

Book Review

SEXUAL VIOLENCE AGAINST WOMEN: PENAL LAW AND HUMAN RIGHTS PERSPECTIVES**

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The discourse on Sexual Violence, critically analyzed from the cultural, historical, psychological besides judicial and legal perspective focusing both on pure legal obstacles and remedies on one hand and international human rights perspective on the other is indeed an exhaustive and thought provoking piece of legal literature.

Dr. Vandana, a senior academician at the Faculty of Law, University of Delhi, is also a pronounced expert in gender studies, having completed her doctoral research on sexual violence and women. She has contributed several legal research articles and continues to be a sought after expert, delivering lectures and conducting workshops both at the University of Delhi and other non governmental organizations.

The book follows an elaborate and understandable chronology in its narration, by both introducing the reader to the seriousness of the topic being dealt with and educating and informing the reader as it advances with its critical judicial analysis to the eventual well researched conclusion. The discourse starts of with the most basic concept and occurrences resulting in sexual violence. The author skillfully differentiates between gender and sexual violence, expertly bringing out the ‘causal determinant,’ of the latter like the unfair societal power structures, resulting in patriarchy, male dominated ideologies and the unfortunate corollaries to male dominance in the form of the male control over a woman’s sexuality, conflict and the drastic dichotomy between the role and violence against the woman in public and private.

By determining the causal factors the author lays out the groundwork to discuss the impact of sexual violence on both the body and psyche of a woman, before elaborately discussing sexual violence from the feminist perspective, minutely detailing the reasons behind for treating sex as a biological and gender as a socio-cultural construct to bring about a differentiation. The book then delves into the fact of masculinity and patriarchy as reasons precipitating sexual violence against women to reinforce their ‘natural’ subjugation.

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** Dr. Vandana, 1st edition 2000, published by LexisNexis Butterworths Wadhwa, Nagpur, pp. li + 569, price Rs. 795/-.

The author follows up the elaborate discussion on rampant, thoughtless and violent expression of masculinity from a feminist perspective with a pragmatic and intelligent discussion, in the process laying out a detailed account of sexual violence as a human rights violation. The author meticulously reviewed sexual violence from the most important angles from the human rights perspective. The close interaction between HIV/AIDS and the resulting sexual violence and vice versa has been exhaustively described with examples and statistics from a number of developing and developed countries. The role of sexual slavery, forced prostitution in the unfortunate spread of the infection leading to severe trauma and violence has been accounted for in detail. Sexual violence perpetrated as a war crime with the notorious and unfortunate example of 'comfort women,' that Japan provided for its soldiers during the World War II, after having forced these women from Korea, Philippines, and Myanmar etc., into sexual slavery subjecting them to systematic rape has been exhaustively researched. The author emphatically describes, in a manner that evokes sympathy, and causes the reader to think about the revelations made by the author.

The flow of the discourse makes a natural progression towards reviewing sexual violence in different contexts in terms of its rampant occurrence, within the confines of the four walls of the family via, Female genital Mutilation (FGM) in several parts of the world, religious pledging for prostitution in the name of God, incest, marital violence, child and forced marriages. The description is explicit, replete with examples, data and thought provoking. The contextual occurrences outside the four corners of the family within the community in the form of rape, sexual harassment, and prostitution followed by the State as the biggest perpetrator and condoner of sexual violence against women in the form of severe custodial violence, rampant international trafficking of girls/young women for purposes of slavery and prostitution and the horrendous sexual violence that women are subjected to as 'spoils of war,' to in turn prove complete victory over the men and dishonouring them during armed conflict has been poignantly depicted and explained.

Rape as the most overt, violent and aggressive forms of sexual violence that cars the physical and mental well being of a woman for life has been meticulously described by the author in the later part of the discourse. The potential occurrence of the violent act as the one crime that every woman lives in silent fear of throughout her life, dictating her personal, and societal choices has been satisfactorily explained with its basis in the

absolute reality of the world. The gruesomeness of the crime of rape has been divided and discussed first conceptually in terms of its origin and modern virulent adaptation in the form of the increasing cases and violence. Secondly, the trauma of the rape victim manifested psychologically and pervading all aspects and choices in her life after the commission of the crime coupled with the societal ostracism in holding the victim accountable for the crime against her has been extremely well depicted. The reasons for the gross underreporting of the crime compared to the over incidence of the crime, in the form 'myths and realities' associated with the commission of rape has been elaborately analyzed. Rape as the result of patriarchal power structures and the disjointed perception of masculine domination and coercion has been competently brought out in explanatory narrative.

The legal aspects of the discourse then succeed descriptive narrative and like the preceding part, the chronology has been beautifully adhered to. The legal journey of rape legislation starts with the different historical perspectives of each legal system to the crime, following it with a world overview of rape legislations internationally based on their separate historical experiences. The most important aspect for a legal scholar from India would be the exhaustive, meticulous and detailed manner in which the history and present day rape legislation in India has been dealt with. The author beautifully crafts the history of rape law in India and follows it up with a descriptive analysis of the crime of rape under Macaulay's penal code.

The present day genesis of rape law in India post 'Mathura case,' in the form of the law commission report and the substantive law and procedure both under the IPC, Cr.P.C. and the Indian Evidence Act has been exhaustively dealt with copious amount of case law of the Supreme Court of India exhaustively dissected, conveys the legal affinity, ease and brilliance of the author. The Proposals suggested by the Law Commission of India and the Cr.P.C. (Amendment) Act 2005 have also been systematically dealt with as part of the description of Indian law on rape. The critical analysis of issues relating to the concept, trial and judicial approaches to rape cases have also been covered with meticulous detail and deliberation, analyzing rape as both in context of society and the law.

Sexual Harassment as an alternative and indirect form of sexual violence has been given a similar in depth and detailed treatment by the author. Sexual harassment as a concept, in terms of its forms and impact on the victim pave the way to the societal attitudes towards sexual harassment in the form of myths created around the violence and the reality of harassment and reasons for underreporting of the crime.

The legal anthology relating to sexual harassment is dealt with exhaustively by the author, reflecting her enormous legal prowess and command on the subject. The author starts with the historical perspectives of sexual harassment and gives an overview of the present day legal scenario internationally. Sexual harassment in India receives enormous attention with details including case law relating to the law on molestation and eve teasing, being followed up by law on sexual harassment in the workplace and the Code of conduct and Draft Bills by the National Commission for Women. Similarly, the critical analysis of the concept, trial and judicial approaches while dealing sexual harassment cases have been thoroughly dealt with before paving the way towards conclusions and suggestions from this in-depth study. The author makes several well thought out suggestions about the definitions, aggravating circumstances, stringency relating to the enforcement mechanisms and details about better evidence gathering, preserving and procedure for appropriate adjudication of sexual violence cases. Author goes a step ahead and proposes the creation of special courts, rape victim counseling centres and compensation for victims so that perpetrators are brought to justice.

The book thus is an intensive discourse on sexual violence against women that covers the crime from sociological, psychological, legal, judicial and legislative aspects. It delves deep into the victim's psyche to garner the reasons, historical, cultural and socio-political behind the sense of guilt and shame. Dr. Vandana indeed has painstakingly researched the subject as is clear from the enormous number of resources she has sought to refer in preparing and writing this book. The book is indeed thorough and diligent in its presentation and would be an informative reference book for legal scholars, teachers, judiciary, practitioners and NGO's.