Toward a Feminist Politics? The Indian Women's Movement in Historical Perspective

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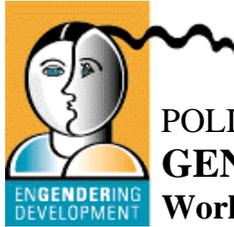
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Toward a Feminist Politics?
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in Historical Perspective

Samita Sen

Despite a longstanding and vigorous women's movement with many achievements, patriarchy remains deeply entrenched in India, influencing political and social institutions and determining opportunities available to women and men. To better understand the challenges facing the women's movement, this paper explores two debates that have rocked the movement and Indian society more broadly- over the Uniform Civil Code and the proposed reservation for women of seats in legislative bodies.

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Abstract

The women's movement in India took off in the 1920s, building on the 19th century social reform movement. The women's movement progressed during the period of high nationalism and the freedom struggle, both of which shaped its contours. Among the many achievements of the movement, the most significant were the constitutional guarantees of equal rights for women and universal adult suffrage in independent India. However, these guarantees did little to bring about social and material change in the lives of most Indian women. A New Women's movement, articulated to mass and popular politics, emerged in the 1970s.

Despite the longstanding and vigorous women's movement, patriarchy remains deeply entrenched in India, influencing the structure of its political and social institutions and determining the opportunities open to women and men. The negotiation and conflict between patriarchy and the women's movement are central to the constitution of the nation-state.

This paper explores these issues by examining two debates that have rocked the women's movement and Indian society: over the Uniform Civil Code and the proposed reservation for women of seats in legislative bodies. These controversies have contributed to and bear the mark of deep cleavages within the women's movement—cleavages that reflect divisions of caste, class, and community among women. To understand the full implications of these controversies and their divisive consequences, it is essential to understand their long-term historical roots. The discussion here draws out various positions within the women's movement and arguments advanced by the government, the media, and others. The significance of a secular political constituency of women, as represented by the women's movement, is also considered.

An Introduction to India's Women's Movement

The term *Indian women's movement* is highly contested. The appellation of "Indian," when used for the women's movement, implies a political and cultural singularity that obscures the movement's diversity, differences, and conflicts. The problem is not simply one of disunities but rather has to do with intractable conflicts involving the word "women" that derive from the central position of gender in post-colonial Indian culture and politics. Indeed, processes of gender—the construction of identities, roles, and relations based on sexual differences—played a key role in the historical formation of the Indian nation-state. But gender cannot be separated from other, conflicting political identities, all of which play a crucial role in the life of the nation.

The Emergence of Gender Issues

Gender has been a central 'issue' in India since the colonial encounter. An overwhelming preoccupation with the "woman's question" arose from the 19th century social reform movement, crucially informed anti-colonial nationalism, and remains a point of crisis in India's cultural, social, and political space. The recognition of gender as an issue forms the basis for India's women's movement.

One prominent gender concern was status—that is, the rewards and benefits that accrued to women on India's journey to self-determination, statehood, democracy, progress, modernity, and development. In 1974 the Indian government published a report, *Towards Equality*, that put status of women forcefully on the national agenda by arguing that the position of Indian women had declined, not improved, since 1911 (Committee on the Status of Women 1974). As a result development and progress became gender issues. Data on gender discrimination in employment, education, land distribution, inheritance, nutrition, and health became impossible to overlook.

At the same time violence against women was on the rise and widely reported in the media. There were cases of rape in police custody, wife murder (usually called bride-burning or dowry deaths) on a large

scale, and sexual harassment in the workplace and on the street. Women's issues entered the fields of culture, religion, and law; of family and community structures; of the problems of and official responses to population, poverty, illiteracy, and labor; and of the new social movements of dalits, environmentalists, tribals, anti-dam activists, peasants, and trade unions. Rajeswari Sunder Rajan, taking stock of the 50th independence celebrations, comments that in "all these discourses, disciplines and sites of action, gender began to figure as an 'issue' as well as a category of analysis" (Rajan 1999: 3).

The Search for Cohesion

The recognition of gender as an issue powered the post-colonial women's movement, supported by feminist critiques and women's studies in academia. Women mobilized to protest violence, legal discrimination, and rising prices and agitated for better living conditions through higher wages, the prohibition of liquor, and the provision of drinking water (Rajan 1999: 3). These women represented a wide range of castes, classes, and communities, rural and urban.

But differences among these women grew, fracturing not only the category of women but also solidarities among them. In 1986 the developing tensions were exposed and fueled by the Shah Bano case. Discrimination against women in personal law had been on the women's movement's agenda since the 1920s, but the Shah Bano case catapulted the issue into a crisis of national proportions. The case intensified a process in which nationalist ideology, religious fundamentalism, communalism, and caste tensions were pitted on the site of gender. Thus embattled, women—and their movement—lost the fragile unity and broad identity in which their differences and diversities were contained in the first phase of their active political engagement.

Today the women's movement in India is deeply cleaved. There is, nevertheless, a vigorous search for a viable feminist politics. To succeed, feminists must develop transformative politics, managing and (hopefully) transcending class, caste, and community differences (Rajan 1999).

This paper addresses this critical challenge. It seeks, through historical analysis, to understand the cleavages in the women's movement by examining the two most divisive issues before it: the Uniform Civil Code and the move to reserve for women one-third of the seats in legislative bodies. But it also mines the promise of a transformative (feminist) politics. Today there is not one women's movement in India, an overarching collective in which gender politics is articulated. Yet the multiplicity of sites, disciplines, and discourses makes for vibrant gender politics.

Although women often define and identify themselves through difference and conflict rather than through similarity or common belonging, this paper uses the term *women's movement.* This approach is justified because analytical categories often must indulge in abstraction from the perceptions and definitions of social actors, so the term can be used to indicate a variety of campaigns around issues important to women (Kumar 1995). Moreover, I wish to affirm the possibility—and even necessity—for a women's movement to exist, to offer women the possibility of a space outside the structures, if not also the identities, of community.

Identity, Colonialism and Independence, and the Nation-State

The primary identity of an Indian, male or female, is citizenship whose basic definition offers a promise of equality and justice within the nation's democratic constitutional framework. Repeatedly, however, this promise is undermined by the masculinity of nationalist ideology, the fiction of citizenship, and the malleability of law. Instead of offering an alternative space, the nation often simply functions as an extension of family, caste, and community structures and defines women as belonging in the same way as their structures. This definition of belonging is contradictory, implying both "affiliated with" and "owned by." The first interpretation connotes voluntary, participatory membership; the second a secondary, functionalist, and symbolic status (Rajan 1999). And both are constantly overlooked because social and political order is defined through women's ownership by and place in structures of family and community.

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This paper began by positing the problem of gender within the matrix of the post-colonial nation-state. The four elements of this term are significant. We have already considered the role of the nation in understanding gender and vice versa. In that story India's colonial past is also critical. The colonial period is considered a watershed in gender relations. During that period modernity was set in motion through colonial and indigenous initiative. Modernity was accompanied by capitalism, which under colonialism transformed agriculture, commerce, and manufacturing. In addition, the 19th century saw the emergence of anti-colonial nationalism, and in the early 20th century the contours of the nation-state evolved. These two political legacies led to the formation of the independent Indian state. Together these social, economic, and political trends defined and structured gender relations in contemporary India. A general acknowledgement of the importance of understanding how the situation of Indian women is embedded in these contexts was intrinsic to the new, self-consciously feminist women's movement that emerged in the late 1970 and early 1980s.

The significance of the nation-state lies as much in the second part of the term as in the first. The state—both the colonial state and the independent state after it—has a dual and paradoxical attitude toward the "woman's question." One the one hand the state plays a paternalistic role by "protecting" women and has, as a result, a remarkable range of pro-women legislation. But while such legislation is enacted, it has a poor record of implementation. The colonial state propitiated patriarchal interests through administrative pragmatism, and there continues to be systematic administrative and judicial dilution of women's given rights. In fact, the state plays a pivotal role in upholding and sustaining patriarchal institutions and instruments, both by omission and commission.

Moreover, the women's movement has an ambiguous relationship with the state. From its inception the movement has placed a disproportionate emphasis on seeking solutions from the state, usually in the form of progressive legislation. In the colonial period such demands were constrained by the women's movement's alliance with the nationalist movement, which challenged the colonial state's intervention in Indian social relations. For a few decades after independence, female leaders, drawn mostly from the urban

elite, believed in the fiction of the state's neutrality and assumed the goodwill of the male nationalist leadership. The critique of the state came from leftist women—intellectuals and participants in mass movements—who placed an equally disproportionate emphasis on solutions emanating from the state and its agents as perpetrators of violence. There was less theorizing and strategizing on the family and violence in the private domain.

To emphasize the need to understand the processes outlined above over the long term, the structure of this paper follows a chronological as well as a thematic logic. There are two parts. In the first part the historical background is sketched out in two brief sections. The first section focuses on the colonial period and concentrates on the role of the state and the indigenous male elite in determining tropes of modernity for Indian women. This period has been viewed by historians as one in which a New Patriarchy was fashioned to meet the exigencies of colonial rule and the desire for modern progress. But soon "New Women" began to speak on their own behalf for a future different from that charted for them, and often against both the new and old patriarchy. These women are the focus of the second section, which examines the development of the women's movement in the colonial period. It also traces the shifts in the movement through independence and the disenchantment with nationalism. The second part of the paper focuses on the contemporary period and outlines the controversy over the Uniform Civil Code and the reservation for women of seats for women in legislative bodies. The discussion covers the origins of these debates, the different positions within the women's movement, and the political implications of each.

A History of India and Its Women

Four issues affecting the women's movement in India require careful consideration:

- The tensions and fractures in the movement.

- The way these fractures are related to women's relationship to the nation-state, which at least partly follows from women being "owned" by their families, communities, and even nation.

- The possibility of managing or transcending differences among women to create a political community to which women will belong by voluntary association rather than by ownership.

- The significance of women's agency in gender politics.

As noted, any discussion of these issues must be grounded in an understanding of the long-term historical processes in which gender relations and gender politics are articulated. Indeed, many of these issues have to be discussed with reference to India's colonial past, because that is when their terms were set.

The "Woman's Question" and Men's Answers, 1820-1920

When James Mill wrote in his *History of India* in 1817 that the condition of women in a society is an index of that society's place in civilization, he wrote women into the project of modernity and modern history-writing in India. In one fell swoop, "women," "modernity," and "nation" became essential and inseparable elements in a connected discourse of civilization (D. Chakrabarty 1994). The "woman's question" not only came to dominate public discourse for more than a century, it also became the touchstone of the colonial-nationalist encounter, inscribed with the trope of modernity and the legitimation of political power.

For colonial rulers, the atrocities practiced against Indian women became a confirmation of the rulers' modernity and the moral ground on which their "civilizing" mission could be launched. As outsiders they could claim the role of protector of Indian women, interceding on their behalf against brutal patriarchal practices (Sinha 1995). And there were spectacular barbarities in the everyday customs of India, including sati (burning widows alive on the funeral pyres of their dead husbands), female infanticide (especially common in northwest and western India), enforcement of celibate and ascetic widowhood, and

pre-pubertal marriages (especially in northern India). Colonial officialdom and missionary rhetoric singled

out such practices to characterize the status of Indian women as especially low and Indian men as

exceptionally violent.

The social reform movement

This was the mirror in which Indian men were invited to see themselves when colonial education

began. The new urban elite, drawn mostly from the upper castes, imbibed the enlightenment philosophy of

individualism and humanism. They perceived barbaric traditional practices against women as a

civilizational lapse and as recognizable social evils (R. Chatterjee 1992). Thus emerged the social reform

movement, an attempt on the part of the new elite to redress, sometimes with and sometimes without British

help, the worst features of the old patriarchal order.

Women were in the forefront of all the main items on the agenda of the social reform movement.

For reformers, women's emancipation was a prerequisite to national regeneration and an index of national

achievement in the connected discourse of civilization, progress, modernity, and nationalism (Sen 1993).

One strand in the movement concentrated on legislative remedy. A series of campaigns resulted in the

abolition of sati in 1829 and the enabling of widow remarriage in 1856. Another strand was concerned with

creating the female counterpart of the new male elite, "New Women", who would share the sensibilities of

the men in the family and be able to sustain their new class roles. The chief instrument was formal

education but the issue became inextricably linked with the gender segregation and seclusion (*purdah*)

practiced by the upper castes and classes and, by extension, with a reworking of public-private gender

roles.

Between the 1820s and 1850s reformers, who favored both legislative interventions by the colonial

state and a wider program of female emancipation, set up organizations like the Brahmo Samaj in eastern

India, the Prarthana Samaj in western India, the Arya Samaj in northern India, and the Theosophical

Society in southern India.[1] Elite urban men led these movements and challenged many of the ritual and

social restrictions to which upper-caste women were subjected. As fathers and husbands, the men were able to extend many benefits of modernity to a small but significant group of women. These women were drawn into the public spheres of formal education and eventually into employment, political participation, and leadership (Joshi 1975; Borthwick 1984; Engels 1996).

These achievements are sometimes underestimated: "elite" has often been used to categorize—and dismiss—women who struggled to gain an education and a place in India's public life, neither of which flowed automatically or easily from their class or caste status. Women often earned "freedom" at the price of social ridicule, ostracism, and harassment. And while some women were aided by well-intentioned male relatives, others faced severe familial resistance (Karlekar 1991). Still, the achievements were remarkable. Take the case of Rassundari Devi (born around 1809), who was entirely self-taught and wrote the first autobiography by an Indian woman:

> I was so immersed in a sea of housework that I was not conscious of what I was going through day and night. After some time the desire to learn how to read properly grew very strong in me. I was angry with myself for wanting to read books. Girls did not read…People used to despise women of learning…In fact, older women used to show a great deal of displeasure if they saw a piece of paper in the hands of a woman. But somehow I could not accept this. (Tharu and Lalitha 1991: 199)…

From Rassundari Devi's painstaking efforts to trace her son's lessons in the seclusion of her bedchamber at night, Bengali women progressed rapidly. In 1883 Kadambini Basu and Chandramukhi Basu received B.A.s from Calcutta University, becoming the first female graduates of the British empire. Kadambini went on to train in medicine and practiced as a doctor in Calcutta in the 1880s (Karlekar 1991). Other women became doctors, teachers, and educators. Women's education also proceeded apace in urban centers like Bombay, Poona, and Madras. Remarkable women like Pandita Ramabai, Anandibai Joshi, Tarabai Shinde, Haimavati Sen and Saraladevi, some privileged and some not, challenged patriarchal constraints, at least in their own lives, and some went on to participate in the emerging nationalist movement (Forbes 1994; Chakravarti 1998).

While the liberal section of the new elite demanded legal and administrative initiative from the colonial state in their reform project, more conservative Indian opinion resisted colonial intervention into traditional social relations. The debates between these two groups have often been seen as a battle between modernists and traditionalists (Murshid 1952). Lata Mani, however, argues that both groups were redefining tradition and, therefore, "Indianness." Women were "neither the subjects nor the objects" of this discourse, but merely the "site" on which the debates were conducted (Mani 1986, 1989). And even as this recast tradition came to occupy the core of modern Indian identity, gender as the exemplary site (or symbolic expression) became and remains central to political and cultural processes of identity formation.

The colonial and nationalist responses

These processes followed from the colonial state's characterization of Indian society. The colonial discourse had assumed the existence of a "domestic" domain to demarcate what the colonizers found difficult to know but that without knowledge of which the colonial state would not be able to understand and master Indians. This domestic domain became, in colonial discourse, the repository of India's singularity, of Indianness (Sen 1993). Nationalism inherited this language. Thus nationalists, like earlier reformers, redefined the domestic space according to invented categories of tradition. The early articulation of nationalism focused on the domestic—the family, the home, and women in it—as the locus of Indianness and the politically disenfranchised male elite's only domain of autonomy. Nationalists thus resisted the subordination of the domestic to the civilizing scrutiny of colonial missionaries and bureaucrats and the transformative will of modernity (Sen 1993; P. Chatterjee 1989; D. Chakrabarty 1994).

The demarcation of the domestic as the arena of nationalist resistance to colonial intervention involved, by the late 19th century, a significant break from reformism. Women had become the arena in which agreements and conflicts between the colonial bureaucracy and the colonized middle class was to be played out. The colonial state could no longer be given political legitimacy as a source of laws that impinged on the idealized space of the family. Early nationalists opposed colonial interventions in gender

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relations (especially in the constitution of family) on the grounds that these were anti-traditional and, therefore, anti-national.

The Age of Consent Controversy (1890-91), which followed from the colonial government's attempt to raise the age of marriage for Indian women, was a watershed in this regard (Sinha 1995). Nationalist resistance to reform took the form of a defense of tradition. The dominant ideology being shaped in this process relocated women from an index of social malady (as in the discourse of colonial missionary reformists) to an embodiment of moral order. The good woman, the chaste wife and mother empowered by spiritual strength, became the iconic representation of the nation (Sen 1993).

This transformation of the symbolic meaning of women has had long-term consequences. First, their iconic stature renders irrelevant any criticism of or inquiry into women's actual social condition. Tradition severed from social reality finds fulfillment in an emotional and aesthetic imaging of a heroic mother-goddess. Second, the idealized opposition between domestic and public has located women firmly in the domestic realm, with housework and child care at their only legitimate concerns. The moral health of the community is felt to depend on the "different but equal" roles of men and women, and thus on established values of a gender-based division of labor. Third, the aesthetic, cultural, and emotional investment in the imaging of women has become the cornerstone of an ethnicized and oppositional entity. "Woman" has become the arena in which community, caste, and class battles are fought. In such a discursive space, the unity of nation, caste, class, or community requires the subordination of women. Hence women's aspirations for gender justice or gender equality sit uneasily with claims of justice or equality flowing from their other identities (such as being low caste or poor or a member of a minority community).

The ideological and symbolic location of women was buttressed by legal and administrative measures that laid the foundations for a new patriarchy. This too colonialism bequeathed to the "daughters of independence," and it is a legacy the ruling powers of the post-colonial nation-state have not discarded. The persistence of the new patriarchy was foreshadowed in the manner it was fashioned—with the

complicity of the male Indian elite. Few women of the time voiced an understanding of these processes.

Pandita Ramabai was perhaps the era's most scathing critic of Hindu patriarchy and casteism. When

Rukhmabai, married as a child, was tried and sentenced to prison for refusing to live with her husband,

Ramabai wrote:

> Our only wonder is that a defenceless woman like Rukhmabai dared to raise her voice in the face of the powerful Hindu law, the mighty British Government, the 129,000,000 men, the 330,000,000 gods of the Hindus; all these have conspired together to crush her into nothingness. We cannot blame the English Government for not defending a helpless woman; it is only fulfilling its agreement made with the male population of India. (Shah 1977: 257)

Ironically, while the "liberal "and "civilizing" arm of the colonial state was disabled by indigenous

opposition, the enhancement of male control over women happened relatively quietly, often at the initiative

of the colonial state and without nationalist opposition. The colonial state inherited a highly coercive labor

arrangement, based on the household, organized by gender and age and maintained through family roles

(Anderson 1993). It was in the state's interest to maintain this arrangement to prop up the increasingly

unviable small peasant economy that was the basis of the state's revenue calculations (Bose 1993; Sen

1999c). Segments of the male Indian elite were demanding greater cohesion of the family and consolidation

of patriarchal control over women (and children) against the incursions of capitalism and modern

institutions. Especially in urban India, women's exclusive domesticity became the most effective marker of

middle-class status (as in Victorian Britain). Besides, the increasing control over women—their sexuality

and their power—underwrote indigenous elite men's claim to autonomy in the domestic domain. The

question of women's labor was enmeshed in elite ideologies of domesticity, while control of sexuality (and

labor) was increasingly effected through the legal and ideological manipulation of marriage systems.

The marriage system was the key to men's control over women. The interests of the colonial state

and (male) nationalist sentiment converged in the desire for a more draconian marriage regime. The

promotion of marriage as the upper castes and middle classes understood it and the defining of the husband

and father as the undisputed head of the family were important colonial and nationalist enterprises. It

prompted efforts to reconstrue a 'Hindu' and a 'Muslim' law, assumed to be fully formed and 'out there', which would rigidify gender hierarchies and elevate the authority of the paterfamilias to an unassailable position. The process was twofold, involving a move toward a more rigid definition of marriage loaded in favor of male control and a universalization of upper-caste (or class) norms that sought to eliminate regional, caste, and class variations in marriage practices (Sen 1999b).

The social reform movement had initiated these processes. The movement had addressed, selectively, issues that affected high-caste and upper-class women and had invoked change under the broad definition of Hindu. This became possible because the legal and institutional innovations of the colonial state empowered elite men to speak on behalf of Hindus in their widest definition. Moreover, elite men were encouraged to represent a "tradition" constructed from selective appropriation of variable and contradictory Hindu texts (*sashtras* and *smritis*) representing idealized brahminic norms. As a result low-caste peasants, laborers, and artisans were coopted as participants in upholding a putative Hindu ideal of womanhood and a ritual and legal brahminization of marriage. In the only accepted brahminical view, marriage was a sacrament (as opposed to the contractual nature of marriage in Islamic law) and, therefore, irrevocable (O'Hanlon 1991; Nair 1996 ; Sen 1999b).

The brahminization of marriage had a disastrous effect on the customary rights and marriage practices of low-caste women. The law of divorce is a telling example. Colonial officialdom, on the basis of scriptural prescription and upper-caste custom, understood the absence of divorce to be the most significant feature of the Hindu marriage system (as opposed to the Muslim system). They ignored, despite overwhelming evidence furnished by their own officials to the contrary, the fact that all but the very high castes routinely allowed divorce. In the 1860s a series of High Court judgments ruled that there was no divorce in Hindu law and that Hindu women, because they were not allowed polygamous marriages, could not marry a second time (Anderson 1993).

As a result many poor and low-caste women became criminally liable under the penal law against bigamy. Hindu men were allowed polygamous marriages and had no liability to maintain discarded wives;

thus the outlawing of divorce had no material effect on them. Hindu women were legally empowered to remarry only after their husband's death, as dictated by the Hindu Widow Remarriage Act (1856). Yet this apparently enabling act became the means through which orthodoxy was reinforced, because the act stipulated that a Hindu woman who remarried forfeited all claims to the property of her first (dead) husband (Carroll 1989). Criminal laws, migration regulations, and other legal and administrative innovations enhanced such restrictions (Sen 1999b).

Thus a small group of elite women became the crucial beneficiaries of colonial modernity and were able to negotiate patriarchal (and class) spaces to access education and employment and to aspire to political leadership. Yet the recasting of patriarchy in the image of high-caste and upper-class norms meant that most women were left out of the benefits of modernity and deprived of their traditional rights and freedoms. There was not only increasing divergence in the trajectories of upper caste/middle class urban women and the 'others', the very process that underlay the 'moderisation' of the first group became the foundation for further disempowering the poor, low caste and minority women. Thus the new patriarchy was no less draconian or barbarous than the system it sought to civilize and replace.

The "New Women" began to speak in the 1880s, questioning elements of their subordination. They found a voice in writing about their lives and the condition of women. In 1881 Vijayalakshmi, a young Brahmin child-widow, was sentenced to death for killing her illegitimate child. Tarabai Shinde, a young woman, responded with a harsh critique of Brahminical patriarchy, *Stri-purush tulana* (A Comparison between Men and Women): "So is it true that only women's bodies are home to all the different kinds of recklessness and vice? Or have men got just the same faults as we find in women?" (O'Hanlon 1991: 93). In the 1920s the second generation of "New Women" became more active. They articulated the needs of women, critiqued their society and foreign rulers, started associations, developed institutions, and sought to consolidate women's interests.

Women Question and Seek Answers, 1920-70

During 1920–70 Indian feminists focused on gaining equality through two main channels: by forming associations and becoming active in politics.

Associations

Saraladevi Chaudhurani, perhaps the most remarkable of the "New Women", was both a feminist and a nationalist, an active participant in both the social reform and nationalist movements. She was one of the first women to see the need for and start an association for women. She argued that women's issues could not be addressed adequately as an adjunct of the National Social Conference (set up by the Indian National Congress in 1887) or by men who "advertise themselves as champions of the weaker sex, equal opportunities for women, female education and female emancipation…their pet subjects of oratory at the annual show" (Saraladevi 1911: 345) but who actually lived in the "shade of Manu," unwilling to allow women independent action (Bagal 1964: 24). Saraladevi founded the Bharat Stree Mahamandal (Great Group of Indian Women) in Allahabad in 1910.

Saraladevi's efforts came on the heels of several women's clubs, groups, and associations initiated by men. These included the Bharat Ashram (Indian Hermitage) in Bengal, formed by Keshab Chunder Sen (of Brahmo Samaj) in the 1870s; Arya Mahila Samaj (The Aryan Women's Association) in Bombay, formed by Pandita Ramabai and Justice Ranade in the 1880s; Bharat Mahila Parishad (Ladies' Social Conference), formed as part of the National Social Conference in 1905; and Anjuman-e-Khawatin-e- Islam (The Muslim Women's Association) in Punjab, formed by Amir-un-Nisa of the Mian family.

These associations, initiated or inspired by men, were critical training grounds for women, allowing them access to education and their first experience with public work. But they also tried to impose traditional gender roles and values. Their limits became evident when women attempted to define the "woman's question" in their own ways. As a result women followed in Saraladevi's footsteps to organize women-only associations (mostly called Mahila Samitis) in the early decades of the 20th century. These

were mostly city-based, sometimes neighborhood-based, small, limited, and dispersed. Some taught basic subjects like mathematics and geography. Some focused on classes on health, hygiene, nutrition, and child care. Some were class-oriented and taught new social skills such as polite conversation in English, tea serving, or public speaking. And many concentrated on livelihood solutions such as skill training (sewing and embroidery) or handicrafts (weaving and pottery; Forbes 1996 and Southard 1995).

These local associations laid the ground for national associations of women. During the early spurt of nationalist agitation the Women's Indian Association was launched (1917), followed by the National Council of Indian Women (1925) and the All-India Women's Conference (1927). The Women's Indian Association defined itself as including and representing women of all races, cultures, and religions. It opened branches in different parts of southern India but remained connected to the Madras Theosophical Society. Its political debut was immediate. In 1917 a delegation met Secretary of State Sir Edward Montagu to argue for female franchise. But the Women's Indian Association remained highly limited in class and caste composition and failed to spread outside the Madras presidency.

The National Council of Indian Women was even more elitist. It was set up as a national branch of the International Council of Women and was influenced by Lady Tata and other women from wealthy industrialist families of Bombay. Many of these women saw charity as the council's main purpose, providing a scope for "enlightened" activity based on the model offered by British middle-class women. Still, the council had committees on labor, legislation, and the press. The legislation committee, under the guidance of Mithan Tata Lam, was the most active.

Both the Women's Indian Association and the National Council of Indian Women claimed to represent all Indian women, but they were far removed from the masses of women whom they confidently sought to benefit. They targeted the government for solutions and advice on what they considered problems. They concentrated on "petition politics" because such activity best suited their stations and purposes. Their contacts, through family, marriage, and social interaction, gave them far more credibility than was warranted by their numbers or experience (Forbes 1996).

The All-India Women's Conference, the third of these organizations, was much more successful in offering a national representation of women and in its alliance with the Indian National Congress. Within 10 years the conference included subcommittees on labor, rural reconstruction, industry, textbooks, opium, and child marriage legislation. It was through the campaign for the Hindu Child Marriage Bill (1927; introduced by Harbilas Sarda and known as the Sarda Bill) that the All-India Women's Conference (and other national women's organizations) came of age.

Child marriage and the age of consent (for sexual intercourse) had been controversial issues since 1891. Women's organizations actively organized in support of the Sarda Bill because from the beginning they had identified child marriage as a major impediment to women's progress that "crushed…[women's] individuality and denied them opportunities for education and development of mind and body" (Akilabai, quoted in Forbes 1996: 87). The government argued, based on a petition demanding that Muslims not be subject to the bill, that the Muslim community was against the measure (AIWC 1931). Muslim women tried to combat this move. Sharifah Hamid Ali said that two of her daughters had been "victims of this custom" and favored 18 as the minimum age for marriage. Muslim members of the Women's Indian Association submitted a special petition:

> We speak also on behalf of the Muslim women of India, assert that it is only a small section of Mussalman men who have been approaching your excellency and demanding exemption from the Act. This Act affects girls and women far more than it affects men and we deny their right to speak on our behalf. (WIA, Appendix, Report 1930-31, "Muslim Ladies Defend Sarda Act")

In the end the Child Marriage Restraint Act that was passed included Muslims but compromised on everything else. The minimum age of marriage for women was set at 14, and for men at 18. The age of consent was not mentioned.

The Child Marriage Bill was a consensus issue for the women's movement—perhaps the last. In the course of the campaign women's organizations acquired a national profile and gained legitimacy and credibility in representing Indian women. By the early 1930s women's organizations emerged as a

consolidated force and were able to respond to national and international issues. They participated in every

committee and planning group set up to discuss India's future. Women, it almost seemed, had been

accepted as an equal partner in the nation-to-be. But their hegemony was short-lived. As the momentum of

the movement for freedom gathered, priorities changed and overtook the fragile alliances and narrow base

on which the women's movement was founded.

Politics

From the 1920s the Indian National Congress began to forge linkages with peasant, worker, and

women's organizations to demonstrate mass support. Women's political participation was socially

legitimized, completely altering equations within the women's movement. Some women were already

engaged in a variety of political activity. From 1889 every meeting of the Indian National Congress

included some women, a few delegates and many observers. Their participation was often token and

symbolic, but the women were educated and politically knowledgeable and were seeking (or being given)

new public roles. The Partition of Bengal (1905) and the Swadeshi movement attracted much larger

numbers, including uneducated rural women (Ray 1995).

Different forms of participation. Geraldine Forbes argues that a new kind of feminine political role was

fashioned in the course of this movement:

> Where private and public roles were sharply divided by both ideology and physical arrangements,
> women's political acts were hidden from British authorities. Women hid weapons, sheltered
> fugitives, and encouraged the men, their domestic roles providing the cover for these subversive
> and revolutionary acts…[These activities] were quite different from their representative roles in the
> [Indian National Congress]. There the delegates appeared as equals of men, but their true
> significance was symbolic. They sang in praise of Mother India and posed as regenerated Indian
> womanhood. [In the Swadeshi movement] women did not do the same things as men. Instead, they
> used their traditional roles to mask a range of political activities. While the public and the private
> continued to exist as distinct categories, usual definitions of appropriate behaviour in each sphere
> were redefined and given political meaning. (Forbes 1996: 123-24)

This distinction between two kinds of political activity undertaken by different groups of women continued within the nationalist movement through independence and beyond and existed in many other political formations (such as the left-led peasant and worker movements). As a result, while a small group of women were able to aspire to public and leadership roles on equal terms as men, most were restricted to "feminine" modes of participation. The latter were functionally significant and amenable to valorization in terms of "feminine" virtue. But for these very reasons, such activities were easily subsumed within traditional gender structures.

Mahatma Gandhi extended the logic of "feminine" modes of protest to the whole of the nationalist movement. It is argued, credibly, that Gandhi "feminized" nationalist politics by emphasizing *satyagraha* and passive resistance and creating a special space for women. He drew to the nationalist movement groups and numbers of women as never before. The Bengal women showed the way during the non-cooperation protests of 1921. Basanti Debi, Urmila Debi, and Suniti Debi (members of C.R. Das's family) joined picketing lines, courted arrest, and precipitated a broadening of the movement. They were:

> joined by numerous lady volunteers, especially Sikh ladies. Calcutta students came out in hundreds, joined the prohibited volunteer corps and marched out with *khaddar* [handloom cloth] on, seeking imprisonment. (*Indian Annual Register* 2, 1922: 320)

Gandhi appreciated the value of female picketeers and continually sought to draw more women into such activities. These efforts bore fruit in the civil disobedience movements of the 1930s. In various parts of the country, masses of women took to the streets and joined picketing lines.

Women's participation legitimized the Indian National Congress and Gandhian politics. It bolstered claims of Indian unity against foreign rule. It also undermined the "civilizing" mission of the British and the government's claim to be a protector of women. Police violence toward and sexual abuse of female political activists helped prove the illegitimacy of colonial rule. The movement for women's rights was furthered as well. The leadership of the Indian National Congress, for instance, became committed to the civil rights

program of women's associations. Middle-class women in particular gained many social benefits. By breaching the public domain, female activists facilitated their daughters' entry into the world of formal education, professions, employment, and politics. Within the moral framework of the nationalist movement, they were able to redefine gender roles.

Female demonstrators and nationalist leaders claimed the participation of all Indian women, but upper- and middle-class Hindus dominated the movement. This limitation was implicit in Gandhi's political idiom. He invoked India's sacred legends—all Hindu—to appeal to women. Icons like Sita, Savitri, and Damayanti resonated with Hindu women, even the most poor, low caste, and uneducated, because for them these were living legends. But they excluded Muslim women, who were uncomfortable with such invocations. But Gandhi's idiom was successful because it drew on traditional gender ideology, which not only appealed to women but also reassured men (Forbes 1996).

Some women who joined the revolutionary movement transgressed stereotypical gender roles, but they were few and exceptional. Their political achievements were valorized, but society did not consider them respectable or representative. Pritilata Waddedar, the most celebrated female martyr of the freedom movement, asked an impassioned question that could not be answered within the dominant gender ideology of nationalism:

> I wonder why there should be any distinction between males and females in a fight for the cause of the country's freedom? If our brothers can join a fight for the cause of the motherland why can't the sisters?…The pages of history are replete with high admiration for the historic exploits of…distinguished ladies. Then why should we, the modern Indian women, be deprived of joining this noble fight to redeem our country from foreign domination? If sisters can stand side by side with the brothers in a Satyagraha movement, why are they not so entitled in a revolutionary movement? (quoted in Mandal 1991: 4)

The radicalism of revolutionary women was seen again in the 1940s among early communist women (many of whom came from the ranks of earlier terrorist-revolutionaries). Many of these women questioned social restrictions on women's mobility, the values of segregation, and the discriminatory sexual

morality imposed on women. From their ranks came bold social statements like intercaste and intercommunal marriages, and some questioned the institution of marriage (Munshi 1997; Bandopadhyay 1989). But like the revolutionaries, they were a small group and outside the mainstream. Only these small groups asked radical gender questions. Congress-led nationalism, which had already cast itself in the image of a reinvented patriarchal tradition, found it easier to jettison even the little commitment it had to social reform. Most nationalist women accepted the social and cultural idiom of "Indianness"—values of segregation and male guardianship—in which their participation was sought. Nationalist activism did not lay any straight road to feminist consciousness.

Not all women accepted male inscriptions on nationalism, however. Saraladevi, Muthulakshmi Reddy, Amrit Kaur, and others were committed to Gandhi and his non-cooperation and civil disobedience, but they did not abandon the struggle for civil rights. Women leaders who remained active in demands for social reform or in the franchise movement were aware that the agenda for women and that for the nation diverged. In 1931 Saraladevi, by then a veteran leader, led a move for a separate women's Congress . As always, Saraladevi's insights were ahead of her time. The current Congress, she said, "assigned to women the position of law-breakers only and not law-makers," and had to be forced to address women's demands. Her initiative was frittered away (*Stridharma* 1931: 506-10).

Divisions. The contradictions within the women's movement became increasingly apparent. On the one hand, by the 1940s the All-India Women's Conference was establishing itself as the premier organization representing women. Indeed, it could rightfully claim that after the Indian National Congress it was the second most representative body in India. On the other hand, differences were emerging within its ranks. By 1942 activist women were so caught up in the struggle for independence that they ignored gender issues or, like Sucheta Kripalani, deliberately put them aside. The franchise movement demonstrated the dilemma of the women's movement—there was danger in both British collaboration and nationalist alliance.

Gandhi had set the script in his first article on women in *Young India*, where he said that women should take their proper place beside men, but not with a "votes for women" campaign that would only detract from the fight for freedom. Women, he argued, should use their energy "helping their men against the common foe" (Gandhi 1920). During the 1930 Round Table Conference, organized women rejected Begum Shah Nawaz's recommendation to accept special reservation as an interim measure. They remained loyal to the nationalist position to not cooperate without a firm commitment to the end of British rule. Similarly, when the Rau Committee (1941) was examining the possibilities of reforming Hindu law, women leaders who had worked hard and long to secure legal reform were hesitant to join Congress's boycott. Gandhi dismissed the Rau Committee as a government ploy to divert attention, and Mridula Sarabhai insisted that women put nationalist issues first (Forbes 1996). In this complicated and compelling situation, few women leaders were able to balance their commitments to nationalism and feminism.

By the mid-1940s the hegemony of all-India women's organizations had eroded. For two decades they had spoken for all Indian women, placing their demands within the framework of social feminism, which constructed women as socially and psychologically different from men. But their ideology was too Hindu, too middle-class, and too urban to appeal to or adequately represent all Indian women. The 1940s were a tumultuous decade for India. Growing communalism led to partition and one of the largest known population displacements in human history. There was war and famine. And the Quit India movement ran parallel with more radical movements for socioeconomic justice. Women were a significant part of all the major events of this time, and their involvement helped shatter the constructions of "Indian woman" from which, in different ways, the women's and nationalist movements drew.

Already, organized women's commitment to a comprehensive legal bill had alienated some Muslim members—foreshadowing a deep cleavage to be unleashed in the elections of 1937. Women's organizations' attempts to attract lower-class rural and urban women failed for want of programs with mass appeal. There was significant participation of peasant and working-class women in class-based action and nationalist movements under the leadership of a variety of leftist (primarily communist) leadership.

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Examples include the Tebhaga movement in North Bengal, the Telengana movement in Andhra Pradesh, and the cotton textile workers' movements in western India (Cooper 1988; Custers 1987; *Stree Shakti Saghatana* 1989). But the women's movement—autonomous women's organizations—was not able to articulate its campaigns on women's issues with this mass upsurge of women.

The left created women's organizations of its own—like the Mahila Atmaraksha Samiti (Women's Self-Defense League) in Bengal—that did significant relief work in times of famine, war, and later partition. But these movements did not coalesce into any significant mass mobilization of women on gender issues. Agitation over women's issues remained limited to urban elite women, while poor women were mobilized for class or nationalist causes (Sen 1999c; R. Chakrabarty 1980). The questioning of gender roles and relations that had characterized early communist groups soon dissipated. In its "mass face" the Communist Party found itself questioned on its patriarchal leanings. To the now famous question of a peasant woman, "Why should my comrade beat me at home?" (referring to her husband), the party had no answer (Cooper 1988).

These disjunctures became more acute after independence in 1947. There were far-reaching changes in the legal-judicial domain and with the extension of universal franchise. Women's education was expanding, and more middle-class women entered services and professions. Many "women's" activities returned to the house, but some found berths in the welfare arms of the new government. Large all-India women's organizations became institutionalized and more clearly welfarist. Upper- and middle-class women were clearly going to be the beneficiaries of the new nation-state, and they agreed with the government that economic growth was the first priority.

Leftist women were the least satisfied with constitutional guarantees and promises of prosperity. Under the leadership of women from the Communist Party, in 1954 they formed the National Federation of Indian Women (Munshi 1997). [2]Peasant and working-class women remained politically active to fight the class wars of the new nation-in-the-making. The Telengana movement continued into the 1950s, and industrial workers' wage and unionization struggles peaked in the 1950s and 1960s. Women who were

active participants began to challenge the leftist leadership for ignoring women's specific grievances (such as domestic violence). But these were as yet small rumblings. There was no women's platform in which such issues could be articulated, mobilized, or fought.

The genesis of feminism. The 1920s and 1930s witnessed the peak of the so-called first feminist movement. This was the period when women began to organize and mobilize on issues of social reform and civil and political rights. It was a phase of remarkable unity, albeit one achieved at the cost of major social and ideological exclusions. The focus of the movement dissipated in the 1940s: the urgency of the nationalist struggle overrode the priorities of the feminist agenda, and the variety and range of activities in which women began to participate shattered unity. As with many other political forces in India, widening and inclusion inevitably undermined the claim of a few to represent the many.

The second feminist movement inherited many of the legacies of these developments. Issues of family law "nationalized" both the first and second feminist movements. But while child marriage legislation unified the women's movement in the 1930s, the second feminist movement's unity foundered on marriage law reform in the 1980s. The Uniform Civil Code controversy had begun to expose fault lines in the women's movement in the 1940s; in the 1980s these developed into deep and unbridgeable fissures.

At first one question seemed to have been laid to rest. The franchise movement and campaigns for civil and political rights seemed to have been won when the constitution of the new nation-state assured fundamental rights of equality and universal adult franchise. Twenty years later, however, women realized how hollow these provisions were and how little representation they had gained in political establishments and higher reaches of power. Political and social disenfranchisement powered the rise of the second feminist movement, but when in the 1990s the government proposed a bill reserving for women seats in legislative bodies, the women's movement was too fractured to unite in its support. The next section discusses the rise of the second feminist movement and two issues of contention within it: the Uniform Civil Code controversy and the debate over reserving for women seats in legislative bodies.

The Contemporary Women's Movement: Solidarity and Schism, 1970–99

Among the early all-India women's organizations, the All-India Women's Conference had the closest links with the Indian National Congress. But all the organizations were to some extent committed to a "harmonious alliance" with the male nationalist leadership. As a result (and because the Congress espoused many women's causes), these organizations accepted the independent Indian state as an ally. In their critique of patriarchy, identification of oppressive male agency was muted. The enemy was the system, not men. This political position meshed well with the organizations' welfare orientation and charitable work. The position was also consistent with the broad framework of the social feminism—in which claims to equality were based on the importance and value of women's traditional roles—that continued to dominate women's organizations until the 1960s.

From the 1940s, however, women began broadening their scope far beyond women's organizations to the freedom struggle and peasant, worker, and trade union movements. Women's organizations lost their hegemonic claims to represent all Indian women, female activists lost their privileged position when their numbers in political parties and movements increased. As a result the "harmonious alliance" with Congress faced new stresses and strains. Women began to articulate a more diverse, radical, and nuanced critique of patriarchy, reaching toward a new and more politicized gender identity.

The New Women's Movement

The turning point came in 1970s, when several events—some within and some outside India—gave a radical turn to the women's movement. The "new feminism" in developed Western countries led in 1971 to the international year and then decade of women. The focus was on development. In the 1950s the India state had bypassed Gandhi's vision of an alternative path to progress, opting instead for conventional

models of development: industrialization, central planning, expansion of science and technology. It was assumed this model would deliver the same results as elsewhere in the developed world—that is, raising aggregate well-being would deliver benefits to all.

But this prediction foundered on the "hard rock" of Indian patriarchy. This outcome became evident when, at the urging of the United Nations, the Indian government appointed a Committee on the Status of Women. The committee's 1974 report confirmed the worst fears of skeptics. According to the report, since 1911 the condition of Indian women (especially poor women) had worsened in a variety of conventional measures of well-being. Gender disparities had widened in employment, health, education, and political participation. The new generation of middle-class women in the public world who encountered isolation and other disabilities brought a new eye to bear on the "woman's question."

The mid-1970s were also a watershed in Indian politics. Congress, under Indira Gandhi, inaugurated a new era of populist politics, and there was a gradual broadening of the democratic base of mainstream political institutions. At the same time, the Indian left fractured, giving rise to a new body of leftist thought. A series of locally organized and intense popular struggles broke out. This was the beginning of new social movements, within which popular women's voices found their first platform.

The first of these was the Shahada movement in the Dhulia district of Maharashtra, initiated by Bhil (tribal) landless laborers. In 1972, with help from activists of the new left, the laborers formed Shramik Sangathana, which initiated a vigorous campaign against domestic violence. In the same year Gandhian socialists broke away from the Textile Labour Association to form the Self-Employed Women's Association under the leadership of Ela Bhatt. In 1973 Mrinal Gore from the Socialist Party joined women from the Communist Party of India (Marxist) to form the United Women's Anti-Price Rise Front, which turned into a mass movement of women seeking consumer protection. A student movement against price rises in Gujarat developed along the same lines to form Nav Nirman (1974), led by middle-class women (Mies 1976; Jain 1980; Omvedt 1980; Patel 1985).

A start was made in this period toward the formation of women's organizations along lines completely different from pre-independence ones. There was no effort to form all-India organizations. New organizations were local and tightly knit, with focused agendas. In 1973-74 Maoist women formed the Progressive Organisation of Women, initiating a self-consciously feminist critique of radical leftist politics along with an overarching analysis of gender oppression. This led to other Maoist women's organizations in Pune and Bombay, culminating in the first major celebration of March 8 as International Women's Day in 1975 (Kumar 1995).

Although the New Women's movement gathered momentum, the declaration of emergency by Indira Gandhi in 1975 drove many radical leftist women underground, and their networks fragmented. After the emergency, however, new forces emerged. From around 1978, city-based women's groups were founded, some of which had strong roots in leftist politics. These autonomous organizations focused on raising consciousness about gender issues (Patel 1985). There were also localized struggles—such as the Chipko movement (seen as the precursor of eco-feminism) and the Bodhgaya movement (with a radical demand for women's land rights; Shiva 1986 and Manimala 1983).

The autonomous urban groups drew their visible leadership from the elite, who were able to draw on their horizontal links with state agencies and the intelligentsia (such as the pre-independence groups). But the groundswell of popular movements also gave these groups vertical links and a mobilization potential far beyond precedent. Thus the second feminist movement developed, national in scope and with mass connections.

This was a phase of self-conscious commitment to feminist politics. The national character of this movement is usually ascribed to the countrywide protests (led by women) on a case of custodial rape (rape perpetrated by agents of the state on women in official custody, such as police lock-up), the Mathura rape case.[3] Also of considerable importance in the early days were dowry deaths,[4] cases where wives were murdered by their husbands or his relatives for not meeting demands to transfer more cash, goods, or assets from their natal to their conjugal family.[5] In the first case the demand was for the state to take

responsibility for crimes committed by its agents and led to a wider movement for the amendment of the rape law. In the second case the agitation focused on legislative and administrative remedies, resulting in a provision in the penal code giving the police wide powers in arresting perpetrators of domestic violence.

The government's prompt response with fairly radical legislation on both counts led some women's groups to question the efficacy of public campaigns for changes in law—because the more the law changed, the more things remained the same. Without political will or an enhancement in women's ability to claim and assert legal rights, laws existed only on paper; they were rarely enforced. From the mid- to late 1980s women's groups concentrated on providing services to individual women to enable them to gain advantages already given in law. This case work was significantly different from the welfare dispensed by earlier women's groups. The earlier groups sought amelioration; the new groups sought recognition and realization of rights (Agnes 1992; Forbes 1996; Kumar 1995).

In the mid-1980s the movement encountered severe challenges. The Shah Bano case catapulted the demand for a Uniform Civil Code into the cauldron of communal politics. The Deorala sati incident (1987) initiated a critique of feminism, highly sophisticated but bearing a striking resemblance to earlier dismissals on grounds of elitism, modernism, and Westernism. This backlash was complicated by rising majority fundamentalism, which spawned its own women's organizations and its own "feminist" language. These challenges fragmented the broad perceptions of unity that had underwritten notions of sisterhood and political alliances with low castes and the poor. They demonstrated how fragile was the collectivity based on gender politics and how vulnerable it was to challenges of community, class, and caste interests.

The politics of community acquired a special edge in the women's movement from the Shah Bano case, but the grounds for it had been laid in the 1930s with demands for a comprehensive legal code in place of separate codes based on different religions. Most scholars and activists have tried to understand the Uniform Civil Code debate in the context of heightened communal tensions in the 1980s. The following section examines why family laws are such a flashpoint for communal tensions.

The Uniform Civil Code Controversy

In India family laws are called personal laws. The laws are personal in that they relate to the sphere of personal relations but also in that they are person-specific. The specificity flows primarily from religious affiliation, though local custom is also important. As a result family laws are hived off from the main body of civil law, codified separately for four communities—Hindus, Muslims, Christians, and Parsis—based on their religious prescriptions. In reality the four codes are a mix of scriptural sanctions, heterogeneous customs and practices, and, most important, precepts forwarded and established through the political maneuverings of powerful spokespersons from these communities. Thus the laws necessarily reflect patterns of social and political dominance based on region, caste, class, and gender.

- Personal laws define the relationship between men and women within the family and control and direct marriage, divorce, maintenance, guardianship of children, adoption, succession, and inheritance. All four codes concern women intimately, and all treat women as subordinate to and dependent on male kin. The male is considered the head of the family, and women do not have equivalent rights, especially to property.

- Personal laws are codified separately for the four religious communities—that is, they are not just customary (or common) law, but also statutory law based on religion. As a secular nation-state, India maintains these religious laws alongside secular laws, civil and criminal, all of which are administered by the same legal-judicial apparatus.

Since the 1930s these contradictions have given rise to demands for a Uniform Civil Code based on secular and egalitarian principles to replace personal laws. But there has also been considerable public opinion in favor of retaining the different personal laws, with great resistance to state interference in the religious communities the laws affect. This debate has plagued the Indian state and fueled communal politics and, in recent years, evoked bitter conflicts within the women's movement.

The development of personal laws

The history of personal laws helps explain the politically charged nature of the debate. The duality of law was a product of colonial imperatives in 18th century Bengal, and part of the process of private-public delineation discussed above. A profound misunderstanding of the pre-colonial system led the British to believe that religious and scriptural tradition was the basis of all custom, morality, and jurisprudence. Accordingly, from the 1770s the British concentrated on codifying Hindu and Islamic laws (drawing on scriptures) and administering these in court with the aid of *pundits* and *maulavis* (Hindu and Muslim scholars and priests).

The codification constituted a herculean feat of selection, appropriation, and reinvention of scriptural texts that were many, varied, and contradictory. Moreover, the pundits and maulavis imprinted on the implementation of these laws their own class and caste interests. British Indian government officials disregarded evidence that many of these precepts and practices were specific to upper classes and castes. This codified and ossified family law was designated in 1860-61 as the domain of personal law, to be drawn and developed from religious principles and kept separate from the secular civil and criminal legal system, based on English law, being developed in British India (Mani 1989; Nair 1996). In the end British personal laws were substantively different from those of pre-colonial legal and judicial systems.

The new personal laws were the bedrock of the new patriarchy. The colonial state and elite Indian men were concerned with legally buttressing familial authority (see above). Personal laws and a "flexible" approach to customary law were used to that end. To enhance patriarchal control over property and labor, the family was consigned to the amorphous domain of religion, community, and custom (rather than of a law that admitted some measure of individualization)—all three of which could be manipulated at many levels (Sen 1996, 1999b).

The rise of nationalism and the politicization of the private family domain placed personal laws at the center of colonial-nationalist conflict. While personal laws were being codified and administered with

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the active intervention of the East India Company and then officers of the British Raj, the argument that the laws were based on Indian religion, custom, and practice helped make them less alien. The family, to which these laws pertained, was the arena in which the subjects claimed sovereignty and sought, therefore, grounds for political mobilization against the Raj. This inevitably led to a politicization of personal laws, which helped displace concerns of gender (central to family law) into other domains of politics—nationalism, to start with. Indian resistance to British attempts at legislative intervention in marriage and succession was based on nationalism—the right of subjects to self-determination in personal and family affairs (Sen 1993).

By extension, community and later communal politics became deeply implicated in the politicization of personal laws. Because religion formed the basis of the laws, communities were predefined by religious affiliation. In British India such communities were also inscribed in the political system through separate electorates and other formal devices. These were removed after independence, but fundamental rights protected the right of minorities to practice their religions. Since personal laws became the main formal arena of religious difference, they came to be the quintessential symbol of the Indian state's commitment to minority rights. Already charged as the repository of cultural identity, personal laws became the critical marker of the political identity of the community and provided a potent ground for communal mobilization.

Efforts at and debates on reform

While the 1891 Age of Consent Bill witnessed the first major nationalist mobilization around the question of family law, the Sarda Bill controversy (1927-30) witnessed the first major communal mobilization. As noted, women's organizations—under the leadership of the Women's Indian Association, All-India Women's Conference, and National Council of Indian Women—united Hindu and Muslim women in favor of the Sarda Bill and against communal leaders. But this was a fragile moment of unity.

Throughout the 1930s bills were introduced to remove women's legal disabilities. As these bills were discussed (and defeated), it became apparent to women that their male political allies were opposed to even the most moderate reform of family and property arrangements. Blocked in their efforts at piecemeal reform, women's organizations sought a more comprehensive secular legal code, alienating Muslim women supporters. In the absence of sensitive consideration for the communally charged atmosphere of the period, the move for a secular code was doomed before it got off the ground. In the end the National Planning Committee's women's subcommittee endorsed a common code but deemed it more feasible to have an optional code that would gradually replace the personal laws. In the meanwhile the subcommittee recommended reforms within each personal law. The All-India Women's Conference continued its campaign, but in its charter of demands just before independence, it abandoned the demand for a common code in favor of reform of personal laws (Everett 1981).

The question of personal law reform came to the fore during the Rau committee (1941-46), which was formulating a code of Hindu law. All women's organizations helped collect evidence for the committee, which recommended a rationalization of Hindu law for the consideration of the Constituent Assembly, established in 1945. In the debates and discussions on legal reform, the meaning of the common code had become increasingly identified with citizenship in a united nation-state. In the Constituent Assembly the common code became more firmly thus inscribed. These meanings then became imprinted on the term itself: Uniform Civil Code.

The Uniform Civil Code became especially contentious as an instrument of national unity (rather than for securing women's rights). One group in the Constituent Assembly favored including a provision for the Uniform Civil Code as a fundamental right for breaking down barriers of community. Another group opposed it. The compromise was to include it among the noncontestable directive principles. But several questions remained. First, the right to religion, especially of minorities, was protected as a fundamental right against state intervention, but it was not clear whether personal laws were included in "religion." Second, protection against sexual discrimination was included as a fundamental right, but it was

not clear how gender equality could be squared against discrimination in personal laws. Third, an anomalous relationship among women's status, personal laws, minority rights, and citizenship rights was set up.

In the first Congress government of independent India, Prime Minister J.L. Nehru and Law Minister B.R. Ambedkar favored the Uniform Civil Code as an instrument of modernization, secularization, and national unity. But given the immediate political context, they concentrated on reforming Hindu personal law first and proposed a comprehensive Hindu Civil Code. In the course of debate in the 1950s, both sides invoked the Uniform Civil Code[6] (Everett 1981; Parashar 1992). Opponents of the Hindu Civil Code argued that it was unfair to target one community for reform and that a Uniform Civil Code was the only legitimate instrument of reform. The aim was to derail the Hindu Civil Code, but in the process personal laws (especially for Muslims) became marked as an area of minority privilege. "Minority privilege" necessarily implied minority male privilege. As in British India, men were the spokespersons of the community, and the interests of the community were identified with male interests. Many proponents of a Hindu Civil Code, especially women, saw it as a step toward a Uniform Civil Code, heightening minority fears that the uniform code would be an instrument of homogenization.

While issues of national integration dominated the debate on the Hindu Civil Code, its implications for gender relations within the family also attracted attention. Many opponents saw the code as a radical experiment of "equality run mad" that would imperil "the purity of family, the great ideal of chastity and the great ideal of Indian womanhood" (Pandit Thakur Das). The Hindu Civil Code was an instrument of both modernization and gender equity, and it was so perceived by opponents and proponents. In fact, the longest and most bitter debates were over women's property rights, and these rights were the most compromised in the legislation that finally passed (Basu 1999).

Thus in the period of nation formation—the latter days of the freedom struggle and the early years of the independent state—the Uniform Civil Code acquired many layers of meanings. It signified women's rights as citizens of a modern secular state but against the threat of particularistic and traditional values of

religion, culture, and family. It came to represent the unity and secularity of the nation and a means of modernizing pre-modern customs. But politicized religious identities perceived it as a threat to their particularity. Most important, Hindu personal law reform helped create a majority that was seen as being subjected to the discipline of citizenship and a minority that the state granted the indulgence of community authority (Mukhopadhyay 1998). This last argument became a ticking time bomb in the hands of the Hindu right with the rise of aggressive majoritarianism in the 1980s.

In the 1970s the New Women's movement attempted to revive the Uniform Civil Code within the framework of gender politics. But women's rights became articulated within a state-led reform agenda, reinscribing the concerns of national integrity, modernity, and progress. The female activists perhaps believed that this approach would serve as better propaganda for the male political establishment, but it did little to allay fears of majority hegemony. In 1974 the report of the Committee on the Status of Women raised the question of the Uniform Civil Code, appealing to earlier arguments but also squarely in the context of gender equity and justice:

> The absence of the [Uniform Civil Code] in the last quarter of the twentieth century, twenty-seven years after independence, is an incongruity that cannot be justified with all the emphasis that is placed on secularism, science and modernism. *The continuance of various personal laws which accept discrimination between men and women violate the fundamental rights.* (Committee on the Status of Women 1974: 142; emphasis added)

As noted, personal laws became the primary site of a constitutional and structural opposition between the fundamental rights of minorities (to religion) and of women. This opposition was settled in favor of religion by the judiciary in the early years of independence. In the 1950s the Supreme Court upheld a decree of the Bombay High Court that Article 14 of the fundamental rights (the sex equality clause) could not be invoked to challenge personal laws by virtue of Article 15 (minority rights). This became a binding precedent, pitting women's rights against community rights and giving precedence to the latter. But the judiciary was playing an ambiguous role. From the 1950s, in several judgments, both the apex court and

lower courts suggested that state should work toward a Uniform Civil Code, especially with reference to anomalies in the Muslim legal system. The judiciary thereby reinforced minority fears that the reformed Hindu system, which was being posited as rationalized and modern, would override their laws (Agnes 1995).

The Shah Bano case and its aftermath

In 1985 Chief Justice C.J. Chandrachud (of the Supreme Court) delivered a favorable judgment in the case of a divorced Muslim woman, Shah Bano, who had sued her husband for financial support. Her husband claimed that he had done all that was required under Muslim law, but the court granted Bano support under a provision in secular criminal law (section 125). This judgment provoked furious Muslim opposition and precipitated a national crisis. Chandrachud had been careful to quote the Shariat to prove that the right he was granting was in keeping with Muslim personal law. But he emphasized the need for a Uniform Civil Code:

> It is…a matter of deep regret that Article 44 of our Constitution [about the Uniform Civil Code] has remained a dead letter…A belief seems to have gained ground that it is for the Muslim community to take the lead in the matter of reforms in their personal law. A common civil code will help the cause of national integration by removing the disparate loyalties to law which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions…We understand the difficulties…But, a beginning has to be made if the Constitution is to have any meaning. Inevitably, the role of the reformer has to be assumed by the courts… Piecemeal attempts at courts…cannot take the place of a common civil code. Justice to all is far more satisfactory way of dispensing justice that justice from case to case. (judgment dated 23 April 1985)

The judgment in favor of Shah Bano was also a judgment against Muslim personal law. Thus a woman's issue became a communal issue. Muslims challenged the right of courts to interfere in their law and constructed the judgment as an attack on their identity as a religious minority. The violation of personal law became a rallying point for Muslim political identity. Feminists, liberals, and orthodox Hindus denounced the Muslim reaction and argued, by implication, that Muslim law was especially harsh to women. The judgment had indicated that it was Muslim personal law from which the courts (or the state)

would have to protect oppressed Muslim women. Meanwhile, Rajiv Gandhi's Congress government, already troubled by a loss of Muslim support, rushed through the Muslim Women (Protection of Right in Divorce) Act in 1986 along the lines demanded by Muslim leaders, ignoring other voices in the community.

The issue of personal laws and the Uniform Civil Code was now firmly embedded in conflictual communal politics. The 1980s were a period of growing crisis in India. The secular consensus had broken down and communal conflicts were escalating, with both majority and minority fundamentalism on the rise (Upadhyay 1992). The Supreme Court's emphasis on the Uniform Civil Code raised old fears that it would be an instrument for imposing Hindu hegemony. The meteoric rise of the Bharatiya Janata Party and its espousal of a Uniform Civil Code on grounds of a singular and homogeneous national identity confirmed these fears. The Bharatiya Janata Party, most believe, will extend the reformed Hindu code under the guise of a Uniform Civil Code.

Feminists initially responded to the Shah Bano case and the Muslim Women (Protection of Right in Divorce) Act as women's rights issues. Most leftist and liberal feminists still support a Uniform Civil Code as necessary to promote unity and uniformity and to ensure women's rights. Others have argued that the way to rescue the agenda for women's rights is to focus on gender equality, rather than personal laws as such (Indira Jaysingh, *The Lawyer*, 1986). Many have argued in favor of a common code provided that its framing involves human rights and women's groups.

The Mumbai-based Forum against Oppression of Women has suggested gender-just legislation in areas such as marriage, inheritance, and social security. Some have argued for a gender-just code to cover not only family but also economic, workplace, and livelihood rights—the whole gamut of law (Nari Nirjatana Protirodha Mancha, UCC and Personal Laws, 1996). The Delhi-based Working Group of Women's Rights (supported by the Human Rights Law Network) has proposed a new national secular civil code that would be optional. It has also suggested a "reverse optionality"—that is, all citizens would be born under the national code but could later opt into personal laws.[7] These positions favor one-time

legislation. A national conference met in Mumbai in May 1996 to deliberate the possibility of such legislation.

Madhu Kishwar, editor of *Manushi* (once a leading feminist journal), denounced the Shah Bano judgment as anti-Muslim rather than pro-women (Kishwar 1986). With the Bharatiya Janata Party's appropriation of the Uniform Civil Code, many feminists felt that Muslim women's identity as citizens was compromised by the Hindu strategy of marking Muslim law as retrograde and Muslim women as needing special state protection against their community. While some activists continue to support a Uniform Civil Code (or a gender-just code) as an issue of women's rights, others believe that the argument has been dissipated in a "vortex of patriarchal and communal formulations of the issue" (Mukhopadhyay 1998: 11). Thus many women's groups strongly oppose the Uniform Civil Code, arguing [8]that the women's movement cannot ignore the current political conflict without becoming complicit with or endorsing class, caste, and communal hierarchies. Majlis, a women's legal aid and cultural center in Mumbai, favors community initiatives for reform of personal laws.[9]

Maitrayee Mukhopadhyay, a feminist researcher, argues that with the passage of the Muslim Women (Protection of Right in Divorce) Act, "the [Uniform Civil Code] as a motor generating political contention seemed to have run out of steam" (Mukhopadhyay 1998: 207). Flavia Agnes (1991), a feminist lawyer, argues that the rise of majority communalism makes it impossible to view the Uniform Civil Code as nonsexist. A resolution passed at the 1991 Indian Association of Women's Studies Conference acknowledges that appealing to equal citizenship for women is impossible when its meaning translates into contests between politicized religious identities seeking hegemony in the state.

Indira Jaysingh (1996), however, argues that there is never a "right" political moment for a demand like the Uniform Civil Code, not only because of communally charged politics but also because the demand for women's equal status is bound to be contentious. She points out that the issue of women's rights is always displaced by dominant political concerns—class or community—and that it is always deferred in the expectation of a more propitious political climate. There is an urgent need, she argues, for the women's

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movement to take control of and inscribe its concerns on the agenda (see also Kavita Punjabi, *The Telegraph*, 11 August 1996).

Overlooked issues

The highly contentious debate over the Uniform Civil Code has tended to marginalize urgent questions of women's rights to inheritance and maintenance. In the post-independence period the large-scale public distribution of agricultural land—the country's main asset and source of livelihood—proceeded without any regard for women's rights (Agarwal 1994a). This issue remains beyond the scope of personal laws.[10]

Personal laws grant women varying property rights.[11] The reformed Hindu law, perceived as revolutionary in giving women equitable rights and entitlements, made only two basic changes: daughters gained equal rights to self-acquired or intestate property (excluding the family estate), and widows' circumscribed enjoyment of marital property became an "absolute" right.[12] But marriage remains the primary form of women's property. Women still depend on (and prefer) the dubious path of marriage as a source of access to property. This setup creates enormous vulnerability for married women. The two popular notions of women's acquisition of property are through dowry (which deflects inheritance) and through "enjoyment" of marriage property (which bypasses ownership). Two alternative ways of acquiring property are as rewards for elder care or in sonless families. Thus the fundamental male entitlement is affirmed by constructing women as surrogate, secondary, and temporary owners in place of male heirs (Basu 1999).

Marriage is an issue of central concern to most Hindu women. Women's entitlements are largely defined by marriage. Yet in Hindu personal law, marriage is ephemeral, a legal fiction progressively unprotected by case law. Flavia Agnes points out how Hindu law is the worst in this respect and would be a weak peg on which to hang a gender-just civil code. Higher courts, sympathetic to the deprivation of polygamy rights of Hindu men, have consistently rescued errant husbands by prescribing instead of strict

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monogamy a strict standard of proof for marriage.[13] The Hindu marriage has become an illusive and

constantly suspect legal occurrence. The emphasis on the "sacramental" nature of marriage has prevented

compulsory registration provisions. Courts have upheld ancient brahminical norms derogatory to women

against more egalitarian traditions within Hinduism. Hindu personal law is, in fact, based on the forced

uniformity of varied and heterogeneous practices in the image of the most orthodox of its traditions,

rendering it ambiguous and often unenforceable (Agnes 1995).

Uniformity and diversity

Since such forced uniformity undergirds personal laws, the argument that a Uniform Civil Code

will destroy the pluralism and diversity of Indian society seems weak. Anveshi, a Hyderabad-based

women's center, takes the argument in favor of pluralism much further. It argues that the modern legal

system uses homogeneity and a singular notion of justice "to organise relationships of power within its

boundaries" (Anveshi 1997). The multiplicity of personal laws by itself should not hinder women's access

to justice. The important issue is to recognize a "whole new generation of claims to equality and justice that

are emerging" (Anveshi 1997).

The issue of pluralism in relation to the debate on the Uniform Civil Code versus personal laws

must be addressed with reference to the historical constitution of these laws. The diversity of personal laws

is based on community rights, which are the property of pre-formed, sealed religious communities,

transgenerationally beyond the scope of change or choice. A principle of social plurality must include the

rights to change, make, break, segment, and re-form communities. Otherwise we are talking of a principle

of fixation, not plurality (Sangari 1995: 3300). The question of cultural diversity cannot be reduced (as is

often done by post-colonial or post-modern critiques) to limiting the horizon of non-Western women's self-

definition to their "own culture," and then further to that of religious communities (Sangari 1995: 3301).

Religious communities as represented in personal laws are a product of homogenization and

suppression of plurality and diversity. The Muslim personal law (1936-38) was reformed during colonial

rule through two acts: the Muslim Personal Law (Shariat) Application Bill (1937) and the Dissolution of Muslim Marriages Bill (1938). The first gave women property rights as decreed by Islam, contravening custom to the contrary. It was through women's rights that Muslims sought to assert their right to be a collectivity, to remove differences within them and to speak with one voice. From this close association between women's rights and community, women lost the space to discuss their rights from the point of view of gender equality but found questions of their rights displaced into questions of community identity.

The second bill was intended to prevent Muslim women from converting to other religions to gain grounds for divorce, which was otherwise denied them. In Anglo-Muhammedan law, previously, only the husband could initiate divorce. While the incidence of such conversion (to obtain divorce) is unknown, the issue had acquired political importance for the Muslim leadership, who sought to prevent a "weakening of the community." Together these bills made women's marital status of crucial significance in the definition of Muslim distinctiveness: both through the distancing from "customary corruptions of Islam" and the imposition of a singular "Islamic" homogeneity at odds with the diverse schools of Islamic law (Parashar 1992; Mukhopadhyay 1998).

Hindu personal law reforms (1955-56) produced a tendentious legal definition of "Hindu" as a residual category (including, for example, Sikhs, Buddhists, and Jains) that took away the freedom of legal self-determination and self-designation from individuals born in so-called Hindu families. The new definition represented an erratic mix of the religious and the secular, an arbitrary homogenization of diverse schools of Hindu law premised on the northern upper-caste model. It was an attempt to homogenize Hindu patriarchy by suppressing other more egalitarian or secular traditions in what was defined as Hindu. The inconsistent break with upper-caste and *sashtric* (textual) origins made it even more difficult to absorb lower-caste practices.

Thus politicized religious communities encompass diverse voices. In questions of personal laws and the "reform from within" agenda, the question that arises is whose interests the laws represent and who are the spokespersons for reform. This question raises several issues. First, these communities are

hierarchical, and "consensus" usually represents the voice of the dominant and powerful. Personal laws are necessarily patriarchal, and within the logic of predefined and primordial religious communities, they cannot be effectively challenged. It must be remembered that the reproduction of community identity is premised on the subordination of women. Besides, in the context of politicized religious communities, the spokespersons are those recognized by the state. Thus there is collusion between state and community patriarchal forces (the male elite) who hold power of negotiation in both arenas.

The assumption that primordial communities are the only basis of diversity precludes the possibility of secular political communities that are joined by choice and not ascription and that offer the best arena for feminist agency. The most insightful statement about the way in which women's rights (as equal citizens) are pitted against minority rights in this debate comes from Kumkum Sangari. She argues that the opposition between Uniform Civil Code and personal laws is "manichean and politically peremptory." The possibility of gender equality, democratic rights, and full access to equitable laws cannot be recuperated without changing the terms of the debate. The question is not whether women should come under the patriarchal jurisdiction of the state or that of the community. Such a formulation ignores feminist agency. The stake should not be the state or the community but gender justice as a principle and a social horizon (Sangari 1995).

A theoretical "horizon" provides a major difference between the state and the community. If women can claim a direct relationship with the state unmediated by the community, as citizens with full democratic rights, then they can potentially challenge divisions based on denominations, on public and private, and on legal categorization, and seek, if they wish, secular collectivities.

Against this vision is a new view set forward, most comprehensively, by Anveshi (1997; see also Mukhopadhyay 1998). Anveshi poses an important question: how does the women's movement finds itself on the same side as the Hindu right on issues from anti-obscenity laws to the Uniform Civil Code? Is it accurate to argue that the Bharatiya Janata Party is coopting women's rights issues? The answer, according to Anveshi, lies in the discourse of citizenship and human rights. The issue of women's equal

citizenship is posited through the human rights discourse, which assumes that "human" remains prior to and outside structuring of gender, class, caste, or community. The discourse of citizenship treats caste and community as backward and pre-modern, so political mobilization around these identities creates discomfort for the women's movement.

Anveshi also points out the problem in eliding "gender" and "women." Underlying the demand for a Uniform Civil Code is a universalistic understanding of women's identity (the basis of which can only be biological difference). The perception of women as a universal category has been bolstered by the globalization of women's rights, which has promoted a static and singular conception of justice. A singular conception of (pure) gender justice cannot accommodate the different notions of justice emerging from caste-, class-, or community-based movements. To recognize this is not to surrender to relativism but to question the dominant meanings of terms like *secularism* and *rights*, which are leading us into a political impasse.

The law and the state

There is an equally important question of law itself and of the Indian women's movement's relationship with the state and legislation. It was been noted that India has a remarkable range of pro-women legislation. The 1980s, especially, saw extraordinary legislation. But these laws ultimately created despair because they meant so little in practice. As Flavia Agnes points out:

> If oppression could be tackled by passing laws, then this decade would have be adjudged a golden period for Indian women….Almost every single campaign against violence on women resulted in new legislation. (Agnes 1992)

Srimati Basu has pointed out, moreover, that women fare quite well within the legal process—especially women who have sufficient financial assets to take on court battles. But to invoke law is to invoke the state. Furthermore, law alone cannot effect changes in cultural practices without widespread state intervention (Basu 1999).

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There is, some argue, a trap in the debate over the Uniform Civil Code. The code is a political question, and to try to settle it in terms of law is to invoke the law in the service of the state. It is also to bypass the patriarchal nature of citizenship and the patriarchal (and upper-caste Hindu) culture of law and adjudication (Agnes 1995). Women's rights should not be collapsed into the question of law and legislation on the assumption that the legal system is secular or gender (or caste, class, or community) neutral. The law is not the only or even the principal site where issues of justice can be articulated or where feminist intervention can take place. The legal system itself establishes this equation between gender justice and law (arrogating to itself the role of social reformer) to legitimize the domination of the judiciary (Anveshi 1997; Mukhopadhyay 1998).

Thus the judiciary often echoes concerns of the Hindu right in the way it promotes the Uniform Civil Code. A landmark in this regard is the Sarla Mudgal case (1995), which highlighted instances of Hindu men converting to Islam to commit polygamy. The judgment invalidated such polygamous marriages and invoked the need for a Uniform Civil Code to plug such loopholes, contributing to the belief that the provision for polygamy in Muslim personal law constituted a male privilege and victimized Muslim women. It also obscured loopholes in Hindu law and courtroom practice that have systematically condoned Hindu polygamy. In fact, the incidence of polygamy is higher among Hindus (5.1 percent) than among Muslims (4.3 percent; Agnes 1995).

These are troubling questions. It has been argued that when the state gives women property rights, women are empowered (Agarwal 1994a). There is in a small measure a redistribution of state power. But demand for legislative change breeds elite modes of agitation (such a lobbying), whereas mass politics can also be a vehicle for women to realize the critical significance of property rights (as evidenced in popular movements that begin with a radical critique of multiple systems of power). Property often emerges as the cornerstone of women's self-empowerment to challenge numerous oppressors: the state, contractors, landlords, husbands, and parents (Basu 1999).

The question of whether law initiates or reflects social change is an old one in feminist movements worldwide. Some have argued the symbolic role of progressive law in altering roles and entitlements in the family (Rosen 1978). Besides, law is not a unitary category that only serves the interests of men. It operates at multiple levels depending on the location of the person invoking it and can be used effectively by women (Smart 1995). The state and the law do not speak with one voice and do not represent simple instruments of class, caste, or gender power. While the state should not be seen as the prime "protector," it should not be demonized. It represents itself as at once the protector of religious freedom and the reformer of injustices based on religion. Women can use these paradoxes in the rhetoric of the state purposively and subversively. Because the state is the guarantor of rights, moreover, the history of state intervention is itself partly a history of struggles against patriarchal relations institutionalized through the state (Sangari 1995).

Whatever consensus may have remained in the early 1990s in favor of a Uniform Civil Code has broken down. The fear remains that the Bharatiya Janata Party will attempt to impose a Hindu code in the guise of a Uniform Civil Code, though the hold of any one party on power at the center is too tenuous to allow a homogenizing drive of this kind. At the present political juncture, the impossibility of a Uniform Civil Code or a gender-just code renders its desirability an academic question. The women's movement is too divided to adopt any forceful agenda for reform of family laws. Meanwhile, the movement's focus has shifted from demanding legislation from the state to increasing women's participation in the processes of the state, in legislative and other political decisionmaking. Still, the unity achieved in the early 1980s has not been revived over these "political" issues. The move to reserve seats for women in legislative assemblies found the movement no less divided than over the question of family law reform.

Reserving Seats for Women in Legislative Bodies

In September 1996 the United Front government introduced the Constitution (Eighty-first) Amendment Bill, which sought to reserve for women one-third of the seats in Lok Sabha and state

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assemblies. In the preceding elections almost all political parties had promised such reservation in their manifestos. The bill was referred to a joint select committee under the chairpersonship of Gita Mukherjee, a veteran member of Parliament from the Communist Party of India. The resubmitted bill was hotly debated in the House in 1997 and 1998. Since then the bill has been stalled. It remains on the agenda in each parliamentary session, but with current political instability, no party is willing to take on such a controversial issue.

Empowerment and political representation

Empowerment is the buzzword of the 1990s. But there is little consensus on the definition and use of the term. Indeed, most of the time it seems to be transparent, and so not in need of definition. According to Bina Agarwal (1994b: 22), empowerment is a "process that enhances the ability of disadvantaged (powerless) individuals and groups to challenge and change (in their favour) existing power relationships that place them in subordinate economic, social and political positions." In a general way, the emphasis on power is a response to post-feminist (and feminist) critiques of the earlier focus on victimization. But indiscriminate application of the term is likely to trivialize it and defuse its potential.

Devaki Jain rightly points out that "to say inputs of education, better health facilities or toilets are empowering…is misusing the word and misleading policy" (Jain 1997b: 2). Toilets by themselves cannot be empowering, but the exercise of power by certain groups may lead to a situation where most people are denied basic facilities, like toilets, and the goal should be to empower underprivileged groups so that they can claim such facilities. Empowerment is about power—and politics is the field where power is negotiated. Achieving empowerment requires the women's movement to operate in the field of politics, not only in the manner in which it redefines the field (the personal is the political) but also in the arena where power is brokered—the public world of formal, institutionalized politics.

In India the demand for reserved seats in legislative bodies did not arise from the women's movement, but the alacrity with which a section of the movement picked it up reflects a political

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understanding of empowerment and shifts in the women's movement. A crucial step has been taken since the 1980s, from protest politics toward the political mainstream, in order to actualize the movement's claims of playing a transformative role in society and politics. In addition, there is growing awareness that since governments matter, women must be part of them. This awareness was reflected in the platform for action developed at the 1995 Fourth World Conference on Women in Beijing, one of the goals of which was to increase women's participation in political institutions. In fact, the government claimed the reservation bill to be a fulfillment of the pledge made at Beijing. But despite their best intentions, nongovernmental organizations (NGOs) cannot claim true and authentic representation of a tenuously defined "people" relative to democratically elected governments.

Indian women have had little representation in institutional politics since independence. The largest share of women in Parliament occurred in 1985, when the women's movement was at its peak. Since then women's representation has fallen. The women's constituency is fragmenting rather than consolidating. There is an urgent need for political intervention. The issue of reservation is meaningful for women's leadership; feminist arguments and advocacy now have to deepen into validating claims about the quality of leadership (Jain 1997b). Leadership is essential because feminist claims on the political arena are not just to share power but to change the nature of power; not just to govern but to change the nature of governance. Women have many ways of enhancing, transforming, and expanding the notion of power and politics and giving full meaning to the concept of representation.

All this requires us to address the broader field of power and politics. Action at the local level can be useful. But such action inevitably remains at the margins and has limited transformative potential. Only a strong political content can make empowerment a reality. Similarly, empowerment can be made meaningful for women only by enhancing the political-ideological content of development. The definition of "political" has to reach out to the widest arena of power. Moreover, to be effective players in the distribution of power and resources, women have to stake a claim not only on the state's munificence, but also on state power.

As noted, the issue of reservation did not emanate from the women's movement. Nor has the debate been confined to the movement. The possibility of such a large claim by women is of major significance to established and entrenched interests. Passions have risen to a fever pitch, both in Parliament and outside, especially in the visual and print media. Notably, the public ascribes authorship of the measure to feminists (Sankarashan Thakur, *The Telegraph*, 1996).[14]

Many feminists have welcomed the bill and the political vicissitudes through which it is passing. Male members of Parliament who oppose the bill have indulged in aggression and violence on the floor of the House; and there has been explicit male collusion to block the bill.[15] The "male plot," says Jain, has actually done women a service by uniting women parliamentarians across party lines as never before (Jain 1997a). Yet the Indian women's movement is bitterly divided on the issue. One section, led by leftist females members of Parliament, has vociferously campaigned in its favor. But an equal number of activists have been hesitant, doubtful, indifferent, and even hostile to the proposed measure.

The history of the debate

The Indian women's movement has never been favorably disposed toward reservation. High-profile women leaders have interpreted "equality" in a literal sense and seen in positive discrimination measures a threat to the full recognition of their achievements. Their faith in the political establishment reinforces their meritocratic leanings. In the Constituent Assembly, even female members argued that the provision of equality and universal suffrage was enough and rejected the proposal for reservation. But the Assembly had 16 women among 150 members, foreshadowing women's political marginality in independent India.

The limited participation of women in political institutions was noted again during the deliberations of the Committee on the Status of Women. Its 1974 report recommended that seats be reserved for women in municipalities and proposed measures to ensure that committees, commissions, and *panchayats* (rural local government units) include women; that political parties decide on a minimum percentage of female candidates for assemblies and Parliament; and that all-women panchayats be set up. Some committee

members who objected to these measures set out their views in minutes of dissent. Phulrenu Guha, a

veteran movement activist, argued that:

> Women are an integral part of society. The provision of reservation…will only serve to reinforce the separate identity of women rather than promote their representation and integration with the rest of society. (p. 355)

Maniben Kara, a veteran trade unionist, radical socialist, and humanist, supported her:

> I am generally opposed to the system of reservation of seats in Legislatures and other elected bodies…Larger representation of women is essential in their own interests as well as in the interests of the society, but they should secure it by awakening women to their rights and responsibilities, and by creating public opinion in its favour. (p. 355)

Many of these arguments reappear in contemporary debates. So do arguments laid out in other minutes of

dissent favoring a larger reservation. Even today these arguments remain the most powerful in favor of

reservation. Lotika Sarkar and Vina Mazumdar argued that:

> When one applies the principle of democracy to a society characterised by tremendous inequalities, such special protections are only spearheads to pierce through the barriers of inequality. An unattainable goal is as meaningless as a right that cannot be exercised. Equality of opportunities cannot be achieved in the face of the tremendous disabilities and obstacles which the social system imposes on all those sections whom traditional India treated as second class…citizens…*The application of the theoretical principle of equality in the context of unequal situations only intensifies inequalities, because equality in such situations merely means privileges for those who have them already and not for those who need them.* (p. 357, emphasis added)

The committee recommended, in effect, that seats be reserved for women in local government.

Progress and problems

Women's participation in local governance had already been discussed in the context of Panchayat

Raj, introduced in 1957. The solution at that time was a provision for co-opting two women who were

interested in work among women and children (Balwantrai Mehta Commitee Report). The 1961

Maharashtra Zilla Parishad and Panchayat Samiti Act provided for the nomination of one or two women if they were not elected, and the 1973 West Bengal Panchayat Act provided for coopting two women.

The major breakthrough came in 1983 when a law was passed in the southern state of Karnataka to reserve for women 25 percent of seats in local councils. In 1987 the first elections were held. The impetus came not from the women's movement but from Janata Dal, whose ideology was a mix of democratic socialism and Gandhian politics, and as part of a pro-people agenda.

This initiative was adopted nationally 10 years later, in April 1993, when the Constitution (Seventy-third Amendment) Act 1992 and The Constitution (Seventy-fourth Amendment) Act 1992 were passed. The first related to panchayats and the second to municipalities. In all panchayats and municipalities one-third of seats were reserved for women. One-third of the offices of chairpersons of panchayats and municipalities were also reserved for women. The full effects of this radical step have yet to be realized. However, in 1987-92 Karnataka had 14,000 women in its development councils. In 1991 in Orissa, 22,000 women were elected to panchayats. In Kerala 30 percent of seats were reserved, but women won 35 percent. In 1994 in the Madhya Pradesh panchayati polls, 33 percent of seats were reserved, but women won 43 percent. In West Bengal in the same year, the all-women Kultikori panchayat took office with 11 members. In just two to three years, from about 1 percent elected women and 4-5 percent total women in local government bodies, there were more than 350,000 women (Jain 1997b). This figure is expected to rise to about 1 million.

The panchayati reservations were passed in a sudden move that generated little debate and no opposition. Male Parliament members "gave" women one-third of the seats in the lowest elected bodies in the country. This measure had (or still has) the potential of revolutionizing not only the common lot of village women but also India's political culture. Immediately after the first round of elections, there was a great deal of skepticism. Studies in West Bengal showed that in many areas, women's inexperience allowed their marginalization; that given the limited power and resources of the panchayats, women's roles were highly circumscribed; and that political parties included women for panchayati representation without

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allowing them voice in party decisionmaking (Sachetena 1995; Rural Development Consortium 1995).[16] A

second round of elected women are now in office, and activists and scholars argue that there have been

many benefits. True, many of the women elected had little or no political experience, but they have gained

self-confidence. These women have questioned priorities in panchayat programs and stressed "domestic"

issues like fuel, water, schools, and the proximity of services. Women have been less committed to party

interests and been able to build broad alliances among themselves (Jain 1996b).

Some argue that the success of the panchayati reservations has been an eye-opener. The backlash

has hardened male opposition to women's inclusion in higher decisionmaking bodies (Jain 1997a).

Nevertheless, the 81st Amendment Bill was proposed. Its provisions were similar to the 73rd and 74th

amendments: one-third of seats in Lok Sabha and state assemblies were to be reserved for women along

with the existing provisions for SC/ST (Scheduled Castes/Scheduled Tribes). The justification given was

that since independence, women's participation in Parliament has been quite limited (table 1).[17] And in

1995 women accounted for just 3.9 percent of the members of state assembles.

Table 1. Women members in Lok Sabha (percent)	
1952-57	4.4
1957-62	5.4
1962-67	6.7
1967-71	5.9
1971-76	4.2
1977-80	3.4
1980-84	5.1
1985-90	8.1
1990-91	5.3
1991-96	7.1
1996-98	6.3

Current arguments

The issue of quotas for women in Parliament and state assemblies has inspired sharp debate. Many

problems that appear to be about practical details or procedural formalities are in fact locked into

fundamental questions of politics. Reservation has made strange bedfellows. It is typically a liberal feminist demand but is championed by Marxist women. It has drawn fundamentalist and rightist women to the side of leftist parties, and opposition has created equally curious alliances among men. I organize the arguments around three principles: democracy, equality, and representation.[18]

Democracy. Democracy has been invoked to both defend and oppose the bill. The rationale of the bill is an affirmation of democracy, [19]grounded in the belief that democracy has to be made more meaningful and representative. Opponents argue that quotas are anti-democratic. SC/ST quotas are in place for schools, colleges, jobs, and legislative bodies. Among the upper-caste elite there is growing meritocratic opposition to these quotas. But many accept social justice arguments in favor of such quotas. Many elites are indifferent to women's quotas at the panchayati level. Ela Bhatt (of Self-Employed Women's Association), for instance, is in favor of SC/ST quotas and the panchayati reservations for women, but she considers women's quotas at the upper reaches of the legislature to be undemocratic (Bhatt 1997).

It is argued that the paucity of women in politics and public life will be eased by wives and daughters participating in democratic institutions. But these women will not be democratic representatives, properly speaking. Moreover, the women will remain mere mouthpieces for their male kin. A "biwi [wife] brigade" will come to power (Mahdu Kishwar, *Sunday Times of India*, 22 September 1996). There are enough examples to support this argument (Katzenstein 1978).[20]

But it is also possible that wives and daughters will build coalitions and gain power. The "family" idiom is longstanding in Indian politics. Nepotism is not just a dominant practice, it is normalized behavior, since kin-based patronage networks form the bedrock of politics. Such networks are usually pressed for male relatives—almost all the sons of political leaders inherit some of their fathers' political capital. Wives and daughters usually benefit materially and derive status and authority, but they do not qualify for political patronage except in the absence of suitable sons. But once a woman acquires power, will she remain docile? The panchayat example seems to indicate the contrary. Once a woman has power, she may question family structures, which exclude her from resources and authority through marriage and

inheritance practices. One can hope that women will be able to use the family to access political power and then use that power to transform the institution of the family.

It is nevertheless true that the family (or dynastic) system helps reproduce elite domination. There is understandably a great deal of hesitation in accepting gender discrimination as grounds for affirmative action because in a deeply hierarchical society like India, the highly visible minority of successful middle-class women cannot be easily conceived as discriminated against relative to the large majority of underprivileged men.

Equality. The desire for equality drives the demand for reservation. Since independence, women have not had more than 8 percent representation in legislative bodies. The enormous social and economic obstacles to women's entry into these arenas make quotas a political means of achieving social change.

Equality also provides an argument against quotas. If women are equal, why do they need quotas? There is confusion here, as pointed out by Lotika Sarkar and Vina Mazumdar (1974), between "theoretical equality" and "unequal situations," between intrinsic equality and potential equality, between equality of individuals and of members of a collectivity. Women are equal in that individual women are as capable as individual men and have equal rights. But women as women face social discrimination, which continues to limit their capabilities and opportunities.

But the equality argument becomes problematic when extended to "more than equal" arguments. There is an interesting continuity from the women's suffrage movement led by the Bangiya Nari Samaj (Association of Bengali Women) in the 1920s. Women's suffrage was promoted through social feminist arguments grounded in the "equal but different" slogan. The struggle for rights was based on a celebration of women's traditional roles and an acceptance of traditional definitions of womanhood. Thus women's entry into the public world was justified by their biological and psychological uniqueness. Only women, it was argued, can bring certain knowledge and skills from the private domain into public life. It was commonplace in the 1920s to argue that women's skills at managing the household budget could profitably be extended to public finance. A "good for society" argument is always easier to sell. Proponents highlight

the need for women's special perspectives in public life for the benefit of society as a whole.[21] The

emphasis is on constructing political activity around the uniqueness of women's experience—for instance,

their mothering and nurturing activities are supposed to give them a special affinity for peace and

environment movements.

One of the most common defenses of the reservation bill rests on women's supposed moral

superiority. Some offer visions of honest and virtuous women sweeping clean the parliamentary stables of

sleaze and corruption. Women, untainted by cut-throat political competition, will restore harmony and

cooperation to Indian politics.[22] Some offer a muted hope that women, being new players in the game of

parliamentary politics, will be less manipulative (Banerjee 1997).

Paternalist sympathisers are usually comfortable with assertions of women's moral superiority

because these reconfirm notions of difference. Such assertions promise continuity in gender relations since

they identify women with precisely that domain already prescribed for them in dominant patriarchal

discourse. Moreover, these are weak assertions which, when inconvenient, are easily refuted by examples

of corrupt or aggressive women politicans like Indira Gandhi, Mayawati, or Jayalalitha.

The current feminist dilemma is to chart a safe path through the minefield of these biological and

social feminist defenses. Without doubt, the question of a women's quota is locked into an assertion of

biological identity. It may be, as has been stressed, that biology is inescapable in developing country

feminism because women continue to fight for formal rights from which they are excluded on the basis of

biology (Nanda 1991). But basing demands on biology and social feminism has long-term implications.

Gains today are offset by the reinforcement of the idioms and images that restrict women. Thus it is

important to choose one's argument with care.

Representation. Representation is obviously the key issue in the reservation debate. The proposed

bill assumes that women are a political collectivity who requires fair representation, which can only be

achieved through separate representation, guaranteed by quota. This contention is reinforced by the fact

that Indian women fall behind men in all social and economic indexes. Only women, it is argued, will

promote the interests of women in the process of national growth and development. The inference is that men cannot (for social or political reasons) or do not (to protect patriarchal authority) represent women's true interests. Women have to do their own representing.

But then, who are women? Other Backward Castes (OBC) members of Parliament have effectively mobilized around the demand for a "sub-reservation" for OBC women. Gita Mukherjee has set out her objections to the sub-reservation: there is no precedent or move for a general OBC reservation in legislative bodies or panchayats, and the problem can be solved without reservation if OBC women are put up in OBC-dominated constituencies (Mukherjee 1997).[23] The demand, however, has been made on the basis that OBC men will be replaced by upper-caste urban elite women.[24] Mukherjee offered a solution: that OBC women be nominated in areas dominated by these castes. But this alternative is also not acceptable because OBC men not only fear losing their seats to non-OBC women but also to OBC women. They fear the fracturing of community solidarity; they certainly do not want to lose the monopoly to speak for "their" women; and they object to the empowerment of women in the community over which male leaders have so far had undisputed authority.

The demand for an OBC sub-reservation has been followed by similar demands from minorities.[25] These demands have fractured the category of "women" by introducing the two most powerful forces in Indian politics—caste and community. Thus the notion of the individual as the bearer of rights is in tension with various definitions of collectivities. If men cannot represent women, can women uniformly represent each other? Once again is raised the hoary and impossible to settle question of the relationship between gender and caste, class, and community. Who has the better ability (or right) to represent OBC women— OBC men or upper-caste (or non-OBC) women?

The question of who legitimately represents who is tied to the nature of the political collectivity that seeks representation. One of the most common criticisms of the bill is that reserving seats for women is pointless because women are not a homogeneous group. This truism is rarely applied to caste or

community, which are also characterized by divisions of (at least) class and gender. But the problem goes deeper in the case of women.

The claim to reservation for women is based on the distinctive character of collectivities based on gender. Caste and community are already both social and political collectivities. These collectivities are knit by the institution of the family, which ensures their reproduction; and are underwritten by political institutions like protection and reservation, already framed in the constitution of India. Women are not as clearly framed constitutionally, except in negative terms by prohibition of "discrimination by sex." Indeed, identities based on caste and community (and rights flowing from them) have been given precedence in many cases over the fundamental right of "equality by sex"—as in the judicial decision to uphold the "protection of minorities" clause over the "equality" clause in matters of personal law (see above).

It follows that in social terms too women are not a collectivity. Rather, they are the opposite. Social institutions like the family and political instruments like caste and community fracture gender. Thus the insistent litany of apologists of patriarchy: "women are women's worst enemy." One of the first lessons a feminist learns is that every social institution actively divides women. Moreover, the isolation of one or two women in the family (and home) provides them with few opportunities to form the primary collectives from which they can aspire for a political identity. The demands for sub-reservations have made this an urgent issue. Political collectives like caste and community are constituted by and through the family and women's isolation, and are therefore male communities predicated on the exclusion of the large majority of the women for whom they (illegitimately) seek to speak.

Women do not yet exist as an effective political collectivity (or even simply a vote bank). That remains a vision of the women's movement. The reservation bill may not have intended the creation of such a collectivity, but it is an implicit and necessary corollary. That is, the bill is not an expression of an extant political community but an aspiration toward a political collective. This political collective is not a political extension of a biological category (any more than caste or community) but must be a product of political mobilization. The formation of such a collective will be a political act, an exercise of political will.

Women, power, and politics

I will briefly return to the issue of empowerment raised earlier. The bid for reservation has been troubled within the women's movement because feminism has been ambiguous about power. The long and systematic exclusion from formal politics has inhered in the very definition of femininity. When women are associated with power in traditional constructions, the emphasis is on moral power.[26] Feminisms that have drawn on traditional feminine imagery face a double bind. One the one hand, women must not seek power because it corrupts. On the other hand, women need power to fight corruption. The possibility of women's large-scale induction into the hurly-burly of electoral politics throws this duality into sharp focus. Will electoral politics corrupt women, divide them in self and party interests? Or will women make power pure?

Such questions are impossible to answer. But it must be emphasized that the reservation bill is not a revolutionary manifesto. No one believes that reserving seats for women in Parliament will solve all the problems of all women. The bill is and must remain one tool among many deployed to alleviate some of the grossest forms of inequality and injustice to which women are subject. It is a means to an end. It will, hopefully, serve as a "shock treatment" to the political system.

Moreover, the bill is unlikely to have immediate, far-ranging consequences, such as promoting the moral transformation of India's political culture. Women cannot hope to keep their hands clean. That is, having more women in power may lengthen the Mayawati-Jayalalitha list. And there can be little doubt that some women will benefit more and, especially in the short term, many women will not benefit at all. But such is already the case (for men and women). The reservation bill cannot seek to change all the inequities of the political system. It merely seeks to ensure that significant numbers of women enter the arena of political decisionmaking.

Reservation must and will work through the multiparty system. Parties will be prodded to put up women for election. The fear is that such women will toe the party line at the cost of representing women's interests (Bhaswati Chakravorty, *The Telegraph*, 23 March 1997). In the case of panchayats, inducting

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women at the lowest levels of the party—thereby ensuring that they remain marginal in decisionmaking—has satisfied reservation provisions. But state or national elections cannot be handled on that basis. Political parties have been unwilling to admit women, allow them a voice in policy formation, or give them opportunities for leadership positions.

Ironically, leftist and self-styled progressive parties, the most insistent champions of reservation, have the worst record in this regard.[27] Brinda Karat resigned last year from the politburo of the Communist Party of India (Marxist) in protest over this issue. In this matter the Indian National Congress leads the way, with further changes recently initiated by Sonia Gandhi. The Bharatiya Janata Party is the next best. Thus women's participation has not been a good index of "progressive" politics. But the need to field significant numbers of women candidates is bound to fundamentally change the gender equations within parties. There will not only be 180 women in Parliament and more than a thousand in state assemblies, but losers in elections and others seeking elections. The intention, which is to draw large numbers of women into the political process, will be served, and neither male relatives nor party bosses can hope to ensure that so many women will speak only their words. A party line is not immutable; it depends on its members and decisionmakers. Women members will, like male members, follow the party line. But if present in large enough numbers in the party, they are also bound to influence the line. Thus while we fear divisions among women, we can also look forward to crucial coalition of interests.

Women are hoping to break into the political mainstream through reservation. There will be no handouts (*The Telegraph*, 2 March 1997). Women will not be "given" reservation. A long and hard battle has prepared the ground for this demand. A difficult campaign is now under way, with thousands of letters, petitions, demonstrations, and meetings across the country.[28] Mukherjee (1997) wrote, "never in my life have I seen so many postcards written in blood by women from different walks of life." The outcome is uncertain.

Conclusion

In 1974 Indira Gandhi, India's prime minister, told reporters: "I do not regard myself as a woman. I am a person with a job to do" (*The Asian Student*, 23 November 1974). A year before, a popular magazine for "modern" women released a special Independence Day issue with Indira Gandhi portrayed as Goddess Durga on the cover. It said, "to be a woman—a wife, a mother, an individual—in India means many things. It means that you are the store-house of tradition and culture and, in contrast, a volcano of seething energy, of strength and power that can motivate a whole generation to change its values, its aspirations, its very concept of civilised life" (*Femina* 14, 17 August 1973). Women in Indian politics have always negotiated these two extreme poles: as the unsexed equal or the highly feminized goddess or queen. Such negotiation has allowed a small but significant group of women to aspire for high offices within the political establishment. But women on the whole have attained little democratic representation, either in numbers or in terms of their specific gender interests.

Since the 1920s a few women have been on a quest for a feminist politics outside the political mainstream. In the 1920s and 1930s, in the first wave of a feminist movement, women's organizations were able to draw both on the benefits of modernity (from colonial rulers and male Indian reformers) and from the idiom of "Indianness" constructed in the nationalist discourse. Female segregation and seclusion offered opportunities to build women's collectives that rejected male tutelage but accepted traditional patriarchal gender roles. This social feminism allowed a remarkable hegemony of elite women to speak for "all Indian women" from a united platform. The involvement of many of these women in the freedom struggle tied their demand for women's rights to nationalist movements to produce a uniquely Indian feminist nationalism with that had three important consequences. First, nationalism implicated female activists in a singular cultural Indian identity based on a new patriarchy. Second, the cause of women's rights was advanced but hitched to a state-led nation-building discourse in independent India. And third, women became vulnerable to the many competing discourses that constituted the nation-state.

In the 1940s the growing involvement of women in diverse social and political movements broke down the essentialist construction of "Indian women." Neither women's organizations nor nationalists (say,

in the Congress) could continue to speak of (or for) "Indian women." The loss of hegemony hindered women's organizations' quest for equality but helped many other women seek new gender identities beyond narrow caste or class constituencies and the limitations of social feminism. The "petition politics" of the 1930s had outlived its efficacy by the 1940s. After independence, female activists were marginalized because they avoided the political arena for behind-the-scenes activities. At the same time, the ideas that replaced social feminism had nothing to offer activist women—none of them even had an agenda against patriarchy. Thus women's concerns and ideas were not incorporated into the various struggles they joined, either against the Raj or for social and economic justice before and after independence.

The second wave of feminism emerged in the late 1970s and early 1980s. Women's organizations set up at this time did not make a bid for hegemony. These were autonomous groups, joined not through the structure of formal association but through informal networking, local leaderships, an emerging feminist press, and an intensification of multivoiced exchanges. This panoply of organizations represented women from all classes, castes, communities, and locales defined by, if anything, a common commitment and a language that is more leftist than liberal (Katzenstein 1989)—a situation not very different from that in most European feminist movements. This movement can make no singular claim to represent all Indian women, but it has, collectively, a national profile and presence. The various all-India campaigns launched by women engendered a cultural radicalism in which a broad range of issues and a multiplicity of voices could be articulated. This is an Indian women's movement with a difference.

The common commitment and language of this movement grew out of an engagement with violence against women. Violence was, of course, not new in India. But earlier issues of violence had been articulated within the mainstream political agenda: sati as an issue of tradition, and the age of consent as one of Indian fitness to rule. In these discourses women's bodies were the site on which men fought their battles. In the 1980s feminists drew attention to the facts and consequences of violence against women themselves.

Even as feminist intervention has expanded our perception of the field in which violence is perpetrated against women, intractable differences have emerged within feminist ranks on the place of the women's movement and feminist politics in India. The controversy over the Uniform Civil Code is, at one level, a battle between (Hindu and Muslim) men who relish their rights in the family and the community based on their "ownership" of women. At another level, female activists are no longer on a universal trajectory of "rights" and are uncertain about the possibilities of the women's movement offering a secular space outside the structures of community. The exigencies of the political situation—fundamentalism and ethnic conflict—preclude concentrating only on issues of interest to women or a feminist perspective on all issues of importance.

To be viable, many argue, feminist politics must address the many competing class, caste, community, and ethnic struggles for justice and equality. The fissures within the women's movement sit uneasily with the move by the state to reserve seats for women in the legislature. Women, properly speaking, no longer exist as a constituency. Perhaps that is why the move to reserve seats came from the government rather than from the women's movement. And yet, while many feminists have written against reservation in the popular media, effective opposition to the bill has come from male parliamentarians and on the demand of separate representation (sub-reservation) for OBC and minority women.

The debates over personal laws and reservation of seats for women, the latter more clearly than the former, represent competing claims to speak for women. But communities (of caste, community, or ethnicity) are inescapably gendered in their occupation and location even as they assert their presence within and against the nation. The nation-state and the discourse of citizenship, on the contrary, allow women to figure as unmarked subjects and to invoke their rights and entitlements. The women's movement alone can expose the "gender markings" of the woman in the process of invoking her rights and entitlements, and building an emancipatory politics on that basis.

Thus there is an urgent need to redefine feminist political agency—to allow for the possibility of secular political collectives to which women can belong not by ascription, but by voluntary participation. In

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other words, to rebuild the fragmented constituency of women. But the solution may not lie in a revitalized national women's movement, particularly in the current context of economic fragility and political instability. There is already the contours of a women's movement, actual or potential, in the impressive networking capacities of autonomous groups and the mobilizing potential of left-led women's groups. We need to recognize the importance of women's associations at the local and regional levels without retreating into the irreducibly local. The developing and strengthening of local institutions is also necessary, and seems to dominate women's movements in the late 1990s. The question is how to mobilize these institutions for a transformative feminist politics—that is, to ensure that these localized struggles face and accommodate the challenges posed by community and caste politics without allowing them to displace gender concerns.

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Endnotes

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1 There is a rich historical literature on the social reform movement in India. The movement's focus on the condition of women has been widely noted and differently explained. There are at least three main schools of thought. The "modernizing'" school, which dominated until the 1970s, argued that these reforms helped draw women out of seclusion and gave them opportunities for self-realization. Since the 1970s there has been a scathing critique of the elite character of the movement and the limits of its vision with regard to women's emancipation. In recent feminist historiography it has been pointed out that the reforms led to the formation of a new patriarchy.

2 Vidya Munshi was a founding member of the National Federation of Indian Women and today is a member of the National Council of the Communist Party of India.

3 The incidence of rape can be culled from figures published by the Bureau of Police every year. The statistics from Delhi and Calcutta (1995-96) show that the largest number of rapes occur inside the home and are committed by persons known to the victim, often relatives. However, both the women's movement and the media tend to focus on rapes committed in police custody or in public spaces.

4 In 1979 in Delhi, of 358 such deaths, fewer than 50 were suicides, 23 were classified as dowry burnings, and the others were recorded as accidental. The number of accidental burnings increased to 466 in 1981 and 537 in 1982. Feminist groups agitated for the state to recognize these deaths as murders, not accidents. These data were obtained from Saheli, a Delhi-based women's group.

5 A dowry includes money and other consumables, as well as assets like shares or real estate, given by the bride's family to the groom's family at the time of marriage. Traditionally an upper-caste Hindu custom, the practice has widened to all classes and castes since the beginning of the century. In recent years it has also become common among non-Hindus.

6 The Hindu Civil Code had to be scaled down in the face of virulent opposition and passed as four successive acts with major compromises on women's rights.

7 This mechanism is not clear. In a dispute between two codes, which would prevail?

8 Vimochana (Bangalore), Sanchetana (Ahmedabad), and Asmita and Anveshi (Hyderabad) have deplored the haste over a gender-just code.

9 Others have recommended an even more incremental strategy, arguing that the best way to use the legal system is to challenge law in the courtroom. Thus individual litigation would build up a set of case law by using existing pro-women legislation. The success of such a strategy, of course, depends on the attitudes of the courts (Sachetana, Calcutta, 17 March 1996). Recent favorable judgments on guardianship and sexual harassment have lent strength to this position.

10 First, land distribution is regulated by state governments. Second, its cannot be challenged on constitutional grounds because of its placement in the ninth schedule. The fear of further fragmentation of holding has undercut progressive personal law reform and led to a complete obscuring of women's rights. And though the question of fragmentation has been greatly debated, women's rights have not been addressed within these. As a result in both "ceiling laws" and allotment policy (which regulate public land distribution), the formal definition of family explicitly excludes the rights of women—as wives or daughters.

11 Parsi law stands as the most gender equitable. Muslim law recognizes women's rights (as widows and daughters) but on an unequal basis. Christian law, governed by an antiquated statute, gives wives no real property rights.

12 In some states, like Tamil Nadu (1990) and Karnataka (1994), there have also been attempts to give women rights to the family estate.

13 The courts have imposed an absurd standard of (ceremonial and ritual) uniformity based on a specific upper-caste tradition, which few marriages satisfy. They have emphasized the performance of valid

ceremonies but decreed that they cannot be inferred by leading evidence of the officiating priest, also insisting that custom to the contrary can be relied on only if proved by legal text (which is absurd and ossifies dynamic and changing customs). Even admission by the husband (or a second and subsequent wife) in matrimonial proceedings is not considered proof of bigamy.

14 The Sangh Parivar (Mumbai) called it "state-sponsored feminism" in a statement reported in *The Telegraph*, 9 December 1996.

15 The day after the bill was introduced (13 September 1996), less than half the members turned up at the Lok Sabha. Congress members protested to their president, and leftist leaders were in a quandary because each member feared that he would be the one to suffer from "rotation."

16 Two other problems have been pointed out. There is considerable suspicion about devolving power and resources from centers of (male) power to the periphery where women have gained a voice; and the prioritization of departmental segregation over area-based activism hampers the workings of panchayats.

17 Statistics from the past few elections indicate that women vote in about the same proportions as men. Some analysts argue that they follow the lead of male family members on who to vote for, but there is equal evidence that many vote independently. Moreover, the proportion of female parliamentarians is not low by international standards—until recently it compared favorably with levels in the United Kingdom and United States. French women have been fighting for parity for years. Only Scandinavian countries have achieved more than 30 percent representation of women.

18 The arguments laid out in the rest of the section in favor of reservation are mostly my own.

19 There are women's quotas in Argentina, Sweden, and Venezuela.

20 Katzenstein calls the prominence of Indian women in politics the "Mrs. Gandhi anomaly." Women's participation in the freedom struggle and the importance of kinship networks have given women scope to acquire leadership positions. But this is not effective for the mobilization of women's interests.

21 Najma Heptullah, then deputy chairman of Rajya Sabha, made this statement on 10 September 1996, along with a demand that the provision be extended to Rajya Sabha.

22 T.N. Seshan, then chief election commissioner, made this statement on 13 July 1996.

23 The left parties too have opposed sub-reservation on these grounds. See Malini Bhattacharya, The Telegraph, 2 August 1998.

24 Currently the agitation for the demand is being led by Samajwadi Party and Rashtryia Janata Dal, though OBC members from even the ruling party support the move.

25 In an unprecedented move, Muslim organizations issued a *fatwa* in favor of Muslim women's reservation on 25 July 1998.

26 Introducing the bill (on 12 September 1996), Law Minister Ramakant Khalap said that it was incomplete but reflected the spirit of Indian culture, where women are worshipped.

27 Other parties publicly championing reservations have in the very next elections denied tickets to prominent female leaders (Janata and Bharatiya Janata Party in Orissa).

28 One petition carried 7 lakh signatures.