male and female relations. Between 1999 and 2004, the LCWRI Bill underwent multiple changes as feminists lobbied with the government unsuccessfully, but the above format remained the same.[7] The election of a new government in 2004, receptive to rights-based legislations, turned the tide in favour of feminists (Jaising 2009). At this stage a significant change took place. The gender-specific-victim/gender-neutral-abuser schema enabled a wife to invoke the law against her female in-laws she resided with, but also allowed the latter to do the same against her. This, feminists argued, could undermine the legal protection sought to be accorded to young wives, who were the weakest members in multigenerational families.[8] To remedy this particular hierarchy and pre-empt any other possible use of the law, it was now proposed that the respondent be defined primarily as "any adult male", with an additional clause allowing wives to complain against "relatives" of the husbands as well. It was this format that made it to the PWDVA, along with the other feminist ingredients, when it was enacted in October 2005.[9] There could not be a better illustration of feminist reason guiding how rights were to be deployed to govern the home.

Unravelling and marking the feminist roots and shoots of the PWDVA, as I have done in this section, allows us to draw the following conclusions about Indian GF. First, not all GF projects involve using the criminal law, as Halley et al. also note in their 2018 book, revising their earlier reading of the phenomenon (2018, 5). The PWDVA is a good example of this, where the feminist will to govern emerged out of a rejection of criminal law. The PWDVA turns to criminal law only when an order for a civil remedy is violated. What is more, the Indian case shows that the discursive construction of an issue need not bear any relationship to the legal mechanisms advocated for tackling it. Thus, despite Indian feminists articulating DV using dominance feminist psychological theories of victim behaviour in the early years of the movement (Flavia 1984), which in the American context was instrumental in making DV a crime, or using the trope of torture in the 1990s (Sakshi 1996) following GF strategies in international law, ultimately their demands were for civil remedies like injunction and compensation. Indeed, as Kotiswaran notes in her study of Indian GF through rape law reform, "legal advocacy elites (feminists included), may borrow transnationally as they interact with feminists from around the world in spaces of transnational modernity but are fairly opportunistic and strategic in doing so" (2018, 76).

Second, a common feature of all GF legal projects is their conception of gendered harm. The PWDVA not only demonstrates this, but as we have seen above, within the space of a decade, as Indian feminists became more governance oriented, the

[7] Domestic Violence Against Women (Prevention) Bill, 1999; Domestic Violence (Prevention) Bill, 2000; Domestic Violence Against Women (Prevention) Bill, 2001; Domestic Violence Against Women (Prevention and Protection) Bill, 2004; Protection from Domestic Violence Bill, 2004.

[8] All India Democratic Women's Association. Memorandum on the Protection from Domestic Violence Bill 2004. Dated 27 June 2005. On file with the author.

[9] Sections 2(a) and 2(q) of the PWDVA.

legal definition of DV shifted from *any* violence against women in the home to particularly *men's* violence against women in the home. The respondent was defined as male on the argument that keeping it gender neutral could lead to women being pitted against each other, ultimately benefitting patriarchy. It would be misleading however to see this move solely in terms of the classic dominance feminist theme of false consciousness, i.e. women are not deserving of legal liability as their actions are determined by patriarchy. The justification here was that the husband might collude with his female relations to launch false complaints of DV against the victim wife, which would place further constraints on the wife who already finds it difficult to access the legal system. As discussed above, the notion of constraint requiring to be overcome belongs to the liberal legal framework of equality, specifically, substantive equality. Like elsewhere then, legal solutions to address gendered harm espoused by Indian GF manifest the successful collaboration between dominance feminism and liberal feminism/legalism.

These formulations of feminist reason are not without tensions as they bring out the paradoxes of deploying rights *for women*. In crafting legal remedy for DV by focussing on particular power relationships, the PWDVA privileged the young bride as the victim of violence. The paradoxes surfaced as women excluded by this focus began challenging the Act for violating *their* constitutional right to equal protection of the law, thereby complicating the GF preference for substantive equality itself. The next section examines the feminist responses to these issues, and in the process, makes a third point about Indian GF: that feminist ideas successfully incorporated into one form of state power are also vulnerable to being undone by another form of state power.

Rights and Reasonableness: Feminist Reason Encounters Constitutional Reason

If the previous section entailed exploring the contestations to DV as a gendered wrong within feminism, then this section will look at contestations to the same originating outside feminism, namely, in constitutional equality doctrine. The inquiry, it appears, has significance beyond India. The Handbook for Legislation on Violence against Women—an expanded version of the FML published by a UN agency in 2010—warns, that while gender-specific laws might be unconstitutional in some countries, gender-neutral laws on violence are likely to harm women since such laws do not "specifically reflect or address women's experience of violence perpetrated against them" (UNDESA 2010, 15). In other words, notwithstanding the successful recasting of VAW as sex discrimination in international human rights law, there is no necessary alignment between sex discrimination under national constitutions and women's experience of violence. An ongoing GF task in this area therefore is to bring about that alignment. Below, I will describe the encounter between feminist reason embodied in the PWDVA and the Indian constitutional equality doctrine through a key judicial decision, and then examine the GF critique of the same.

Article 14 of the Constitution of India (1950) guarantees to all persons, "equality before the law and the equal protection of the laws". To determine whether a law violates this guarantee or not, Indian courts usually employ a two-fold test. A law is held to be constitutional if the classification enacted by it is found to be based on an "intelligible differentia" which is "rationally" connected to the law's objective. The feminist conception DV clashed with constitutional equality doctrine in a judgment delivered by the Supreme Court of India in 2016. *Hiral Harsora and Others v Kusum Harsora and Others*[10] involved a constitutional challenge to the PWDVA's definition of respondent, which was worded as follows:

> Section 2(q)—"Respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:
> Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.

The case originated ten years earlier when Kusum Harsora and her mother, Pushpa, filed a case of DV against their brother/son, his wife, and two sisters/daughters. When the charges against the female relations were dismissed on the ground that only the male members of the family could be proceeded against for DV, Kusum and Pushpa challenged Section 2(q) itself, contending that it violated Article 14 of the Constitution by drawing a distinction between similarly situated abusers on the ground of sex. The Bombay High Court decided in their favour, which led Hiral Harsora, Kusum's sister-in-law, to appeal the decision before the Supreme Court.

A two-judge bench of the Supreme Court subjected the clause to the classification test. The Preamble to the Act stated that its goal was "to provide for more effective protection of the rights of women guaranteed under the constitution who are victims of violence of any kind occurring within the family". The judges held that restricting the definition of the respondent to males alone restricted the operation of the remedies provided by the statute, ultimately defeating the statutory goal of protecting *all women* in the family from *any kind* of violence. But even independent of the consequences of a restrictive definition, the judges held, there was no basis to the classification between male and female abusers.[11] While they affirmed the need for classification to achieve equality, they maintained that it must be pertinent to the purpose. "Classification having regard to microscopic differences is not good", the judges noted, quoting from a judgment delivered by the Court the previous year.[12] Since both male and female members in a family were equally capable of committing DV, they reasoned, the basis of the classification was not a "real and substantial" one. Thus, the words "adult male" in Section 2(q) were struck down as unconstitutional, which made the proviso automatically redundant. The result was that now a woman could proceed against *any* member of the family, irrespective of their gender. DV remained a wrong where the victim could only be a woman. But

[10] [2016] 9 Supreme Court Reporter 515.

[11] Supra n 10 at 551

[12] Supra n 11 quoting Union of India v N.S. Ratnam (2015) 10 Supreme Court Cases 681, para 18.

the particularity of relationships that was so central to the feminist deployment of rights against violence in the home was set aside.

Harsora has been criticised by prominent feminist lawyers and legal scholars in India. The critics argue that restricting respondents to males alone was a key element of the feminist vision informing the Act, which was recognised by the legislature, but disregarded by the judges (Jaising 2019; Chandra 2016; Ghose 2016; Kothari 2016). They further argue that the judgment disregards the "reality" of DV as a gendered phenomenon, which is substantiated through national surveys showing the scale of women facing violence at the hands of their husbands or male partners (Chandra 2016; Kothari 2016). But, if women being the predominant victims of DV characterises it as a social phenomenon, so does the fact that in many cases their abusers are other women in the family. Why then should the law exclude women from being respondents under the PWDVA? The critics point to the issue of power. Thus, Aparna Chandra writes that the "exemption is based on power differentials within the family—power differentials that structure the occurrence, the subjective experience, as well as the adjudicatory evaluation of domestic violence" (2016, np). Similarly, Jayna Kothari (2016) argues that substantive equality demands recognising the disadvantages faced by women vis-à-vis men, even with respect to the perpetrator of DV. Further, the critics raise the issue of collusion as an effect of power in the family that is likely to neutralise the potentials of the Act. Sanjoy Ghose cautions that "any attempt by them [wives] to access DV Act would invite counter complaints by the female in-laws present in the same household, often sponsored and engineered by the men of the family" (2016, np). And Jaising charges that "the Supreme Court has overlooked the complicity between the mother and the son in striking down the exception" (2019, 11).

There is no question that formal equality is ineffective in addressing structural inequality—even *Harsora* judges concede that. Indian feminists have long favoured the substantive equality approach, though what that entails requires explication. For the *Harsora* critics, substantive equality lies in conferring rights on the category F against the category M. Such an understanding of substantive equality as efforts to subvert a single-axis, vertical arrangement of power bears a distinct dominance feminist imprimatur. But substantive equality could also be conceptualised differently. Sandra (Fredman 2016a). proposes a four-dimensional approach that includes remedying disadvantage; addressing stigma, stereotyping, prejudice and violence; enhancing voice and participation; and accommodating difference and achieving structural change. Here, subverting hierarchical social relations is a crucial aspect of the pursuit of equality (captured by the first dimension), but is only one of the aspects. Each dimension captures a different aspect of inequality without claiming any "pre-established lexical priority", such that in a given case the analysis takes account of all the dimensions and resolves conflicts between them by referring to the framework as a whole (Fredman 2016a, 713). Thus, under this approach, remedying disadvantage requires a measure to be "expressly asymmetric" (Fredman 2016a, 728), that is, to explicitly favour the disadvantaged group, but this goal must be pursued alongside ensuring that such preferential treatment does not lead to essentialising the group characteristics or does not obstruct structural changes. Conceptualised thus, it is difficult to agree with the criticism that *Harsora* fails on substantive

equality grounds, given that its outcome is a law that offers protection against DV to women alone to address their structural disadvantages in the family, but also prevents gender essentialism by allowing them to proceed against both male and female abusers.

The adherence to a hierarchy-focused model of equality reveals a deeper problem with the feminist critique of *Harsora*, which is its implicit conception of power. Defending the move away from a hierarchy-focussed approach to equality to a multidimensional one, Fredman notes: "…power relationships are not only vertical, as hierarchy would suggest. They are also diagonal, horizontal, and layered" (2016b, 747). To this we could add that they are also cyclical. The distribution of power within the family as the starting point for any rights project is well taken. But most Indian families neither have a single power hierarchy, nor static ones, meaning that the constraints and opportunities that the hierarchies confer on the family members change over time.

In contrast to nuclear families, in the multigenerational joint families prevalent in India, there are several adult men and women occupying different ranks in the family hierarchy, with possibilities of promotion as well as demotion from one rank to another (Deshmukh-Ranadive 2005). Not surprisingly, empirical accounts of intra-familial power dynamics have repeatedly found fluid rather than stable patterns. In her study of inter-generational relations in Chennai in the early 1990s, Penny Vera-Sanso found the relationship between mothers-in-law and daughters-in-law to be "extremely complex, diverse and changing" (1999, 590). Broadly, while property ownership ensured a mother-in-law's long-term power in the household, it was rare in the low-income settlements where the study was based. Thus, while the daughter-in-law grew out of her subservient position after a few years of marriage, the mother-in-law's vulnerability only increased with time with respect to both the son and the daughter-in-law—an observation also borne out by a 2018 study on elder abuse across 23 cities in India (HelpAge India 2018, 42–4). Similarly, Minna Säävälä writes:

> [T]he balance between young and old women in a household is in a constant state of transformation. Although women marry very young in Andhra and thus come to live under their mother-in-law's authority early, they develop their own ways of manipulating the situation. Most young women exploit the structural weaknesses in familial relations to enhance their own goals. (2001, 149)

The said structural weaknesses result from the concentration of power in the hands of the senior-most male in the family and the aspirations of the junior-ranking males for autonomy. Thus, a study of household money management in rural Nepal, which has the same family structure as the rest of the Indo-Gangetic plain, found junior women to become "secret allies" of their husbands in the latter's pursuit of freedom from the older generation's control over financial decision-making (Gram et al. 2018). Between male and female members, the former hold more power than the latter on most issues, ranging from money management to women's fertility to upbringing of children (See also, Dimri 2018; Singh & Bhandari 2012; Char et al 2010; Fernandez 1997). Consequently, both senior and junior ranking females align

themselves with a male member in order to improve their positions in the family hierarchy i.e., they "bargain with patriarchy" in their own ways, to invoke Kandiyoti (1988), but are also frequently disappointed when their expectations from the bargain are not met.

In Gram et al.'s (2018) study, junior females secretly helped their husbands save money to separate from the joint households, thereby escaping the mothers-in-law's control, only to be subjected to the husbands' control in the nuclear households. The authors therefore conclude that household separation not only does not improve the wife's bargaining position but may in fact "perpetuate patriarchy through encouraging women to aim 'for a change in the distribution of power, leaving intact the power structure itself', as junior women gain their autonomy at the expense of senior women's access to financial protection" (Gram et al. 2018, 202). Could we extend this observation to our case and argue that empowering the daughter-in-law alone against DV, may have the effect of improving her bargaining position at the expense of another vulnerable member, the mother-in-law?

Thus, the feminist critique of *Harsora* is incongruent not only with the (feminist) PWDVA's own promise of protecting *all women* in the family against DV, but also with a large body of (feminist) scholarship on power and bargaining in the family. Meanwhile, the actual impact of *Harsora* on legal recourse against DV remains to be studied. It is entirely possible that *Harsora* may be disadvantaging wives in precisely the ways that the critics feared. The judgment may indeed be encouraging husbands to collude with other women in the family to obstruct legal action by wives—a widely practiced tactic of which appellate decisions bear evidence.[13] But whenever we are in a position to fully appreciate the consequences of *Harsora*, feminists would have to assess this cost against the cost of prioritizing wives over other women in the family in designing legal protection against DV.

Rights and Realities: Feminist Reason Encounters Queer Lives

Yet another way in which the paradox of deploying rights *for women* is revealed is through the PWDVA's exclusion of queer women's experiences of DV from its scope. As discussed above, feminist reason informing the Act not only defined DV as men's violence against women but the feminist discourse on DV in India has predominantly focused on the marital home as the site of violence and has sought to secure legal protections for the wife. Queer women's experiences are at odds with both the statutory definition of DV and the wider discourse. Not only are men not the abusers in their cases of intimate partner violence, but it is also the natal family which is the main site of violence for them (Banerjee et al. 2022; Fernandez & Gomathy 2005).

[13] See, *Shachi Mahajan v Santosh Mahajan,* (2019) 257 Delhi Law Times 152; *Mrs. Sarika Mahendra Sureka v Mr. Mahendra Sureka*, Writ Petition No. 12864 of 2016, Judgment dated 23 Nov 2016, Bombay High Court; *Preeti Satija v Raj Kumari*, All India Reporter 2014 Delhi 46; *Kavita Chaudhri v Eveneet Singh*, 2012 (130) Delhi Reported Judgments 83.

Even *Harsora*, which made the definition of respondents in the PWDVA gender neutral, has limited implications for queer women. While queer women facing violence at the hands of their mothers, sisters or sisters-in-law can now seek legal action against them, they do not have any legal recourse against their cohabiting female partners. This is on account of the requirement that the victim and the abuser be in a "domestic relationship" which, as per Section 2(f) of the Act, is said to exist if two persons are "related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family." The phrase "relationship in the nature of marriage" was intended to bring within the law's scope claims by women who were in "marriages" which were not legally valid, for instance, fraudulent bigamous marriages. Subsequently, courts have interpreted the phrase through the lens of conventional heterosexual marriages involving cohabitation, child rearing, public presentation as a married couple and so on.[14] Thus, while the PWDVA allows heterosexual women in non-marital intimate relationships the opportunity to claim legal protection against DV, similarly placed queer women are denied the same.

Queer feminist and transgender rights activism in recent years have both challenged the heteronormative underpinnings of the PWDVA as well as sought to broaden the understanding of DV (Mohan 2013; Biswas 2011). Larger developments like the legal recognition of transgender rights and the decriminalisation of sodomy have given greater legitimacy to these positions. Thus, in 2018, a group of queer feminist and transgender persons' organisations urged the Law Commission of India to recommend changes in family laws specifically considering the violence that queer women and transgender persons experience in their natal families on account of their gender and sexuality related choices.[15] These interventions do not seek to merely reform the PWDVA, but call for a rethinking of the frameworks and vocabularies through which DV has been apprehended so far. A recent assessment of the PWDVA by four feminist scholars point in that direction as they examine how the legal conceptualization of gendered violence premised on biological and heteronormative ideas by feminists ended up creating marginalities among women. The authors succinctly summarise the problem as well as the challenge that it poses for feminist thinking on DV when they write:

> Lesbian and trans women experiencing domestic violence from their intimate partners already live as an oppressed minority in a homophobic society with little institutional support for their safety both within and outside the home. There is often fear among feminist and LGBTQ rights activists that acknowledging intimate partner abuse among women could disrupt the feminist focus on male violence, and push towards a gender neutral conceptualization of domestic violence. Additionally, drawing attention to abuses within a community already severely marginalised can further fuel prejudices. The legal system simply rejects and invisiblizes women in such relationships. The impact of this oppressive cultural context is silence. (Banerjee et al 2022)

[14] Indra Sarma v V.K. Sarma, (2013) 15 Supreme Court Cases 755.

[15] Submission to Law Commission of India, dated 9 July 2018. On file with author.

How should feminists respond to this silence? Banerjee et al.'s move to problematise the "violent domestic" i.e. asking how the domestic emerges as a site of violence for so many people, is a promising one towards avoiding the heteronormative presumptions of the dominant DV discourse, but even they do not comment on what this shift would mean in terms of legal protections against violence. One response might be to demand a legal redefinition of 'domestic relationships' to include atypical relationships. A more radical response will be to advocate for a gender-neutral definition of DV, something that feminists have repeatedly resisted in the case of rape (Kotiswaran 2018; Agnes 2002). Will feminists agree to a gender-neutral law on DV after years of struggle to establish DV as gender-specific violence against women? It is impossible to answer such questions without thinking of rights as paradoxes.

Conclusion

I began this article by noting the spectacular successes that feminists have had transnationally in shifting the norms governing the home through legislation proscribing DV and asked, how has the pursuit of legal rights shaped the Indian feminist conceptualisation of DV as a gendered wrong. The enactment of the PWDVA marked the highpoint of the Indian state's reception to feminist ideas, wherein feminist reason guided every aspect of how rights were to be deployed against violence in the home. The normative resignification that DV underwent with feminist reason, began by theorising it as domination of category F by category M and ended with the policy prescription that tackling DV required giving rights to F against M, to substantively equalise the M/F hierarchy. By tracking this process in the case of the PWDVA, I have shown the serendipitous convergence between the global and the local GF conceptions of DV.

To be sure, GFeminists are not always influential. *Harsora* is a good example of how feminist ideas successfully incorporated into one form of state power are also vulnerable to being undone by another form of state power. But instead of viewing it as a loss, *Harsora* must be treated as an opportunity to reconsider and revaluate the assumptions and frameworks used to apprehend DV. As discussed above, there are strong reasons to do so particularly in view of the questions and challenges that queer interventions pose for the feminist conception of DV. I have argued in this article that these challenges are in the nature of paradoxes.

Brown writes that paradoxes are different from contradictions or tensions in that they are irresolvable, which makes negotiating the politics of paradox so difficult: "Paradox appears endlessly self-cancelling, as a political condition of achievements perpetually undercut, a predicament of discourse in which every truth is crossed by a counter-truth, and hence a state in which political strategizing itself is paralysed" (2000, 239). What then might we gain by thinking of rights in the home in terms of its paradoxes? I suggest that a benefit of doing so is that it allows us to be cautious about GF successes even when GFeminists characterise them modestly as merely articulating basic norms against violence (Jaising 2009, 57). As feminist ideas acquire the status of governing reason, it becomes all the more crucial to ask what new unstated norms are installed through rights, even as they struggle to dislodge

unstated male norms (Minow 1988). Indian feminist responses to the kind of questions raised in this article have been of either denial or deferral. An attentiveness to paradoxes might lead feminists to see the ethical and political judgments at stake in their positions and engage with them with reflexivity and responsibility.

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References

Agnes, Flavia. 1992. Protecting Women Against Violence? Review of a Decade of Legislation, 1980–89. *Economic and Political Weekly* 19–33.

Agnes, Flavia. 2002. Law, Ideology and Female Sexuality: Gender Neutrality in Rape Law. *Economic and Political Weekly* 37 (9): 844–847.

Arya, Sadhna. 2013. National Commission for Women: An Overview of its Performance. *Economic and Political Weekly* 48 (18): 112–119.

Banerjee, Supurna et al. 2022. *The Violent Domestic: Law, Its Practice, and Strategies of Survival.* New Delhi: Zubaan.

Biswas, Ranjita. 2011. Of Love, Marriage and Kinship: Queering the Family. In *Intimate Others: Marriage and Sexualities in India*, ed. Samita Sen, Ranjita Biswas, and Nandita Dhawan, 414–435. Kolkata: Stree.

Brown, Wendy. 2000. Suffering Rights as Paradoxes. *Constellations* 7 (2): 208–229.

Butalia, Subhadra. 2002. *The Gift of a Daughter: Encounters with Victims of Dowry*. Gurgaon: Penguin Books.

Chandra, Aparna. 2016. Women as Respondents Under the Domestic Violence Act: Critiquing the SC Decision in Harsora v. Harsora. LiveLaw. https://www.livelaw.in/women-respondents-domestic-violence-act-critiquing-sc-decision-harsora-v-harsora/?infinitescroll=1. Accessed 15 December 2022

Char, Arundhati, et al. 2010. Influence of Mothers-in-Law on Young Couple's Family Planning Decisions in Rural India. *Reproductive Health Matters* 18 (35): 154–162.

Chitnis, Suma. 1988. Feminism: Indian Ethos and Indian Convictions. In *Women in Indian Society: A Reader*, ed. Rehana Ghadially, 81–95. New Delhi: Sage Publications.

Connors, Jane and Centre for Social Development and Humanitarian Affairs. 1989. *Violence Against Women in the Family*. New York: United Nations.

Das, Manini. 1979. Women Against Dowry. *Manushi* 3: 14–16.

Deshmukh-Ranadive, Joy. 2005. Gender, Power, and Empowerment: An Analysis of Household and Family Dynamics. In *Measuring Empowerment: Cross-Disciplinary Perspectives*, ed. Deepa Narayan, 103–121. Washington, DC: The World Bank.

Dimri, Aditi. 2018. Who are the Power Brokers in Indian Households? *Advantage* 1 (5): 4–6.

Feminist Law Archives. (1994). *The Domestic Violence to Women (prevention) bill, 1994*. https://feministlawarchives.pldindia.org/wp-content/uploads/13.pdf?. Accessed 15 December 2022

Fernandez, Bina and N.B. Gomathy. 2005. Voicing the Invisible: Violence Faced by Lesbian Women in India. In *The Violence of Normal Times: Essays on Women's Lived Realities*, ed., Kalpana Kannabiran, 224–265. New Delhi: Kali for Women.

Fernandez, Marilyn. 1997. Domestic Violence by Extended Family Members in India: Interplay of Gender and Generation. *Journal of Interpersonal Violence* 12 (3): 433–455.

Flavia. 1984. *Violence in the Family—Wife Beating*. Bombay: Women's Centre.

Fredman, Sandra. 2016a. Substantive Equality Revisited. *International Journal of Constitutional Law* 14 (3): 712–738.
Fredman, Sandra. 2016b. Substantive Equality Revisited: A Rejoinder to Catherine MacKinnon. *International Journal of Constitutional Law* 14 (3): 747–751.
Gandhi, Nandita and Nandita, Shah. 1992. *The Issues at Stake: Theory and Practice in the Contemporary Women's Movement in India*. New Delhi: Kali for Women.
Gangoli, Geetanjali. 2007. *Indian Feminisms: Law, Patriarchies and Violence in India*. Hampshire: Ashgate.
Ghose, Sanjoy. 2016. A Gender-Neutral Domestic Violence Law Harms Rather than Protects Women. The Wire. https://thewire.in/law/a-gender-neutral-domestic-violence-law-harms-rather-than-protects-women. Accessed 15 December 2022
Goodmark, Leigh. 2012. *A Troubled Marriage: Domestic Violence and the Legal System*. New York: New York University Press.
Gram, Lu., et al. 2018. Revisiting the Patriarchal Bargain: The Intergenerational Power Dynamics of Household Money Management in Rural Nepal. *World Development* 112: 193–204.
Grewal, Inderpal. 2005. *Transnational America: Feminisms, Diasporas, Nioliberalisms*. Durham and London: Duke University Press.
Halley, Janet, et al. 2006. Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism. *Harvard Journal of Law & Gender* 29: 335–423.
Halley, Janet, et al. 2018. *Governance Feminism: An Introduction*. Minneapolis: University of Minnesota Press.
HelpAge India. 2018. *Elder Abuse in India: Changing Cultural Ethos & Impact of Technology*. https://www.helpageindia.org/wp-content/uploads/2018/06/ELDER-ABUSE-IN-INDIA-2018-A-HelpAge-India-report.pdf. Accessed 15 December 2022
Houston, Claire. 2014. How Feminist Theory Became (Criminal) Law: Tracing the Path to Mandatory Criminal Intervention in Domestic Violence Cases. *Michigan Journal of Gender & Law.* 21 (2): 217–272.
Jaising, I. 2009. Bringing Rights Home: Review of the Campaign for a Law on Domestic Violence. *Economic and Political Weekly* 44 (44): 50–57.
Jaising, I. 2019. Unscrambling the Images: Conflict in the Shared Household. In *Conflict in the Shared Household: Domestic Violence and the Law in India*, ed. Indira Jaising and Pinki Mathur Anurag, 3–25. New Delhi: Oxford University Press.
Jaggar, A. 1983. Feminist Politics and Human Nature. New Jearsy: Rowman & Allanheld.
Jethmalani, Rani, and Shally Prasad. 1995. Internalizing Patriarchy. In *Kali's yug: Empowerment, Law and Dowry Deaths*, ed. Rani Jethmalani, 138–147. New Delhi: Har Anand Publications.
Joachim, Jutta. 2007. *Agenda Setting, the UN, and NGOs: Gender Violence and Reproductive Rights*. Washington, DC: Georgetown University Press.
Kandiyoti, Deniz. 1988. Bargaining with Patriarchy. *Gender and Society* 2 (3): 274–290.
Katzenstein, Mary Fainsod. 1989. Organizing Against Violence: Strategies of the Indian Women's Movement. *Pacific Affairs* 62 (1): 53–71.
Kishwar, Madhu. 1983. Denial of Fundamental Rights to Women. *Manushi* 14
Kothari, Jayna. 2016. Violence that's Not Gender-Neutral. The Hindu. https://www.thehindu.com/opinion/op-ed/Violence-that%E2%80%99s-not-gender-neutral/article16643843.ece. Accessed 15 December 2022
Kotiswaran, Prabha. 2018. Governance Feminism in the Postcolony: Reforming India's Rape Laws. In *Governance Feminism: An Introduction*, ed. Janet Halley, et al., 75–148. Minneapolis: University of Minnesota Press.
Krishnaraj, Maithreyi, ed. 1991. *Women and Violence—A Country Report: A Study Sponsored by UNESCO*. Bombay: Research Center for Women's Studies, SNDT Women's University.
Kudva, Neema. 2005. Strong States, Strong NGOs. In *Social Movements in India: Poverty, Power and Politics*, ed. Raka Ray and Mary Fainsod Katzenstein, 233–265. Lanham, MD: Rowman & Littlefield.
Kumar, Radha. 1993. *The History of Doing: An Illustrated Account of Movements for Women's Rights and Feminism in India, 1800–1990*. New Delhi: Kali for Women.
Lodhia, Sharmila. 2009. Legal Frankensteins and monstrous Women: Judicial Narratives of the "Family in Crisis." *Meridians* 9 (2): 102–129.
MacKinnon, Catherine A. 1983. Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence. *Signs* 8 (4): 635–658.
MacKinnon, Catherine A. 1989. *Toward a Feminist Theory of the State*. Cambridge: Harvard University Press.

MacKinnon, Catherine A. 2006. Human Rights and Global Violence Against Women. In *Are Women Human? And Other International Dialogues*. Cambridge, Massachusetts and London, England: The Belknap Press of Harvard University Press.
MacKinnon, Catherine A. 2011. Substantive Equality: A Perspective. *Minnesota Law Review* 96 (1): 1–27.
MacKinnon, Catherine A. 2017. *Substantive Equality. Butterfly Politics*. Cambridge, Massachusetts and London, England: The Belknap Press of Harvard University Press.
Mertus, Julie, and Pamela Goldberg. 1993. A Perspective on Women and International Human Rights after the Vienna Declaration: The Inside/Outside Construct. *New York University Journal of International Law & Politics* 26: 201–234.
Minow, Martha. 1988. Feminist Reason: Getting it and Losing it. *Journal of Legal Education* 38 (1): 47–60.
Mohan, Sunil. 2013. *Towards Gender Inclusivity: A Study on Contemporary Concerns Around Gender*. Bengaluru: Alternative Law Forum & LesBiT.
Pateman, C. 1983. Feminist Critiques of the Public/Private Dichotomy. In *Public and Private in Social Life*, ed. Stanley Benn and Gerald Gaus, 281–303. London: Croom Helm.
Rao, Arati. 1996. Home-Word Bound: Women's Place in the Family of International Human Rights. *Global Governance* 2 (2): 241–260.
Romany, Celina. 1993. Women as *aliens:* A Feminist Critique of the Public/Private Distinction in International Human Rights Law. *Harvard Human Rights Journal* 6: 87–125.
Sakshi. 1996. *Gender and the Judges: A Judicial Perspective*. New Delhi: Sakshi.
Säävälä, Minna. 2001. *Fertility and Familial Power Relations: Procreation in South India*. Richmond, Surrey: Curzon Press.
Sedgwick, Kosofsky Eve. 1990. *Epistemology of the Closet*. Berkeley and Los Angeles: University of California Press.
Sen, Samita, and Nandita Dhawan. 2015. Addressing Domestic Violence: Changing Strategies with the Women's Movement, Kolkata. In *India: Democracy and violence*, ed. Samir Kumar Das, 169–212. New Delhi: Oxford University Press.
Singh, Supriya, and Mala Bhandari. 2012. Money Management and Control in the Indian Joint Family Across Generations. *The Sociological Review* 60 (1): 46–67.
Sunder Rajan, Rajeswari. 2004. Rethinking Law and Violence: The Domestic Violence (prevention) Bill in India, 2002. *Gender & History* 16 (3): 769–793.
Suneetha, A., and Vasudha Nagraj. 2006. A Difficult Match: Women's Actions and Legal Institutions in the Face of Domestic Violence. *Economic and Political Weekly* 41 (41): 4355–4362.
UN Committee on the Elimination of Discrimination Against Women (UNCEDAW). 1992. General Recommendations Nos. 19 and 20, A/47/38. https://www.refworld.org/docid/453882a422.html. Accessed 15 December 2022
UN Committee on the Elimination of Discrimination Against Women (UNCEDAW). 2004. General Recommendation No. 25, on Article 4, Paragraph 1, of the Convention on the Elimination of All Forms of Discrimination Against Women, on temporary special measures
UN Department for Economic and Social Affairs (UNDESA). 2010. *Handbook for Legislation on Violence Against Women*. New York: United Nations.
UN Economic and Social Council (UNESC). 1996a. *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, Submitted in Accordance with Commission of Human Rights resolution 1995/85*, E/CN.4/1996a/53. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/105/09/PDF/G9610509.pdf?OpenElement. Accessed 15 December 2022
UN Economic and Social Council (UNESC). 1996b. *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, Submitted in Accordance with Commission of Human Rights resolution 1995/85—A framework for Model Legislation on Domestic Violence*, E/CN.4/1996b/Add.2. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/104/75/PDF/G9610475.pdf?OpenElement. Accessed 15 December 2022
UN General Assembly (UNGA). 1993. *Declaration on the Elimination of Violence against Women*. A/RES/48/104. https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women. Accessed 15 December 2022
Vanita, R. 1987. Can the Police Reform Husbands? *Manushi* 40: 12–24.
Vera-Sanso, Penny. 1999. Dominant Daughters-in-Law and Submissive Mothers-in-Law? Cooperation and Conflict in South India. *The Journal of the Royal Anthropological Institute* 5 (4): 577–593.
World Bank Group. 2015. *Women, Business and the Law 2016: Getting to Equal*. Washington DC: World Bank.