

WOMEN & THE LAW (2009) by Krishna Pal Malik. Allahabad Law Agency, 1559 Outram Lines, Near Kingsway Camps, Delhi-110007. Pp. xxxii + 413. Price 200/-.

IN INDIA, it is believed that women enjoyed an equal status as men in *Vedic* period. The education of women held considerable significance, as would be clear from works of Katyana and Patanjali. But the condition of women declined considerably afterwards. Historical practices such as *sati*, *janbar*, *pardah*, *devdasi* and child marriage were few traditions reflective of gender imbalance in the Indian society. Though these practices are largely defunct today as a result of legal reforms, the essence of the dysfunctional gender equity is still rampant and manifests today through domestic violence, trafficking, dowry deaths, female infanticide, female foeticide, sexual objectification, violence and sexual harassment at work place, *etc.*

The book¹ under review is divided into eighteen chapters. The first chapter deals with problems of gender justice and crime against women with data drawn from NCRB reports. This chapter gives the outline of different kinds of crime committed against women along with latest cases reported in newspapers, which makes reading of the book very interesting. This chapter also gives suggestion for reducing the crime against women.² The second chapter deals with international commitment in the area of gender justice. Globally, the United Nation has established a strong mandate for gender justice. The focus on gender justice and gender equality has been there since the inception of United Nations. In 1946, a separate body was formed to work on the 'advancement of women'. The commission on the status of women worked from its inception to collect and compile data on women's situation around the world, to promote women's human rights and raise awareness of, and support for, their contribution towards development. The Decade for Women (1976-1995) contributed significantly to raising awareness and

1. Krishna Pal Malik, *Women & Law* (2009).

2. *Id.* at 18.

commitment to gender equality. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 has been ratified by 185 states and the optional protocol by 90 states. Since 1995, with the adoption of gender mainstream as a critical strategy for achieving gender equality, intergovernmental bodies, such as General Assembly, the ECOSOC and the Commission on the Status of Women have worked to mainstreaming gender perspectives as an integral part of all policy areas. At the 2005 World Summit, world leaders reiterated that “progress for women” is progress for all. The United Nations Development Programme (UNDP) also has the Gender Development Index (GDI). At the end of this chapter, the author discusses the role of Supreme Court of India in giving due recognition to these international commitments.³

Chapter 3 deals with constitutional protection. The Constitution of India in part III (fundamental rights) and part IV (directive principles of state policy) guarantee certain fundamental rights and contain ideal principles aimed specifically at ameliorating the conditions of women so that they can stand at par with men. This chapter contains detailed discussion focusing on right to equality, right against discrimination, special protection for women, right to equal opportunity in public employment, 74th constitutional amendment made for the reservation for women in *panchayats*, right to life and personal liberty, right against exploitation, articles 39(a) (equality between men and women), 42 (maternity relief) and article 51A(e) (specially dealing with renouncing practices derogatory to the dignity of women). While chapter 4 deals with gender injustice existing in society from all the corners as a custom or tradition, chapter 5 explains the law relating to sexual offences committed by males like rape, indecent assault, insult to modesty of women, illegal intercourse, unnatural offence and indecent representation of women.

Chapter 6 deals with law relating to protection of women against sexual harassment at workplace, as in the absence of legislation, the Supreme Court has issued guidelines in *Vishaka* case.⁴ This chapter gives interesting presentation of *Vishaka* case along with different provisions of “The Protection of Women Against Sexual Harassment At Workplace Bill, 2007 which is yet to be adopted by Parliament.”⁵

3. *Id.* at 37.

4. *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

5. *Supra* note 1 at 132.

Chapter 7 deals with legal protection to a woman against immoral trafficking and commercial sexual exploitation. Presentation of chapter is like reading different stories with legal provisions which engrosses the reader into the reading the material. Chapter 8 outlines the specific provisions covered by the Domestic Violence Act, 2005. Domestic violence is one of the gravest and most pervasive human rights violations. This piece of legislation had been long over due; it is an extremely progressive legislation, which recognizes women who are in a live in relationship and extends the protection to other women in the household including sisters and mothers. The Act includes relations of consanguinity, marriage or through relationships in the nature of marriage, adoption and joint family. Thus, domestic relationships are restricted not only to marital context alone. Chapter 9 relates to matrimonial protection under different provision of laws, *e.g.* bigamy, adultery, *etc.* which have assumed very serious dimensions in recent times. Chapter 10 contains the law pertaining to prohibition of *sati* system. The Commission of Sati Prevention Act was passed in 1987 though *sati* was abolished in 1829.

Chapter 11 covers dowry related offences. The Dowry Prohibition Act was passed in 1961 which deals with the practice of receiving and giving dowry. Dowry has been one of the age-old customs in India and it is one of the major problems faced by women in rural and urban area; dowry deaths are also quite common. Section 304-B of Indian Penal Code, 1860 deals with the offence of dowry death, punishment for which is imprisonment for a term of not less than seven years or life imprisonment. Despite the legislation, in practice, dowry as a custom continues to thrive. Section 498-A was introduced in the Code to combat dowry death and cruelty by the husband or the relatives of the husband, the punishment for which is imprisonment upto three years and fine. This section defines cruelty which includes both mental and physical cruelty.⁶ Chapter 12 outlines the provisions relating to protection of pregnancy. It deals with Medical Termination of Pregnancy Act, 1971 and Pre-Natal Diagnostic Techniques (Regulation and Prevention) Act, 1994 to curb the rise in female foeticide. These two Acts involve issues relating to human rights.

Chapter 13 deals with maternity benefits like the Maternity Benefit Act, 1961, the Employees State Insurance Act, 1948, the Central Civil Services (Leave) Rules, 1972, paternity leave, child care leave to secure

6. *Id.* at 207.

gender justice for working women. Chapter 14 deals with right to maintenance of women to which she is entitled since time immemorial which has now been given a statutory recognition with the enactment of section 125 of the Code of Criminal Procedure, 1973. Chapter 15 deals with right to inheritance and succession for enhancing social justice for women. It deals with the Hindu Succession Act, 1956 and the Muslim, Parsi and Christian women's property rights. Chapter 16 deals with custody of a child. Chapter 17 deals with significant social problem of child marriage where main victim is usually the girl child. Marriage at a very young age creates health and psychological problems for both the girl and her children.⁷ Chapter 18 deals with problem of child labour.

Chapter 19 deals with a very important recent issue of surrogacy. There is no law in India governing surrogacy. There is only 126 page document regulating the technologies used. The Indian Council of Medical Research (ICMR) had issued guidelines for accreditation, supervision and regulation of assisted reproductive technologies (ART) clinics in India in 2005. But guidelines are not legally binding. Last three chapters of the book deal with national commission for women, provisions relating to empowerment of women and national policy for empowerment of women framed by the Government in India in 2011.

While discussing law points, it is impressive that the author has given briefly the facts of cases wherever referred to along with the principles of law laid down by the courts. This is surely a salutary departure from other text books. Facts of cases are presented in a very interesting way, sometimes as news items, which maintains the curiosity and interest in the reader. Such presentations are necessarily beneficial to the students in two ways. First, the facts make the student grasp the principles more pointedly, and second, they save the student from referring to the reports on each case.

The book has, incredibly, simplified the laws relating to women so that even a layman can have an understanding of the subject after reading it. The author has tried to make the subject of women and law an interesting and mature experience for students. The presentation of book is not meticulous as it lacks subject index and appendices which create problem for the reader to locate the required reference or cross-reference. Though book is not a scholarly work of high quality but quite interesting and informative on the subject. The publisher is unable to maintain the

7. *Id.* at 323.

quality of paper and, therefore, the overall get up of the book is not impressive. The font size in the book is appropriate which makes the reading of words quite comfortable.

There is no dearth of books on the issues relating to women and law. But the fact cannot be ignored that all of them cannot cater to the needs of the students because they are either too voluminous or very small. The present book by Krishna Pal Malik is a concise yet comprehensive work on the subject. The language used is simple and lucid. The book is a useful possession which is very handy for lawyers, especially fresh entrants to law profession, litigants, law teachers and students. The book is moderately priced and deserves to be in the book shelf of all institutional libraries and libraries of lawyers and law teachers.

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