

IN THE BODY OF A WOMAN (2023) By Aaliya Waziri, Published by Simon & Sebestes. pp 232. Price INR 125/-, ISBN: 978-9392099588.

WHILE WOMEN constitute half of the world's population achieving true gender equality and empowering all women remains a big challenge and a distant dream. Persistent inequalities in the society, deeply rooted in traditional social norms and gender stereotypes, perpetuated by dominating patriarchal systems, continue to create hurdles in achieving gender equality everywhere. Even though international instruments, like, the Universal Declaration of Human Rights of 1948 and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) of 1979 impose obligations on member states to establish legal framework and policies to protect women's rights, violence against women continues to be prevalent across the globe. India is a signatory to most of the International Instruments promoting gender equality and denouncing violent practices against women yet the National Crimes Records Bureau reported a 4% increase in crimes against women in 2023. Studies have shown that in 2023 the National Commission of Women received 28,811 complaints of crimes against women. It appears that the highest number of complaints were in the "right to dignity" category which included harassment, domestic violence, dowry harassment and other forms of abuse. While India has consistently made progress in various spheres, studies show that it is still slow in curbing gender violence with its ranking on global indicators being consistently low. In 2023 India was ranked 128 out of 177 countries on the Women Peace and Security Index. It is precisely to highlight the different forms of gender violence and abuse suffered by women in India and to throw light on the complacency of the social, political, economic and religious institutions in addressing the issue of gender discriminatory practices on a priority basis, including the need for identifying the reasons for the ineffective, non-implementation or absence of laws and policies on women related issues, that compelled the author, Aaliya Waziri, to write essays on Law, Gender and Society in the form of a book titled 'In the Body of a Woman'. The author's feelings about oppression of women in all walks of life are evident in the manner she advocates for equality and justice for them throughout her book. Through explicit narratives, personal anecdotes and critical analysis the author conveys her discontent with the continued subordination and marginalization of women while at the same time maintains an unwavering belief in the power of reform for a more equitable future.

The present book consists of seven parts. The first part deals with the concept of consent in rape cases and gender sensitization. It consists of three chapters. In chapter one the author critically analyzes the ten-year period that followed the infamous Nirbhaya gang rape incident in Delhi. She discusses the recommendations made by the Justice Verma Committee report for the amendment of the criminal law of the country to hasten the process of remedial justice and enhance the punishment for those accused of committing sexual assault against women. The author highlights the

responsibility of the state in securing the fundamental rights of its citizens under the Constitution of India, elucidates how sexual assault is inherently violation of the fundamental rights, specifically, mentioned under Articles 14, 19 and 21 of the Constitution of India, which include within its ambit the right of a woman to live with dignity and in a safe environment with complete autonomy over her body and soul. The author reflects upon what has been gained, if at all, in the ten years following the Nirbhaya gang rape tragedy. She explains that there have been gains in the form of the enactment of the Criminal (Amendment) Act of 2013 which made Indian rape laws more stringent and incorporated a few new sexual offences against women in the criminal law. She also mentions the establishment of several fast track courts for the expeditious redressal of heinous crimes and civil cases related to women, children, senior citizens and people with disabilities, though many of them are not functioning, thereby leading to a high accumulation of cases in courts.

*Chapter one* also dwells upon the expanded definition of ‘vulnerable witness’ as given by the Supreme Court in its 2022 order, the obligation of the criminal justice system to compensate and rehabilitate the victim of rape, to take care of the needs of the rape victim in case she becomes pregnant and has a child or contracts a sexually transmitted disease or human immunodeficiency virus as a result of the offence. The author resents the decisions of the courts where they have treated the offence of rape very lightly, accepted reconciliation between the parties and granted bail to the accused. She highlights the inconsistency inherent in the award of sentencing by courts in rape and other cases due to the absence of a formula for sentencing policy in the Indian criminal law. The author asserts that fear of safety after the *Nirbhaya* gang rape case continues to haunt women in India. She asserts that laws need to be further strengthened, the criminal justice be made more accountable, the judiciary made more sensitive and above all the mindset of the people be changed, among others, while dealing with sexual assault offences.

*Chapter two* of this book deals with the question of how law determines consent in a sexual act and how the courts have interpreted consent in rape cases. The author raises questions, like, can submission amount to an absence of consent or can silence be regarded as giving consent. The author makes the reader understand that it is difficult to prove consent in the absence of a proper legal definition of the word in criminal law. She takes the reader through various Indian case laws to show how the definition of consent in rape cases has undergone a sea change. She suggests that an affirmative definition of consent in rape cases will plug the loopholes that appear in the present definition of rape.

In *chapter three* of part one of the book the author discusses how important it is to conduct gender sensitizing training programmes to bring about a change in the patriarchal mindset of the people and to create an environment that values gender equality. She admits that India has been making consistent efforts towards gender

mainstreaming but concedes that they are not enough. Keeping Goal five of the sustainable goals in mind, she urges the state to adopt sound policies for the promotion of gender equality and empowerment of women and girls. She feels and rightly so, that lack of women occupying decision making positions, prevalence of gender discrimination at the workplace, violence suffered by women within and outside the family, prevent women from achieving substantive gender equality. She strongly feels that gender sensitization programmes will help in removing the age-old biases and prejudices against women in the society. She highlights the importance of training judges, lawyers, law enforcement agencies and medical personnel to build a more women friendly criminal justice system.

The second part of the book consists of two chapters, namely; 'When non-consensual sex is not rape' and 'Gender responsive law making'. In chapter four the author makes a critical analysis of the concept of conjugal rights and the law on marital rape. She explains how the state's interest in preserving patriarchy impacts law making in the country which prohibits or allows certain activities. Thus, while law penalizing rape considers unmarried women as victims of rape it does not consider married women as victims. The author refers to the landmark judgment of *Justice K.S. Puttuswamy (Retd.) v. Union of India*, in which the Supreme Court established the right to privacy as a fundamental right and says that by virtue of this decision marital rape as a concept is violative of the woman's right to privacy as it takes away her right to autonomy over her body and mind. The author expresses unhappiness with the split verdict given by the High Court of Delhi on the issue of marital rape. She asserts that whether it is an unmarried woman getting raped or a married woman getting raped, in both situations, it means subjugation of the woman and for the victim it is an act forced upon her. She feels that failing to criminalize marital rape in India will hinder its progress in improving its global gender rankings.

In *chapter five* the author urges the state legislature to make more gender responsive laws. She emphasizes that in its 58<sup>th</sup> Session in 2014, CEDAW Committee had urged India to establish a legal framework to criminalize marital rape in view of sex abuse experienced by girls and women but it has failed to do so till date. The author in her efforts to justify her argument for criminalizing marital rape often refers to the Justice Verma Committee Report, which had recommended that the exception to marital rape under the Indian Penal Code of 1860 be removed giving the reason that marriage should not be regarded as an 'irrevocable consent to sexual acts'. She feels violence against women will end only if there is gender responsive law making which means enacting laws that affirm the gender equality principle involving creating legal frameworks that ensure and guarantee the implementation of equal rights, opportunities and protection for all women irrespective of their caste, creed and religion.

Part three of the book consists of chapters five, six, seven and eight. In chapter six the author discusses about the problem of witch hunting in India. She explains the

nature and extent of witch hunting prevalent in states like Jharkhand, Bihar, West Bengal, Odisha, Haryana, Gujarat, Rajasthan, Madhya Pradesh, Uttar Pradesh, Assam, Chhattisgarh and Maharashtra. She asserts that most legislations on witch hunting are inadequate and suggests the enactment of a central legislation that will ban witch hunting and criminalize the act.

In *chapter seven* the author dwells upon the issue of making institutional changes through affirmative action by the state to make women equal beneficiaries in the economic growth of the country. She gives reasons for the decline in the female labour force employment rate and thinks that unless the state devises a set of policies and programmes that generate employment for women India will continue to lag behind in the global female labour force index. She urges the state to implement the constitutional provisions of equality and address the issue of the declining female ratio in the labour force in India.

In *chapter eight* the author reminds the state of its responsibility as a welfare state. She writes that it is the duty of the state to “ensure an equitable and efficient arrangement that allows re-integration of women into the workplace post childbirth”. The chapter highlights how the patriarchal mind set frowns upon working women choosing to have children. The author suggests that there should be a specific Paternity Benefit Act enacted that will allow fathers to go on longer paternity leave (than is at present given) to be with the child and share the responsibility of bringing up the child along with the mother. She suggests framing of a progressive paternity policy by the state on the lines framed by big companies like Zomato, Microsoft and Novartis.

Part four of the book consists of chapters nine and ten. Both the chapters discuss abortion and reproductive care rights of women. In chapter nine the author explains how women in rural areas often face limitations in accessing quality reproductive health care leading to higher mortality rate as compared to women in urban areas. Further, she questions as to why the law extends abortion care to married women and not unmarried women. She bases her arguments on the decision given by the Supreme Court of America in *Hobbs v. Jackson* [597 U.S. 215 (2022)] where the court said denying abortion care laws does not eliminate unsafe abortions but would rather lead to higher mortality rate. The author highlights that unsafe abortions are the third leading cause of maternal mortality in India. She asserts that societal and cultural challenges create hurdles for unmarried women in seeking reproductive care. She cites the example of *X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi* (7 SCR 686) case which allows unmarried women to seek reproductive care but only in certain circumstances. The author argues strongly for the expansion of women’s abortion and reproductive rights.

In *chapter ten* the author makes an analysis of abortion laws in America. She criticizes the Supreme Court’s decision given in *Dobbs v. Jackson Women’s Health Organization*

which overturned *Roe v. Wade* [410 U.S. 113 (1973)] and *Planned Parenthood v. Cassey* [(505 U.S. 833 (1992)], effectively ending the federal constitutional right to abortion and giving authority to regulate abortions to individual states. She has compared these judgments in the context of how the reproductive and health care rights of women have been whittled down by the recent judgment of the Supreme Court of America in *Dobb's* case thereby impacting adversely the scope of such rights across the globe.

Part five of the book consists of four chapters. This part delves into the issue of cyber bullying of women and the inadequacy of the laws in curbing this form of crime. In chapter eleven the author discusses the concept of online bullying suffered by women of the Muslim community through the Bulli Bai and Sully Deals apps. The Bulli Bai app was basically a harassment tool created to target Muslim women on social media. It was a tool that purported to “auction” Muslim women and was hosted on GitHub before it was taken down. The author questions why our existing justice system cannot stop harassment of Muslim women who after all are citizens of this country. She fears that we have normalized hatred to such an extent that we have become indifferent to the fact that women are being auctioned online.

*Chapter twelve* deals with cyber crimes committed against women. The author explains how violence against women and girls has percolated into the digital realm. In her words, “It is this anonymous non-confrontational form of violence against women and girls, devoid of physical contact, that must be viewed as an impending factor to gender justice in the 21<sup>st</sup> Century”. She gives examples of various studies which show that in recent years there has been an alarming increase in the incidents of cyber harassment of women and girls across the world, including India. She feels the existing law in India is inadequate in controlling cyber violence against women and girls. She suggests a targeted legislation that will criminalize cyber violence against women and girls.

In *chapter thirteen* the author reflects upon how an open source app called ‘Sulli Deals’ fuelled cyber sexual violence against Muslim women. This app contained photographs and personal information of some 100 Muslim women online where each was described as a ‘deal of the day’. This app was hosted on GitHub as an open source project. After multiple complaints, GitHub brought the app down and suspended the ‘Sulli Deals’ account. The author writes that it is a myth to believe that women are homogenous. She states that specific women are “targets of systemic sexualised hatred”. She cites examples of works written by prominent historians and social scientists which narrate how bodies of women and girls have historically been consistently objectified and subject to violence. The author insists that efforts must be made by the Central Government to enact specific acts that will help prevent erosion of personal liberty and curb hatred against women through online platforms.

Part six of the book which consists of four chapters deals with gender responsive law making. In chapter 14 the author highlights the fact that even though in recent years the Supreme Court has pronounced several judgments that will have a positive impact on the lives of women in India there are many places in public life where women continue to remain under-represented. She asserts that judiciary is one such institution where women's representation is very less in India. She questions very vehemently that when there is reservation for women in the Panchayat system and the Parliament why can't there be reservation for women in the judiciary. While admitting that a few states in India have a reservation policy for women in the lower judiciary the author highlights that women representation in the High Courts and the Supreme Court is rather low and suggests for a reservation policy for women even in the higher judiciary to bridge the gender gap.

In *chapter fifteen* the author highlights the role that can be played by women in establishing peace in areas of conflict. She rightfully says that "sustainable peace is directionally proportional to an environment that fosters growth for women and girls and we have seen the indispensable role women play in strengthening a society's democratic structures by gender mainstreaming in peace keeping operations". Having said that, the author submits that this participation of women in resolving conflicts has been possible only because they have been part of the decision making body. She asserts that unless women are given voices in leadership positions gender parity will continue to elude women in India and across the world.

In *chapter sixteen* the author pays a tribute to all those women who were part of the constituent assembly and helped to shape the rights of women which were adopted under the Constitution of India. She admires Begum Qudsia Aizaz Rasul, a Muslim woman politician who contested from a non-reserved seat and was elected to the Uttar Pradesh Assembly at a time when communal tensions were high. She also gives the example of Purnima Banerji (Secretary of the Indian National Congress in Uttar Pradesh and was arrested for her participation in the Quit India Movement) as a strong woman who believed that women's association in the field of politics was not only essential but also indispensable.

In *chapter seventeen* the author projects the futility of celebrating women's day every year if there are no genuine efforts made in changing the power structures governing the social, political, financial and cultural institutions of the country. She urges the concerned authorities to create an environment where women can walk home safe at night, where they are paid equally as men, where they are not laid off during their pregnancy, where they do not have to struggle to be part of the work force, where the law enforcement agencies and the judicial system respond effectively to violence committed against them and where there is no disparity between them and men.

Part seven of the book which consists of two chapters deals with religious laws and international obligations. In chapter eighteen the author delves upon the importance of international instruments, like, the Universal Declaration of Human Rights, 1948, which impose obligation on member countries to enact policies and legislations that will protect and preserve human rights of people in their respective countries. She also highlights the provisions of CEDAW and the International Covenant on Civil and Political Rights, 1966, that command state parties to make specific provisions for the removal of gender-based discrimination directed at women. She writes that despite the obligations put on member states to protect the human rights of women there have been instances where they have been singled out due to gender- based bias and have been denied individual rights in the name of culture and religion. To justify her arguments the author gives examples of the predicaments faced by the Muslim and Jewish women in divorce matters.

In *chapter nineteen* the author analyzes the structural barriers faced by Jewish women who are chained to their husbands, simply because the husbands refuse to give them divorce. She gives a detailed analysis of the Jewish laws relating to marriage and divorce. She also analyzes the reformatory attempts, in the form of prenuptial agreements, being made by the Jewish community to resolve the existing predicament faced by Jewish women.

The book titled 'In The Body of a Woman' is a compilation of essays which delves deeply into the various biases and prejudices that women face in a male dominating society like India. Overall, the book offers a compelling exploration of gender justice, offering a rigorous analysis of the discriminatory practices faced by women in general and particularly, in India, at different stages and moments of their lives. The author gives powerful narratives to make the reader understand how the social, political, economic, cultural and legal institutions have failed in their duty to create a gender just society. The book challenges the reader to question the deeply rooted patriarchal system and provides insights to think on the lines of building a more egalitarian society.

Undoubtedly, this book makes a useful contribution to the discourse on gender justice, highlighting the structural barriers that continue to create hurdles for women in their journey to achieving gender equality. While in some places the content seems to be heavy for the reader, the book succeeds in challenging the traditional norms and beliefs which subjugate and oppress women. The book will prove useful to anyone who is committed to understanding and furthering the cause of gender justice.

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