

**Savitri Goonesekere (ed.).** *Violence, Law and Women's Rights in South Asia*. New Delhi: Sage Publications, 2004. 352 pages. Paperback. Indian Rs 390.00.

The book titled *Violence, Law and Women's Rights in South Asia* deals with a critically important issue for all countries, and particularly so for South Asian countries. In the latter, despite socio-cultural similarities, significant differences exist in handling gender-based violence. The issues are linked to the socio-cultural norms of the societies and the legal and institutional set-up prevailing in each country—viz., India, Pakistan, and Sri Lanka. The present study was initiated by United Nations Development Fund for Women (UNIFEM) in collaboration with United Nations Children's Fund (UNICEF).

The analysis offered here is of law and law enforcement in India, Pakistan, and Sri Lanka. All the three countries have signed and ratified a number of international conventions on elimination of gender-based discrimination and protection of human rights. However, the record of the three countries included in the study is far from perfect. Sometimes the cultural norms and religious norms are used to violate these rights. The apathy of the judicial system and abuse of the legal system make access to justice very difficult. The case studies reported for each country provide an insight and the evidence of the loopholes in the system, particularly the ineffective judicial system.

The study on India provides an excellent overview of the gender-related crimes in the country. The current legal system is ineffective and it cannot deal with various kinds of violence against women. The rate of conviction in crimes against women is less than four percent. Dowry-related domestic violence is common. The changing economic conditions and the lifestyle also have fuelled the demand for dowry. The law against dowry is not implemented. The custom of 'sati' has been abolished. However, the discrimination against women victims in cases of harassment, rape, and other crimes is still widespread. No significant effort has been made to formulate and implement the legal safeguards to protect women. Some of the issues that affect the performance of the legal and judicial system are:

- (a) What is rape? A clear definition is missing. When is 'incest' a crime? It is not clear. There are a number of areas where loopholes in the definitions affect the implementation of justice.
- (b) The procedural law and the law of evidence suffer from various lacunae and are insensitive to the needs of women.

Recently, a number of efforts have been made to improve the procedural law and to fill the definitional gaps. However, effective legislation and implementation remain the challenges. The study reports a number of court cases of sexual assault, rape, dowry-related violence, and domestic violence, where the women victims were denied justice because of patriarchal and class/caste biases of the court.

On the positive side, in recent years, an effort has been made to integrate international law on violence against women into domestic jurisprudence. In India, the National Commission for Women has also recommended a law to deal with the issue of domestic violence. Similarly, the dowry law was updated and strengthened. However, the inheritance laws were not changed, resulting in serious limitation. The author indicates that for an effective implementation of the laws, a major attitudinal change in society is required to modify the traditional customs and values of the society.

Hina Jilani and Eman M. Ahmed discuss various forms of violence faced by Pakistani women. The legal and institutional provisions for women are not standardised and they are sensitive to changes in the government. The authors report: "Women in Pakistan are more vulnerable to violation of their rights of life, liberty, and security of person". The women are victims of sexual violence, domestic violence (particularly in the form of honour killing), forced marriage, denial of rights, etc. The authors report various incidents of murder, honour killings, death by burning, rape, incest, child sex abuse, trafficking and enforced prostitution, where the legal system and the institutions meant for providing protection to women victims failed to fulfil their responsibilities. The major problems were the loopholes in the interpretation of law, definition of crime, support of the powerful and socio-cultural norms that affected the decisions of the courts and women victims adversely. The study gives specific recommendations to deal with each form of violence and to improve women's access to justice. In addition to improvements and extensions in the legal provisions, the authors suggest a wide area of interventions like improvements in the institutional capacity, training and sensitisation of judges to women's needs and rights, improvement in health facilities, and changes in school curriculum.

The study on Sri Lanka, by Shyamala Gomez and Mario Gomez, reports that violence against women and girl child has emerged as a major human rights concern in recent years. The response of the legal system to gender-related violence is inadequate. The authors examine the violence "...in the context of the criminal justice system, the fundamental rights jurisdiction, and as a tort or delict". The authors identify three options for women victims searching for legal remedies. She can either pursue criminal legal system, or pursue a private delictual remedy or utilise the provision of the constitution on fundamental rights. Lack of consent to have sexual relationship is considered sufficient ground for determining the rape. The case of marital rape is considered only if the husband and wife are separated. Age is another criterion for determining the case for rape. Minimum sentence for the act of rape/sexual misconduct is seven years. If the victim is less than 18 years, then the sentence is ten years with compensation. Incest and cruelty against children are also considered major offences. Domestic violence, is difficult to prove due to its lower visibility and there is no separate legislation to deal with it. The victims have to resort to criminal law to get justice. The study of Sri Lanka also focuses on the role of mediation as an alternative to the court system. The mediation centres have been established as an inexpensive and speedy system to resolve the conflicts. A number of other initiatives are taken to resolve the gender-based conflicts and violence. However, the authors of the study recognise that the law and the judicial system can offer a partial solution to gender-based crimes and conflicts. The efficiency of the legal system depends on a number of issues, like the attitudes and norms prevailing in the society, effectiveness of the institutions and civil society groups, and the support extended by the state.

The evidence from all three countries shows that definitional issues and the prevailing socio-cultural norms are the major constraints in women's access to justice. In some cases, laws exist but are difficult to implement. In most cases, clarity of laws and of the legal system is needed. There is also an urgent need to update and extend legal coverage of the national legal system/laws in conformity with international norms. There

is a need to discuss the legal controls with reference to each form of violence. Disfigurement and honour killing need urgent response of legal institutions, but it varies across countries. Violence and human trafficking, particularly of women and children, are critical issues and the South Asian countries should formulate an effective regional policy to deal with them. In most of the countries, the legal system is in place but it is important to work out the implementation mechanism. For this purpose, it is important to have a normative framework, procedural laws, and constitutional remedies to facilitate the provision and administration of justice.

This book is an important source of reference for the existing legal and institutional systems prevailing in the three countries. However, I have following reservations: first, the book focuses on those case studies where the women victims were unable to get justice. It would have been better if the authors had also reported some positive examples to provide a baseline. Second, in all three countries, it is reported that Islamic values have prevented them in making positive changes. I think, it would have been valuable if the authors, particularly the authors of Pakistan's case study, had informed the readers whether the Islamic laws prohibit the required improvements or it is only the practice and the way these laws are applied.

Yet, the book is rich in information and analysis. I congratulate the editors on offering it to a wide readership of the policy-makers, law practitioners, and researchers.

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