Chapter 3

Gender and the State Apparatus

This chapter engages in an analysis of the space occupied by the state and the range of its intervention at the sites of gender politics. These sites are ideologically diffuse and constitute women’s economics that derive from the converging materialities of caste, ethnicity, religion, class and economy. They operate as spatial metaphors in the sphere of labour and in the constellation of kinship structures, and are established as defining categories in the institution of the family through customary practices, affective and relational entitlements, and functional locations. The legislative power invested in the state enables state agency in women’s issues although it is substantially directed by the “traditional” determinants of gender ideology. (Yet it is difficult to specify a simple equivalence between law and social practice.) Thus women are caught up in the contradictions and intersections of a number of sets of conflicting authorities and power relations in which the law is a co-partner. And to speak of citizenship and women in the same breath is to invoke a discourse through which women are produced and constructed by “the ultimate in masculine and paternal protection, the law and the state” (Threadgold 160).

It was with Independence that the Indian state assumed virtual responsibility as the agent of the people. Authority enabling regulation of social life was centralized and sanctioned through political and constitutional measures, legislations and legislative reforms, and
developmental policies. Therefore the state as a referential entity in
evaluating the status of its citizens is a dynamic factor which has to be
taken into account in any discussion on gender. A disciplinary system such
as the law participates in the process of "normalization," deliberating upon
what is right or what the "truth" might be at any given moment of time. The
logics of the claims it advances as incontestable invests it with a legitimacy
that simultaneously excludes or disclaims other authoritative forms of
assertions that cannot be rationalized within instituted structures. By this
means, the law seeks to remake and represent the social in an overtly
pragmatic, interventionist manner. And the discourses it sets in motion as
part of a systematic process engage in reconstructing subjectivities.
However this generates a certain friction due to the discrepancies between
the empowering legislations by the state concerning women and their often
contrary status within society or even the law. These inconsistencies
translate to the psychologistic, figurative and realistic levels in the
narratives under scrutiny. The term legal system is used, first, to connote
the reach of the state into the wider social order specifically through the
state's enactments on personal laws, which are enforced, although not
necessarily legislated by it. Second, the phrase includes the concept of the
legislature as emissary of the state, though the state as representative of
various political groups constitutionally functions as a subordinate part of
the legislature.

A brief examination of legal history in late eighteenth-century and
early nineteenth-century India reveals the conflation of religion with law. It
was based on a policy of non-interference in the customary and religious
realms, contingent on economic interests and ideological principles that were mainly moral in constitution. With the gradual consolidation of the colonial state, the reluctance to impose British law alongside British judicial processes was crucial in framing a sphere of "conjoint (indigenous plus colonial) and fissured authority" (Sangari105). This entailed a selective reorientation of the legal system in accommodating religious law in the context of colonial reformism, even as the jurisdictional ambitions of the state remained unchanged. It accompanied official attempts to reconcile the tutelary function of the colonial administration with the colonized subject’s need to affirm her/his cultural identity and religious belief. To this end, the colonists codified all aspects of civil law in which the English law was to serve as the basis, with the exception of the religious laws of Hindus and Muslims which were to govern their respective communities in personal matters (Parashar 65-67).

The codification of the Hindu law in the Sanskritic textual domain oversaw two developments correlative with the segregation of the public and the private spheres. One, the considerable shift to a male, dominant class, upper-caste brahminical authority brought it into direct contest with the colonial state’s juridical rights over “public” politics. Two, the patriarchal interests and paternalistic desires sanctioned by this new legitimacy, regulated female sexuality within family structures, domestic ideologies of companionate conjugality and sexual division of labour, and the reproduction of the household as a miniature model of a desired, autonomous state. Women’s illiteracy as well as education (into domesticity) limited their access to religious texts, and instead conferred on
them preceptoral values that compromised any attempt at defining laws or claiming legal equality. This produced "institutionalized 'differences'" that legally ensured women's subordination (J. Nair 7-8). Likewise, for the Muslims whose religious laws and customs were not subject to codification, the private realm remained within the authoritative jurisprudence of the maulvis and religious leaders.

_Purdah_ as a cultural ideology demarcates gender, space, relationships and functions. It operates by marking the biological differences between the male and the female, regulating social interaction, monitoring sexuality, maintaining traditional male authority and the unity of the often extended family, and apportioning the family resources through gendered qualifications. It claims origin and legitimacy among the Muslim community from the religion of Islam which regulates the sacred as well as the secular realms. The scriptural text thus wields considerable if not absolute influence in the definition of kinship structures, conjugal relations and notions of the family.

The colonial state's exercise of caution in the restricted application of bourgeois modes of authority in the economic and the social spheres was both ideological and expedient. Its sectoral reorganization of the economy thus came into conflict or at times coincided, at different ideological conjunctures, with the maintenance of the several social relations as well as orders of caste and custom that were legitimized either as pre-capitalist economies or reassigned as tradition. In that event, women's status in the correlative of kinship structures akin to what Lévi-Strauss defines as a
system of exchange of women, was dependent on “the modes of exchange
ingstituted, and the values attached to these modes” (rather than the
phenomenon of exchange itself) which rendered them subordinate to men
(Mohanty 203). This necessitates a compulsory shift in equations of power
within relations, conditional on the incumbencies attending the changes on
reaching adulthood and on marriage. Therefore Shamshad Begum in
Hyder’s “Honour” can define herself only in relation to her racial ancestry
as “a noble Rohilla maiden” (Hyder, Sound 112) and to the patrilineal as
“daughter of Jumma Khan and niece of Shabbu Khan” (Hyder, Sound 114).
Her betrothal to Aziz Khan executed in “the pledge her Abba had given to
his cousin,” excludes her from those negotiations between patriarchs
stipulated in the mode of conjugal exchange (Hyder, Sound 112). Secured
within the ideologically infused spatial bounds of the purdah and the
zenana, Shamshad’s moral authority and agency is conferred on her by a
value-based discourse of honour appropriated to gendered modes of
objectification. The entitlements of tutelage proffered is subject to absolute
submission, so much so that despite the obvious implication of Aziz’s
absence Shamshad undertakes upon herself the role of “the only remaining
custodian of the family honour” and awaits his return (Hyder, Sound 112).

Colonial accommodation of pre-capitalist social relations and existing
patriarchal arrangements was implemented through legal abstention from
the personal realm of traditional and customary privileges. The contrast
between the constricted view admitted through the crack in the screen
around the palanquin of Basanti Begum and the Benthamite panopticon
afforded to Chhoti Bitya atop the caparisoned elephant in Hyder’s “Housing
Society" delineates their variant spatial dimensions. It denotes differing identity locations and ideological compositions, levels of rank or authority, and the extent of accessibility to political and socio-legal processes. The rural-urban criteria in concurrence with class hierarchy, along with the degree of proximity to the state machinery, and the alternative systems of knowledge and practices instituted by colonial and reformist interventions are factors that converge in the observance of or non-observance of *purdah*.

The compass of the colonial administration's influence in the framing or modification of personal laws, and for that matter the degree of separation of the private and the public domains is contested. Direct colonial rule in the presidencies and indirect rule in the princely states created a set of time-lags that contributed partly to the unevenness of legislations and their application. The colonial judicature did often intervene to preserve Indian patriarchy and occasionally to challenge it. An instance of judicial intervention that confronts patriarchy and champions the cause of the gendered subaltern is evidenced in the case of the widow Buta Begum and her daughter Basanti Begum. Women as the medium and the site of settling disputes, where ownership is demonstrated and contested, summarizes the politics behind the abduction of the minor Basanti Begum by the aging Nawab Bhure and the subsequent claim laid on her in the court by his rival as her "master" (Hyder, *Sound* 126). Here the mediation of the colonial machinery presided over by the native District Collector does not and cannot challenge the despotic practices of the feudalistic society. Instead the transfer of the case from the rural precincts
to the chief court at the urban centre, and the interposition of a sympathetic official, provide relief to the beleaguered victim.

From a strictly legal perspective, Basanti Begum's abduction falls outside the personal realm and within civil legislation. While the legislatures usually admitted the interpretation that personal laws of communities actually referred to their irrevocable scriptural laws, the judiciary were often more discriminative towards the precise practice and applicability of the two sets of laws to resolve disputes (Parashar 302). Buta Begum's petition to the Collector acquires additional import in view of the openings for extra-legal decisions at this formative phase in the establishment of a legal system: "...[Y]our humble servant...appeals to Collector Saheb Bahadur...that with his special orders, he may be pleased to close further channels of dispute and provocation in this respect..." (Hyder, Sound 126-27). And justice is left to the discretion of the executive officer.

The convergence of pre-capitalist and capitalist ideologies and practices in the sphere of domestic labour, on account of their origins in patriarchy either opposed or granted selectively the advancement of women's interests through legal means in pre-Independence India. Considering the fact that domestic labour and domestic ideologies coexist and presuppose each other, they are open to joint reproduction (Sangari 280). Here, institutional formations like caste, kinship, marriage, family and household are inseparable from as well as central to the conceptualization, organization and regulation of class differentiation, gendered labour and inheritance. But domestic organization of labour or even for that matter
caste-based forms of work need not necessarily be an offshoot of patriarchy. Rather, the ideology that drives market or capitalist modes of labour intertwines with the values and structures produced by unpaid domestic labour to consolidate into specific systems of patriarchal regulation at different conjunctures. The gender essentialisms underlying these economic and social systems combined to deny women individuation, creating conditions in which women's rights were deliberately circumscribed or at most conditioned. Women's unpaid domestic labour was further bound up with the discourse of female service, duty and dharma through the revivalism and universalization of prescriptive texts like the Shastras and Smritis by colonial law. The Manusmriti for instance instituted a correlation between female redemption and labour, reorienting the materialities of domestic, ritual and reproductive labour into an eternal universe of women's sacred roles or duties.

In Devi's "Breast-Giver," the institutionalized mother-goddess in the temple, the Lion-Seated, eternalizes the oppression of the sexualized, human mother-goddess Jashoda. Jashoda's iconic status as foster-mother is substantiated by Kangalicharan who articulates domestic and socio-religious discourses with economic needs, situating his wife's reproductive labour beyond temporality. He explains to Jashoda:

"You are a faithful wife, a goddess. You will yourself be pregnant, be filled with a child, rear it at your breast, isn't this why Mother came to you as a midwife?" (Devi, Breast 51)
This rationalizes the brahmin Jashoda's class exploitation as wet-nurse, renders invisible her productive waged labour and confers on her labour the habit of ritual. The shift from the material values of reproductive and productive labour to symbolic values infact displays a tension within the household. The challenge Jashoda's new role poses to Kangalicharan's displaced authority as provider within the domestic realm demands his transformation into a "professional father" (Devi, *Breast* 52). Here, patriarchy and paternalism are complicit in the reinstatement of male primacy through the surveillance of the interactions between sexual, social and economic categories. Their configurations which constitute Kangalicharan's authority coalesce at the institutional site of religion in his work at the temple of Shiva, and invests his self with a legitimacy that is spiritual in nature. The economy of the temple domain endorses patriarchy and shapes the logics that reaffirm masculinity and male hegemony. This is manifest in the select caste dominance, strict hierarchies and gendered privileges in offices intimately concerned with the divine. If women do have any role in the temple quarters, it is only in the peripheral sphere of household and kitchen duties.

The exclusive rights that men wield in the mediation and interpretation of the religious contributes to maintaining and corroborating a certain esotericism and mystery about patriarchy. It delinks cause from effect so that in its final frame, events stand isolated from their contextual origin. Thus Nabin the temple guide who manoeuvres the goddess's image can later claim divine intercession in his actions: "...God gave me ability, and intelligence and only then could the thing be done through me" (Devi,
Breast 60). A momentary discrepancy within language in the character of
the divine suggests an unconscious that seeks to re-establish the
sovereignty of male desire in the religious realm in order to claim vested
interests in the material sphere. The subtle shift from a feminine godhead
within a polytheistic Hindu religion to an ambiguously defined and
gendered monotheistic godhead also points to older and deeper influences
of the nineteenth century reformist movement in Bengal.
Institutionalization of religion, the concept of a sacred text(s), acceptance of
ideas similar to monotheism (evident in references to “the martyr god”), a
feminine godhead and the occasional conscious-unconscious shift to the
singular, enigmatic God, a certain Puritanism and a sense of linear,
objective and causal history in Hinduism were elements of the revitalization
of religion engineered during the period (Nandy, Intimate Enemy 25).
Woman as mother and goddess is at once a trivialization, essentialization
and extension of this religious revitalization. The simultaneous process of
deification and reification implicit in the construction of woman as an ideal
notion endows her with self-determining powers and thereby dispenses
with the need for legal intervention.

In the social, undue emphasis on the maternal and divine status of
women lent itself to the preservation of the domestic realm and its
institutions against the changes emanating from the public domain in
which some of the female gender were making their presence felt. To that
effect, modernizing movements did not necessarily challenge gender roles
and stereotypical role-expectations but merely recomposed them
reproducing and strengthening traditional gender inequalities despite
supposedly pro-women legislations. This is discerningly brought to the fore by Devi in "Breast-Giver" where among the upper middle classes with specific reference to the Bengali society, "the educated Babus desire all this from women outside the home. When they cross the threshold they want the Divine Mother in the words and conduct of the revolutionary ladies" (Devi, Breast 47-48). The potent hold of the religio-epic figure of Yashoda the "Divine Mother" on the Indian consciousness, thwarts attempts to "slap current posters to the effect of the 'eternal she'-'Mona Lisa'-'La passionaria'-'Simone de Beauvoir" over native representations of women (Devi, Breast 47). It is an insightful comment on the ideological resistance to western representations of women in psychology, art, feminist literature and religious iconography in post-Independence India. These constituted part of the theoretical (re)productions by the academia in response to renewed demands for the emancipation of women in the early decades of the twentieth century.

Colonial and reformist attempts to develop the patriarchal nuclear family with the attendant notion of companionate marriage as the desirable norm were inhibited by the multiplicity of family forms and correspondent marital systems that varied with region, religion and ethnicity. Polyandry was largely region-specific, practiced mainly outside the presidency areas under colonial administration. Commonly misconstrued as a derivative of a matriarchal society, the custom of polyandry in fact can be traced to a masculinist ethos, structured around the politics of regulating female sexuality. Hyder's "Memories of an Indian Childhood" set in a burgeoning nationalist period maintains the romantic and familiar inflections of
polyandry through the figure of Jaldhara, an issueless Garhwali widow residing with her young brother-in-law after the death of her two husbands.

The narrator's depiction of polyandry subscribes to the characteristically innocuous, even empowering discourses that patriarchies foster. It is founded on the fallacious notion of woman's consensus, participation and free will in entering into a marital arrangement with more than one persons, and distorts the reality that exclusive privilege in deciding the permissible sexual margin of the woman is vested in the husband or his family. Jasbir Jain points out that the social system which offers the woman "protection [a notion which is highly debatable] by making it possible for her to marry her dead husband's younger brother also forces her to violate her own emotions of maternal affection towards her young brother-in-law" (Problems 34). Considering the circumstances, it is obvious the woman is forced to use her sexuality as a tactical measure for survival. This is because wifehood alone will ensure her sanction and admission into the social realm, further consolidated by the prospect of motherhood. The multiple roles that this practice demands of the woman ("[s]he was mother, bhabi, wife everything to me," wails Faquira on Jaldhara's death [Hyder, Sound 14]) underscores the gendered psychological and material oppression of women.

The vivid image of Jaldhara's necklace of "Malka Tooria" (Hyder, Sound 5) or Queen Victoria coins draws attention to yet another aspect of polyandry, that of the bride-price. In the Rawain-Jaunpur region of the western Himalayas, the practice of bride-price constitutes a system of pre-
capitalist economies and serves as both compensation and guarantee. It reductively conflates women's reproductive labour and other forms of (unpaid) productive tasks and services performed by them into domestic labour. The bride-price is charged by the father for losing his daughter's physical labour of his household, with the husband and his household purchasing the bride's capacity of physical work and of begetting children (Bhatt 152). The institution of polyandry which maximizes the extraction of female labour arises from societal needs predominantly masculine in emphasis, involving the requirements of the household and its material resources and facilities. The social exigencies of such an economics, one of the several in a highly diversified Indian economy, deferred the forms of marriage and family necessitated by growing political aspirations for sovereignty. Gandhi also upheld the family as the stable unit upon which state formations rested. But his graft of bourgeois familial ideology and extant patriarchal modes of labour exceedingly impeded the entry of women into paid labour and production (Sangari 345). This additionally reinforced prevailing notions that women's primary concerns were tied to the family and the home.

It is in the backdrop of such notions of the family that relationships connected to formal marriage come to be redefined. The stabilization of class differentiation and the standardization of certain marriage forms by organized religions proscribed those relationships that did not lend themselves to ceremony. This as well as attempts to homogeneously impose standardized forms of marriage on the general population and the conceptions regarding the virtue of monogamous conjugality were principal
factors in the establishment of the nuclear family. Consequently, the authority bestowed on the legally married wife delegitimized other identities linked to sexual “autonomy and pleasure” which henceforth came to be solely associated with the male (J. Nair 148). In the process, female identifications were drawn into class relations of services that carried domestic and moral values.

The reformist emphasis on monogamy and standardized marriage widened the rift between two relevant categories of women--the wife and the concubine and/or prostitute. In Hyder’s “The Street Singers of Lucknow,” the misogyny manifest in the denial of domesticity to public women like Rashke Qamar and Sadaf Ara Begum issues from the aforementioned ideological reformulations that set up a family/counter-family dyad in the narrative. Both women are located outside the legitimate institutions of family, domesticity, marriage and inheritance on account of their caste genealogy which is that of courtesans and class-based identity as mistresses and/or concubines. In pre-capitalist-capitalist, pre-Independence India, concubinage and courtesanship were structural modes of maintaining male sexuality in a feudal ethos. These social forms were framed and sustained by the extra-economic practices of patronage and hereditary clientage engendered within feudalism. The redefinition of relationships in orientation to emerging notions of legitimacy and morality altered and reconfigured the value of such sexual economics, thereby eliminating those informal arrangements that did not conform to formalized conjugality and to the legitimate family. The burden of this ideological shift settled most heavily on the low-caste, lower-class concubines and
mistresses who, deprived of their structures of dependency were susceptible to exploitation.

The exchange between Narendra Verma and Sadaf Ara Begum engages the politics of these changes:

“...Shouldn't he [Farhad] have married a girl selected by his parents?”

“...Farhad Saheb should have defied his silly old parents and married our Qamrun. She had even borne him a son. I know you [i.e., Verma] will do exactly the same. Whichever holy virgin Rajkumari Saubhagya Lakshmi your Mataji selects for you, you'll go round the sacred fire with her.” (Hyder, *Street 26*)

Not only were these women's sexual licence proscribed and their perquisites or inheritance withdrawn, but the particular non-domestic service they provided was relocated in a market economy that threatened to expose them to the public and transform them into commodities. This calls for a closer look, especially at two mutually unrelated yet possible influences generated at the sites of the legislative and religious spheres.

The first relates to the historical framework of changing hereditary customs specifically the “anti-nautch” campaign which eventually came to a resolution in the year 1947. The campaign in effect had started nearly six decades earlier as part of the early reformist project to standardize marriage, subject to a more homogenizing morality, when social activists tried to draw attention to what they considered the degradation of women
and the threat posed to the integrity of family life by the nautch-girls or courtesans (Tharu and Lalitha, “Empire” 211-12). The Bill of that year with express reference to the devadasis sought to ban the ritual of temple dedication as well as to confer on these women rights to property and to marriage, and to legitimatize the status of their children so far denied them. In retrospect the impact of these legal deliberations within the circles of women who shared several analogous ideological, social and economic features with the devadasis, most apparent in their sexual exploitation, cannot be overlooked.

A second contradictory and debatable influence may be traced to the incidental, seemingly insignificant, portrayal of the legal wife. She—whether Diptiyan, wife of the lecherous Deputy Saheb or Agha Farhad’s wife—is represented as inducing a sense of fear in the husband, keeping in check his promiscuous inclination by precluding potentially threatening situations detrimental to her interests and status within the family. The domestic prerogative in addition to being a privilege accruing to the woman through the legality of her marriage finds an approximate predecessor in a kind of rebel wife called a nashiz (Mernissi, “Feminity [sic]” 88). The concept of the nashiz derives from first century Arab Islamic society and refers to a wife who confronts her husband either in act or in word. These women rejected “the basic principle of the Muslim marriage: the husband’s authority over the wife and his right to polygamy and repudiation” (Mernissi, “Feminity [sic]” 94). The custom of maintaining an alternative family through courtesans or mistresses no doubt differs from polygamy by its illegitimacy and the consequent denial of right to patrimony and the
patronymic, even as it remains within the domain of accepted traditional social practices.

Yet to substitute the *nashiz* for the legal wife, for argument’s sake, would not be factually incorrect. This is substantiated by certain social and material factors common to both sets of women. These were the differentiating and segregational buffers of genealogy and aristocracy which paradoxically empowered the *nashiz* to impose certain conditions that deprived the husband of the right to change residence at will, to have many wives, or to divorce by disavowal (Mernissi, “Feminity [sic]” 94). In exercising similar prerogatives, the wives-by-law exposed the limits and pretences of paternalist protection, and highlighted their claims to maintenance, security and inheritance as well. Although positioned in different historical structurings of paternalism, both women occupied the same structures of insecurity in which male desire was naturalized as arbitrary. But at the same time, the agencies conferred on the wives inadvertently furthered the depression of women, as in the case of such characters as Rashke Qamar and Sadaf Ara Begum. If at all the overbearing wife modelled herself on the *nashiz*, it signified the revivalism of religious laws in keeping with the character of the pre-Independence legal system.

In Hyder’s “Aunt Gracie,” the paradigm of the family/counter-family dyad is articulated in relation to the conjunctural politics of cross-denominational alliances, differentiations and the ideological inconsistencies of a transitional period that blurred the margins of permissibility. Gracie, the self-styled housekeeper to Nasir Chacha and an
ayah to his son Asghar, is a widowed Anglo-Indian threatened by the
imminent annulment of the pseudo-family she is part of. The widower-
Nawab’s prospective plans of remarriage conforms to the prescriptions of
existing domestic ideologies implicit in the establishment of the nuclear
household with its formalized marriage, and the rejection of informal
liaisons. For Gracie this indicates the redefinition and relocation of her
services as waged domestic labour. The semiotic of maintaining the unlikely
family unit is voiced only in her prayers that ironically evoke the Christian
equivalent of the bourgeois nuclear household—the Holy Family: “You never
become widow at twenty. You never slept in lonely verandahs...Your son
never got a stepmother...” (Hyder, Sound 63). This desire is however
inhibited by the denial of sexual pleasure to the waged servant under the
combined pressure of a nuclear yet traditional family, the legality of
ceremonial marriage, the class ascriptions and labour gradations
engendered in an economic system that comprised elements of feudal and
embourgeoised gentry. And these ideological strands converge in the spatial
demarcation at the engagement ceremony where Gracie stands “outside in
the gallery, along with the other ayahs” on the fringes of the drawing-room,
the centre of the festivities (Hyder, Sound 61).

Gracie’s marriage to the Nawab years later, temporarily oversees the
transformation of the pseudo-family into a legitimate family. Partition and
forced migration by ensuring the dissolution of the extended family and
community fosters the viability of this unorthodox nuclear family. In fact
the change in Gracie’s situation from a domestic to a legal wife mediates
between older and newer patriarchal forms, systems of economics, and
absorbs some of the tensions that ensue from these transitions. It also conceals the gendered exploitation of her (unpaid) productive labour which is grafted onto domestic labour, as well as the responsibilities that settle upon her with the withdrawal of services effected by changes in family structures and community hierarchies. But the narrative appears incapable of sustaining the unconventionality of such a family and its transgression of denominational, economic and class determinants. As a result, Gracie is written out of it, through her subsequent disappearance after the Nawab's death, with Asghar and his wife refiguring as the legitimate family.

The flexibility of class hierarchies accompanying the expansion of class forms in urban post-Independence India universalized domestic ideologies and instituted them through civil and personal laws. In the course of redefining, restructuring and standardizing cognate institutions through the logics of law, state legislations regulated related practices only to a certain extent. An outcome of these developments was the reinforcement of stereotypical notions of women's roles and identities in the social and psychological domains. Another less pronounced aspect of the legal system in India, and that of the familial and domestic systems are their common patriarchal origins. So the possibility of their collusion in consolidating the male ego as the source of authority and alternatively as the focus of restraint is not a fiction. Not only is the extra-marital relationship between the male protagonist and his partner Nandita, in Rajee Seth's "The Third Palm," liable to failure. It is also seriously compromised by male desire which is naturalized as being resistant to social structuring. The interchangeability of issues concerning legitimacy with value-based
issues regarding male pleasure and authority, suggests not merely the closures but also the gaps in the shift from a non-institutionalized paternalism to an equally patriarchal and paternalist interventionary agent:

He never did understand whether she valued him or a home more...perhaps a woman after all still needs a home! (Seth, Against 39)

A hidden misogynist ideology operating here concerns the visibility of working women in the labour force, which serves to impose a “moral” code of values on them. This cultural valuation plays a powerful role in the internalization of limits and in the production of social stigma that bears directly upon women’s status with specific reference to principles of domesticity and conjugality. So, Nandita’s reservations about the feasibility of the relationship is expediently construed as indecisiveness by the protagonist, through a punitive displacement of responsibility for his apparent procrastination in seeking a closure on the spent affair: “And she never decides” (Seth, Against 41).

Positioned within the assemblage of family ideologies, yet contravening the internal dynamics of patriarchal surveillance, order and dominance are the issues of the unmarried woman and illegitimate pregnancy. Sarah Joseph’s “The Masculine Gender of ‘Maiden’” elaborates this discrepancy by engaging the social entity of the family with its archetypal dyad in the religious sphere--God the (absent/invisible) father, Mary the mother and Jesus the son. The gendered discriminations organizing relationships, simultaneously structure the forms of their
expression, evidenced in the absence of a corresponding masculine synonym for the word, "maidenn." The politics of language governing diction, definition and usage acquire added signification in the context of the dissociation that the term "maidenn" effects in the young daughter, setting off a trail of events that culminate in her suicide. With an etymology inscribed in a historical and cultural process of desexualization, the term maiden\(^5\) is incapable of accommodating the pregnancy of the unmarried girl. Her attempt to ascertain a correspondence with the theological realm likewise is foreclosed due to the inviolability of the Divine mysteries:

She [the daughter] gently asked of mama about Virgin Mary....

She [Mama] concealed her shock from the daughter and said:

"You lie clown and pray to the Holy Mother." (Joseph, "Masculine" 46)

The semiotic and semantic displacement in the exchange between the mother and the daughter demonstrates the underlying tension in reconciling the implications of a virgin birth with its refiguration as sacred maternity, and the eternal infallibility of the mystery with the anxiety of doubt. In the material realm, these inconsistencies translate into the contention between the "reproductive sexual economy of the family" and autonomous female sexuality (J. Nair 169). A problematic in Christian theology, sexuality, the original sin, was a threat to be suppressed and negated in the human-ness of Christ and the immaculate conception of Mary.\(^6\) This ideological desexualization, however, systematically instituted the family as the unit of sexual economy, and vested in sexuality the duty
and function of reproduction. A correlative aspect of these reconfigurations was the disconnection effected specifically between the woman’s body and its desires through the limitations placed on sexuality. The tension between sexuality and its desexualization generates two visions, each antithetical to the other. A terrifying image of the dead daughter derived from Christian rites for the dead, emphasizes an unconscious desire on the part of the mother for the death of the daughter, and is offset by the mystical image of the interaction between the naked girl and the white dove in the form of a flame, suggestive of an immaculate conception. Ultimately, the materiality of an unaccountable pregnancy cannot find sanction, unlike the mystically preordained birth with its corroborating belief systems and institutions. The denial of a parallel legitimacy in the temporal sphere is borne out in the suicide of the daughter by hanging, and the repression of sexuality along with the destruction of the embryonic family.

The family is a nurturing location where the laws of patriarchy are inculcated and maintained, and the positions of the male and the female are consolidated. It is also the gendered site of the division of labour, the organization of households and patterns of daily life, and the realm where economic, social and patriarchal pressures join forces to ensure systemic continuance. The solidarities and interdependencies these generate among men enable them to dominate women so that acts of oppression and intimidation are legitimized as modes of protection.

The joint family household portrayed in Vaidehi’s “Akku” captures in unerring detail the location of women with regard to their roles within the
family, the sexual division of labour and gender relations. The women form a network--Dodatte, the widow who “had dragged home her wandering husband and lorded it over him” (Vaidehi, “Akku” 19) Bhanu Chikki who “actually dares to speak up a little” (Vaidehi, “Akku” 15) mentally unstable Akku “alone who is under no obligation” (Vaidehi, “Akku” 15), Thammaiah’s silent wife and other peripheral, shadowy figures whose disembodied voices occasionally break through--held together by kinship bonds cemented by economic, social and moral compulsions. Division of labour is strictly based on gender:

The rest of the household is there to churn butter, add spices to food, wear new saris and jewellery at weddings or whatever. The men look after the business and report to Ajjayya. (Vaidehi, “Akku” 15)

Male violence whether employed to subjugate an intractable Akku or keep the younger female members in check, is sustained by women’s consensus and overseen by older women. Uncle Vasu’s reproof is thus complemented by Doddatte’s censure:

“How dare you girls be so forward! Get back at once or else...” We were pushed back like cattle [comments the child narrator].

... “These girls, they are all ears when they are growing up.” Was this not the same Doddatte who had goaded Uncle Vasu into asking Akku if she had enough milk? (Vaidehi, “Akku” 20-22)
Govind Kelkar claims that gender-based inequalities generated in the micro sphere of the family is supported by a state ideology of male dominance (181). Despite differing opinions on the subject of state support, the state in India has never attempted to effectively outlaw the subordination of women by men. Nor has it endeavoured to rectify or restructure particular inequitable relations of gender and stereotypical notions of women’s relational roles and status within the family.

With independence, the Constitution makers chose to continue “the existing system of legal pluralism, with regard to religious personal laws” (Parashar 76). The major religious communities were to be governed by their respective laws in matters of marriage, divorce, succession, adoption, guardianship and maintenance. And in these laws women have less rights than men in corresponding situations. Reforming Hindu personal laws and abrogating customary laws which were favourable to women was intended more to unify and modernize the law in keeping with the fundamental principles of the Constitution than to empower Hindu women. Although equality in civil rights was decreed in 1955 with the passing of the Hindu Reform Code Bill, this was not upheld by respective laws in the social sphere (Raj118). The expediency to preserve the privileges of men despite endowing women with improved rights was responsible for the perfunctory modification of female roles (Parashar141).

The post-Independence state’s intervention in the private realm through the framing of personal laws is given to contradiction. While it rehearses the Orientalist split between rationality and faith, it
simultaneously draws on the colonial conflation of religion and law. This is due to the peculiarity of the Indian secular state which in a situation of religious pluralism is constitutionally empowered to intervene in the politics of religion. It is this quality that enables the selective replacement of religious prerogative in the realm of personal laws with state authority, providing the state access to the domestic sphere. This only serves to reaffirm the fictional privacy of the family, especially in the context of its establishment as an integral part of a religious or ethnic community.

The Indian Constitution places greater emphasis on the individual than on the community as the unit of society (Parashar 195). The rights accruing to citizenship relatively curtailed the regulating functions of social and communal groupings leading to the individual’s reduced susceptibility to and dependency on its agential powers. Citizenship rights, to reiterate, eased the stranglehold of kinship, caste, ethnic and religious orders on the individual. As a rule, this holds good only in theory due to the agency granted to religious and/or customary laws in governing personal (family and conjugal) matters. Moreover, as Sylvia Walby points out, “the concept of citizenship depends upon the public sphere, the term having no significant meaning in the private” (176). By such a premise the privacy and independence of the individual remain a fiction.

The agency of the modern state in the framing of progressive gender politics is simultaneously dependent on the transformation of institutions and material systems that bind women to customary and religious practices. Obligatory compliance with the law certainly ensures a degree of
justice to the female sex. But, in the Indian context, the plurality of legal forms and modes generated in the cross-hatch of economics, religion and the social existing in different spatial and temporal configurations, come into conflict with the state legal system.

Domestic ideologies in themselves are not inviolable. The locations of status and conjugality within these may be subject to resituation by a covert alignment between the pre-modern and a conservative modern. Here, women’s productive and reproductive domestic labour maintained by the logic of sacrificial domestic ideologies tie with structures of dependence or extra-economic coercion in pre-capitalist and capitalist social formations, mutually shaping each other. Jasabanti’s sexual exploitation as a bride by the local ruler Kunwar Sahib of Shyamgarh, is viewed as an exaction of the services obligatory on women in a feudal system of hereditary seignioralty and privileges. The socio-economic aspects of such a practice establish a corresponding set of familial, household and extra-marital arrangements that support and permit relevant forms of labour and terms of production, although strictly along caste and/or class axis. These elements are manifest in the alliance between the upper-caste Rajput landowning subjects and their Rathor seignior, the provisions for a sub-caste, the Kshetraj, to legitimatize the male child born in that event, and the social elevation, financial remuneration and maintenance for the child accruing to the party involved:
"The birth of a child fathered by the king entailed respect for the girl's husband and his family... Jasabanti would get immense money and respect. Thakur Sahib wasn't unaware of this praxis though."

"Jewellery came from Shyamgarh. Thakur Sahib got so much land he become a small landlord." (Devi, "Jasabanti" 29)

Jasabanti's dual status as wife and fallen woman, within the different forms of cohabitation and marriage in relation to productive and reproductive labour processes, at this conjuncture, gets implicated in overlapping sets of patriarchies. Her husband Nabal's anger, sexual jealousy and cruelty are expressions of misogyny and signify punitive domestic ideologies that emerge from the conflict between established conjugal and familial norms, and the existing contradictions of heterogeneous social practices converging at the site of women's domestic labour in conflation with gendered moral valences. The absence of legal intervention despite the professional standing of both Nabal and his father as lawyers, indicates the preponderance of customs and emotive modes of requital over those measures provided by constitutional institutions. Alternatively, it highlights the serious oversight of legislations in recognizing the twin aspects of women's domestic labour as a crucial factor in their oppression. Foucault's assertion on the political inscription of the body as inseparable from its economic viability, that "the body becomes a useful force only if it is both a productive body and a subjective body" reinforces this point, although it is obscure on the issue of female reproductive labour
(qtd. in Yeğenoglu 113). This portrayal of Jasabanti bears out the above arguments:

"...People crowded in to have a look at Jasabanti....

....

'Her body was covered with diamonds and pearls....’” (Devi, “Jasabanti” 29)

The legal reforms initiated by the colonial government in the second half of the nineteenth century were in general perceived by the Muslim community (if the Bengali Muslims may be taken as representative of the Muslim communities in North India) as an assault on Islam. The resultant ideological resistance hardened existing practices and turned the society inwards, reinforcing parochialism and orthodoxy. Subsequent revamping of the legislative processes in the first decades of the twentieth century witnessed a shift from customary practices to those sanctioned by the Islamic scriptures. In an effort to enforce legal uniformity on the lines of the Hindu community, the Muslim Personal Law (Shariat) Application Act was passed in 1937, ostensibly to improve the status of women, in keeping with the nationalist rhetoric of the period (J. Nair 193). But underlying the move was the burden of preserving a communal identity which to a certain extent was contingent on the religious delineation of women. This obsession with the need to safeguard identity drew attention away from the harsh realities concerning Muslim women and the need to address their problems, for fear of injuring religious sentiments or deviating from Quranic prescriptions. However conceding to demands of the propertied or educated élite, the Act
permitted individuals to choose between Shariat or customary laws with regard to matters of adoption, wills, and legacies (J. Nair 193).

Asghar Ali Engineer reminds us:

Islam lays great emphasis on gender equality and, accordingly, granted women equal rights in marriage, divorce, ownership of property etc. However, except for very brief periods of early Islam, women could never enjoy equality of these rights. The Ulema...were all [the] product of their time and interpreted the divine word from the male perspective. 8 (12)

Thus the liberating aspects of this belief system are severely undermined by the Personal Laws (in India) based on literal adaptations of the Islamic juridical literature. By repackaging hegemonic male discourse the law thus becomes a reflection of the social structures of the patriarchal society.

Manzur-un-Nisa, in Hyder’s “Housing Society” is representative of the valued ideals of female beauty in Islam—obedience, silence and passivity—both in an indifferent marriage and as a divorced woman. She is forced by the theocracy to implicitly abide by the existing laws of the period when her marriage is simply annulled through a letter of divorce. An established practice in Islam, divorce or the dissolution of marriage did not necessitate the presence of the wife at the time of its execution, according to the Dissolution of Muslim Marriage Act. 1939 of the then Muslim Personal Law (Kant 86-87). The husband who was vested with exclusive authority over the process could effect it extra-judicially by conveying to the wife that
he was renouncing the alliance, a sanction that was manifestly discriminatory towards women and contributed to their repression and exploitation. That the charge for maintenance of the divorced wife reverted to her parental family (Kant 276)\textsuperscript{10} only reaffirms the prejudice and oppressiveness of the system. Although permitted by the Quran, in actual practice divorce is frowned upon by society. With a social stigma attached to the divorcee, Manzur-un-Nisa becomes a curse on her ex-husband Jamshed. Denied personhood and voice by the veil of the purdah, she is subject to censure even from her mother when she attempts to catch a glimpse of her ex-husband: “Oh, you, burned wretch. Now, Bhaiya is namaharam to you. To be seen by him is a sin, a sin!” (Hyder, Sound 164).

Underlying this misogyny is the fear of unregulated female sexuality and the indeterminate location the divorcee occupies within domestic ideologies and social formations. Religious precepts in their execution may therefore attain an altogether different significance and value, when interpreted through the lens of existing socio-cultural ideologies.

The several ideological spaces occupied by the widow in the pre-independence nationalist imagination is never more pronounced as in her position within familial ideologies and their contests with statutory entitlements in post-independence India. A Brahmin widow with a young son and a landholding of four bighas, Chinta in Devi’s “Chinta,” antagonizes the family elders when she refuses to entrust her land into their charge. Her assertion to ownership confirmed by the Hindu Succession Act of 1956, entitles her to succeed as absolute heir to her husband’s estate on par with the son (R. Mehta 114-15). The transition from customary to legal
jurisdiction in the disposition and new forms of property ownership that this episode suggests, no doubt reduced the importance of the kin, who consequently try to reinstate themselves in this economy through the authority of prescriptive practices. But the very concept of property for women, nevertheless remains in effect firmly embedded in domestic and social systems that disallow female individuation. In Chinta's case this is evident in the tensions between systemic practices and symbolic constitution. The upper-caste Hindu widow has always been invested with contradictory functions and significations. If epitomized as the ascetic, desireless and self-sacrificing agent entrusted with ensuring domestic ideologies and securing caste and class boundaries, she was simultaneously the victim of patriarchy, the object of male lust figured as sexually degenerate, and unreliable as legatee to the patrimony. She was hence to be under constant surveillance and regulation, to be restrained due to the innate lack of self-control. Chinta's patrilocal residence locks her into dependence on marital interpersonal relations that compromise her status as an independent, propertied widow. The situation is further compounded when she elopes with Utsav, leaving her son under the care of relatives who not only were opposed to the relationship but had already been alienated on the matter of property trusteeship. And, it is primarily through patriarchy's ascendancy over familial and domestic apportionments that they act as a coercive pressure group to structure the extent of Chinta's privileges and liberties. As for Chinta, the expediency of maintaining the set of potentially supportive kinship networks with their customary authority over social ostracism, religious reasoning and ritual
practices forces her to disown her daughters born out of wedlock, exchange a relatively self-sustaining waged labour for patriarchal supervision, and to relinquish her legal rights: “It was not difficult to understand that justice and religion were on their [Chinta’s relatives] side [remarks the narrator]” (Devi, “Chinta” 89).

Chinta’s vulnerability to disinheritance, despite well-defined and implemented proprietorial legislations represents the range and the manner of patriarchal and paternalistic protection that either ceases or is violated on the death of her husband. The approximative, proprietorial association of the household to the land, of domestic labour to productive labour and the connoted idea of male superintendence, moreover embed Chinta in the family economy and pre-empts any potential individual mobility:

“I did not know anything about farming and so I pleaded with the folks of my area to help me.”

... [Utsav]...declared earnestly that he harboured no motives of mischief....How could Chinta run a household without a man? (Devi, “Chinta” 90)

The conjuncture at which Chinta’s transition from a propertied woman to a paid domestic takes place is also the site where familial and social patriarchal arrangements interlock with each other. The withdrawal of family support under these conditions not only reduces her ability to negotiate her position within the family, but also leaves her open to exploitation and destitution forcing her to enter into waged labour. Chinta’s
precarious, multiple positions as an unsupported widow, a rural migrant and a deserted outcast further stigmatize her, deprive her of choices, and undermine her bargaining capacity in the wage market. Here, the accumulative deprivileg ing accompanying widowhood and subsequent marginalization combine with a hierarchical differentiation of class and caste labour to engender notions of sexuality understood in terms of its services and productivity. The local paanwallah’s attempt to molest Chinta therefore presumes a knowledge based on the metonymic markers of the chastity-immorality binary or purity-pollution ideology: her economic impoverishment and exploitation, illegitimate daughters, externality to familial and conjugal structures, and subsistence wage. It is this very same ideology that Chinta’s relatives tap into in order to ensure her withdrawal from wage labour and her ideological as well as material rehabilitation. The expiatory rites to be performed by her at a cost of two hundred rupees, “[a]s she had sinned” (Devi, “Chinta” 91), is a form of socio-economic penalty aimed at draining her financial resources. In a manner of speaking it redirects her labour into the domestic sphere when viewed in conjunction with her desire to reassume charge of her son. But it is the sale of her two daughters which executes a final closure and reinstates her into patriarchal familial ideology.

Class is an important determinant in defining the nature of widowhood. Widowhood, a significant aspect of gendered identity may denote dominance in a hierarchy of female relations, especially when aligned with patriarchal functions like inculcation of domestic ideologies, supervision and patrolling of gender, caste and class boundaries. Doddatte
in Vaidehi’s “Akku” is a case in point, although within the wider frame of the joint family’s economy she earns her keep “by doing chores” (19). Or it may alternatively indicate female autonomy—as head of an extended, propertied household, possessing joint material interest following the death of the husband—and authority over the male members. This is what distinguishes the widowed Mother Haldar (Devi, “Breast-Giver”) from other helpless characters such as Chinta or Seetatte (Vaidehi, “Memory”). The latter is forced to put up with Venkappaiyya who insinuates himself into the family as benefactor in the absence of a male guardian, and claims his dues by exerting his right over her daughter Ammacchi.

Lower caste and tribal women’s oppression can be traced to forms of unpaid work as in bonded and/or indentured labour or subsistence production, and to hereditary structures of dependency or extra-economic coercion in the collusion between pre-capitalist and capitalist social formations. Their domestic labour at the site of other people’s domesticity, in particular, consolidated the othering and sexualization of these already marginalized women, so that non-conjugal sexuality—whether consensual or forced—was appropriated into the labour and services they provided. It is necessary to examine the concept of untouchability in this context as a quotidian customary practice sanctioned by a racially discriminative interpretation of religion, and its juxtaposition with state ordinances on the issue. Untouchability has been declared illegal by article 17 of the Constitution which essentially accepts the existence of caste-based discrimination, proscribed under article 15. The Protection of Civil Rights Act, 1976 makes the practice an offence punishable under the law.
Nevertheless, the prevalence of feudal relations in the rural regions and the system of clientage it maintains is dependent on a parallel notion of patronage that fills the vacuum where the state reneges on its own responsibilities. In the circumstances, a differentialist upper-class legal authority based on caste and gender discriminations takes root here.

Rupashi Bagdini, a young untouchable in Devi’s “Floods,” is sexually exploited by the elder Brahmin Acharya whose generosity to the poor villagers during a tidal upsurge confirms his status as patron and adjudicator. The arbitrariness of paternalistic protection becomes apparent with the retraction of maintenance and the patronymic by the “benefactor,” who marries Rupashi off to his servant when she becomes pregnant (Devi, “Floods” 42). The limited range of a legislation such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Manohar and Chitaley 41:743-56), and its inability to apply to situations in which a form of hereditary consensuality typical to the caste-victim politics is in force, draws attention to the systemic discriminations and structural loopholes generated at the ideological juncture of class, caste and state interaction.

Yet another aspect of Rupashi’s gendered caste/class oppression is the child’s ostracism by the community on account of his dubious paternity. For, “[p]aternal identity is essential for group placement and rights of access to resources” in a patriarchal and patrilineal social system (Dube 42). The term “resources” may signify certain inaccessible or denied
privileges that are eclectic by nature but often social or cultural in
dimension. To Rupashi, the much publicized meeting to be presided over by
the reformist Swami Gauranga at the Acharya household entertains the
prospect of delayed justice:

It was Rupashi’s greatest desire to ask Gauranga or even get
someone else to ask him why the son of this arrogant male
should be destined to poverty throughout his life because his
mother happens to be a Baghi. What justice is there that he
be deprived of his rightful portion of the property? (Devi,
“Floods” 43)

Under the Hindu Adoptions and Maintenance Act (1956), sub-section (1)
and (2) of section 20, the son born of adulterous or casual intercourse is
entitled to maintenance during minority (Diwan and Diwan 50-52). But the
same cannot be claimed after he has become a major. In the absence of
specific provisions for inheritance to illegitimate offspring, the only recourse
Rupashi has is to the language of change and redress offered by a socio-
religious reformatory movement. The discourse of social and legal ethics
that frames the questions raised by her does not address the issue of
gender, and instead retains the caste alignments that underlie the tenets of
such crusades with their investment in identity politics and its employment
in the name of social justice. However, the agential potential for equity
vested with this “popular” movement is suspect precisely due to its external
source of authority and indeterminate quality that widens the gap between
expectations and entrenched social reality.
Jhalo Ganju in Devi’s “Death of Jagmohan, the Elephant” is a sexual object of pleasure to the upper-caste brahmin landowner Kundan Misra who fathers for her an illegitimate son. Her eroticization rests on economic, class and caste structurings:

If the Jhalos had out of proportion projections in the front and the behind, Kundans would still take possession of them. Such was the tradition of the place. (Devi, “Death” 34)

The service she performs for Kundan while remaining married to Sukhia, expose the borderline between labour and concubinage that differentiatively deny the lower castes conjugal and domestic security owing to the “public” availability of their women. Economic arrangements or compensation are worked out in a house built away from the Ganju colony for her accommodation, and in the condescending allowances made for the child Etoa. The narrative also paradoxically transforms the relevant categories bearing upon the differencing of women into a discursive separation between them, with sensuality, vitality and biological superiority being vested in the lower-caste women, and racial debility and sexual sterility becoming the characteristic qualities of the upper-caste brahmin women. Thus, the elder Acharya’s wife rages against Rupashi Bagdini:

She doesn’t get enough to eat, without oil her hair is unkempt, but still her beauty and charm does not die. The boy is also so lovely. The Acharya’s wife even after several fasts and pujas for a son, had given birth to only girls as dark as pepper.

(Devi, “Floods” 40)
And in “Death of Jagmohan” Kundan Misra “hated the sons born of his legal wife. They were sickly, sneakish and dull-headed, just like their mother. Kundan simply loved Etoa” (Devi, “Death” 34). However, Jhalo’s gendered oppression also arises from the restraints forced on her by the community. Although reluctant to disobey Misra’s prohibitive orders with its underlying threat of violence, she is forced to yield to the collective opinion of the Ganjus, and consent to her son’s higher education. Their insinuating questions, while posing a challenge to traditional authorities, are articulated through the hidden frames of coercion and women’s violence:

What can he do, your huzr, malik, sarkar? Isn’t Sukhia returning soon? Won’t you have to return to the Ganjutoli when he does? (Devi, “Death” 39)

The child Etoa’s uncontested but unenunciated paternity, adheres to the code of “verbal deference” and refers to taboos concerning silence imposed upon inferior castes and classes in the interests of preserving the mystique and power of élite groups (Rajan 85). Here caste prerogatives and exclusions are decisive factors in the issue of access to education and its empowering possibilities:

Kundan was afraid of Chhetri [the mukhia of the gram-panchayat] ... He had every right to beget children by Jhalo, but he had no right to send those children for higher studies. (Devi, “Death” 36)
It speaks volumes for upper caste control over government resources, projects and institutions, a normative practice in rural Bihar of the sixties. Defiance results in the gruesome murder of Etoa at the behest of his biological father.

For Rashke Qamar the former mistress of Agha Shab-awez in Hyder’s “The Street Singers of Lucknow,” locating the father of her illegitimate daughter Mahpara acquires a new sense of urgency. Kinship and thereby paternity are the principles that govern the accessibility, distribution and control of resources, the formation of group identity and membership in the group, as well as the rights and obligations of the members. Moreover, paternal identity and acknowledgement in the case of the female gender functions differently from that of the male in the ends it aims to achieve. The objective for women relates to the establishment of alliances in which social and economic categories and genealogy are cardinal elements that not only indicate the status of the natal family but also determine the location of the women within the marital household:

...Agha Shab-awez must somehow assume the responsibility of looking after his daughter....“Mahpara must go to her father. She must get married.” (Hyder, Street 31)

By Muslim law, a person is exempt from obligation to maintain his illegitimate child, unless he has entered into an agreement of maintenance. Its inherent provisions ensure the validity and execution of the contract and the father’s liability to support the child (Diwan and Diwan 73). Rashke’s dilemma arises from the temporary, non-contractual relationship with Agha.
Shab-awez in the capacity of his mistress, and the contestability of her claims especially in the light of his being kept in the dark about the existence of a daughter.

The young female divorcee-narrator's psychotic delusions of her imaginary trial in Vaidehi's "The Investigation" unconsciously draws on the conflict between social values and customary observances, and the civil measures instituted by the state to safeguard women and ensure them equitable justice. Her return has put a strain on familial support networks and relationships. The hallucinatory court scene standing for the public arena overwhelms the apparently reassuring and encouraging words of her brother:

Nothing has happened that you should be so exercised about....So what? Are you without brains or education?....There's still a lot of scope. Appiah and I - aren't we still there?.... (Vaidehi, "Investigation" 23)

The questions raised by the prosecuting lawyer imaged in the person of the former servant Bab: is indicative of verbal and material elements constituting the legal authorities of the community:
“Anyway, why did you run away from your husband? If so many of them disliked only you, then something must be wrong with you...”

...“...Did you come off yourself or did he leave you...? Or did they all get together and break you up....” (Vaidehi, “Investigation” 86)

Conceived within the frame work of familial ideologies the narrator’s victim-status is challenged and reviewed. She is, in a misogynist displacement of discursive categories, falsely arraigned for violating gender codes and disrupting social institutions.

The court is raised on the body of the psychotic. The rhetorical questions elide what the objectified narrator’s silence elicits—a system of violence towards women that comprises issues of domestic abuse and psychological harassment. Babi herself demonstrates the norms of regimentation—of compromise, conformity, submission and self-denial—in complying with societal authorities, whether parental or marital. Duped into a polygamous alliance with a profligate man, her initial rebellion is foreclosed by the threat of desertion and lack of familial support. And continued cohabitation with her husband despite his depravity and illness proffers a pattern of wifely submission, and prospective material and moral benefits.

Of course one has to take into consideration the class factor which plays a substantial role in determining a person’s access to the special
legislations enacted to assist and insure women against oppression in a male-centred social set-up. Under Section 13 (2) of the Hindu Marriage Act of 1976, a woman may seek divorce on the ground of "[r]emarriage of the husband during the existence of a first marriage i.e., a wife living. Any wife (former or later) of the polygamous marriage may seek divorce on this ground" (Kant 177). And under Section 495 of the Indian Penal Code Protecting Women, bigamy with concealment of former marriage is liable to a maximum punishment of ten years in addition to a fine (Kant 156). In 1984, in partial recognition of the need for extending the "protective" arm of the state into the family, the Family Courts Act was additionally passed. Inherent to it was the view to promote conciliation and to dispose of disputes relating to marriage and family affairs (J. Nair 238-39).

But customary obligations and instituted gender roles render such interventions taboo. The protagonist Kusum is forced to come to terms with this prejudice thus far subdued by the modern rhetoric of legality and equity. In the event, understated discrimination and censure take on surreal dimensions in the psychotic imaginary where the audience comprising her family and Babi's family are figured as the conscience of society arrayed against the respondent: "No. There was no one from the 'other' side. There was no one to listen to my answer" (Vaidehi, "Investigation" 86) And the unoccupied seat of justice, emblematic of the absent-presence of a dominant patriarchy delivers the final sentence (of guilt) as she slips into the silent realm of psychosis. The mental breakdown also intimates the complex of pressures generated by conflicting codes that impinge on her sense of being. The corpus of legislations, far from providing
women reprieve, masks the overwhelming, patriarchy-induced hurdles to the realization of their rights.

The court as a metaphor makes its presence felt in the subjective deliberations of the neurotic protagonist Minni in Rajee Seth’s “Eternity.” The act of consigning the bundle of letters to the fire is ritualistic in its temper and invokes a purificatory symbolism that will cleanse her of inherited psychological imprints, the inveterate fear and guilt of infidelity. Infidelity is regarded here in its conventional sense as a latent habit pattern of women, considering their proclivity to sexuality and treachery. It corresponds with adulterous behaviour, the conceived wickedness of which is contingent on “particular marital norms and practices” (Shrage 2). The essential evilness of adultery then is moot, and being a state of mind rather than an indulgence of the body in this case, becomes even more disputable.

It is this point in question so crucial to the integrity of Minni’s subjectivity that triggers the neurosis in the sphere of the judicial Imaginary:

...Who was she, who was standing trial since eternity; trying herself since ages in similar courtrooms. Why did she think that she alone should answer all the questions? There were other culprits too, in this trial? There were other facts necessary for a verdict?....(Seth, Against 35)

The subconscious policing of the historical self in order to enforce “the purity of [female]...conjugal pledge” (Seth, Against 35), authors her universalization as a schizophrenic projection of everywoman. Tragically,
the symbolic image of the court communicates the character of a biased arbitrator complicit in the reconfiguration of hierarchies and the reconstitution of gendered codes. In the process, it enacts an elision of the obligations and responsibilities incumbent on men through rulings that uphold patriarchal ideologies. Since the moral philosophy of law can only be conceived within a social dimension, the issues that the protagonist’s rhetorical questions raise dispute the logical and secular basis of the ethics and values outlined by the discourses of law. The potentialities inherent in these self-interrogations are decisive elements in determining whether women emerge as citizens of the nation or as subordinate subjects of their immediate communities.

The analysis leads to the conclusion that the law is both a medium of “liberation” as well as a political accessory to the reproduction of an oppressive order. Both the law and the state have their respective limitations. But to argue for the endeavours of the state at empowering women over that of the legal system would be to intentionally overlook official shortcomings: its negligence in identifying causalities and defining categories of gender discrimination. A pertinent aspect concerns the state’s reluctance or inability to restructure the power balance in family forms which continue to favour men in spite of reforms (Parashar 273). Nor would it be incorrect to argue that state “protection” and intervention through juridical measures in the gender conflicts within civil society, is merely an extension of patriarchal ideologies.13
The subjugation of women serves the economic interests of men and is justified by institutionalized racism and sexism constructed through the textualities that give meaning to everyday life. Religion's textual authority is a leading factor that strives against competing “truth” systems for hegemony over material values and practices. As long as religion continues to be an influential ideological resource, the democratic state will have to continue to contend with its power—either wielded by religious political leaders or political parties—in the legislative sphere. This accounts for the ambivalent attitude of the secular state towards religion and the inconsistent relationship between state law and religion.¹⁴

The rehabilitation of women, historically displaced out of the participatory rites of polity formation, was accomplished by conferring on them rights as legal subjects. The corrective effect of legal logic that the reformers had hoped to achieve through the autonomy of judicial power, was however usurped by the “discursive explosion” accompanying the refashioning of female identity at the pre-Independence conjuncture (Visker 78). Such being the case, the objective of intervention in any judicial decision is not the rehabilitation of rights to the judicial subject in exercising her will which is inextricably tied to choice. It rather interpellates a mediated object dependent on a legislative apparatus to affirm the status of her will as autonomous and to determine the limits of that will. And it is also precisely at this point that religious and communal ideologies with their substantive hold on the self acquire referential value. Their truth-claims paradoxically draw legitimacy from the affective and the relational rather than the intellectual, and so supplant the rational objectivity of legal
logic. Needless to point out, the inclusion of sacred and customary laws within civil legislation discourages the concept of individual will which is specifically gendered in application.

At the popular level the plethora of legislations pertaining to women has contributed to the spurious impression of an enhancement in women's status in society in terms of actual achievement. The belief that there is little need for reform in the Indian woman's position is a sequel to this. Besides, if citizenship conveys a particularly masculinist identification on account of its association with political participation and public opinion formation, then women as citizens become a problematic category. The reasons are varied. That the mass of women are not yet aware of their legal entitlements is the most important. Well-entrenched subjugation to patriarchy with its use and abuse of customs and traditions is another major factor. As part of this conspiracy religion, ethnicity and society enforce differential norms upon variant groups of women and thus confine them to a narrow sphere of stock expectations. Literacy and education as vehicles of empowerment might be unassailable as theory but need not withstand the rigours of practice. Terry Threadgold defines more specifically the masculinity of citizenship as being intimately connected with a "liberal intellectualism, with a strong prejudice towards rationality and a firm belief in the legal bureaucratic State and accomplished through the supposedly gender-neutral medium of power" (112-13). The ideological contradictions and gender imbalances inherent in legislations call in question the Indian state's claims to autonomy, the authority of disinterested logic in the formulation of its legal policies, and commitment to liberal reforms.
Patriarchal prerogative which dominates notions of legitimacy through contrary philosophical systems delimits the parameters of citizenship for women, while widening the ideological scope of its application for men. Despite their overlaps, the wide gap between the legal system and society, constitutional institutions and extra-legal injunctions, the private and the public, and the unequal interactions of the state and the populace indicate the perfunctoriness of women's citizenship. And in the writers' texts this translates into an aporia. Here gender interacts and engages with legal, material and social ideologies at the site of women's narratives, offering a critical perspective into the construction of female subjectivities, and women as quasi-citizens.
Notes

1 This was reflected in corresponding legislations enacted in the 1930s whereby the Hindu personal law was modified, with the help of (native) government representatives at the behest of the reformers, to give Hindu women a good share of legal rights (Parashar 75). The alterations encompassed the categories of marriage, divorce, property and succession, and coincided with (upper-caste, middle class) women’s entry into education and organized labour.

2 Tabassum F. Sheikh in “Muslim Women and Social Life” argues that the conditions and circumstances entailing the segregation of women and the practice of purdah were framed in the intervening episteme of the Prophet and reinforced during the subsequent periods when the teachings were misinterpreted by various religious authorities. This resulted in the distortions of facts and its consolidation into a religious precept (Raj 148).

3 For contrasting points of view, see Kant 72; and J. Nair 50.

4 This incident can be considered as a case in point of the devolution of administrative powers inaugurated by the Montford Reforms Act of 1919 (Manorama 484-85).

5 The word “maiden” signifies, among others, a virgin and a young unmarried woman (“Maiden”).

6 Mary Daly in her seminal work Gyn/Ecology posits the origins of the principal Christian patriarchal myth in the dismemberment, refashioning and retelling of the original pre Judaeo-Christian Goddess religion that
stripped it of any female power (Eisenstein 108). Therefore Mary typifying the virgin mother who exists in relation to her perfect son Christ, is a reconstruction by phallic ideology of woman as the desexualized mother of masculine mythology.

7 Political sociologist Archana Parashar doubts the validity of such claims as there are no explanations available about how the various parts of the state correlate their actions to produce or support patriarchy (39).

8 Fatima Mernissi reiterates the egalitarian dimensions of the early period of Islam by pointing out that the notion was spelt out in stipulating piety as the only criterion for determining one’s rank in the social hierarchy (Women 138). This was naturally perceived as a threat since it bestowed on women the right to claim social equality as believers and which by extension endorsed the notion of individualism.

9 This is outlined by Fatna Sabah in The Woman in the Muslim Unconscious (qtd. in Mernissi, “Feminity [sic]” 88).

10 Although the Quran imposes an obligation on a Muslim male to make provisions for the maintenance of his divorced wife, Muslim law does not recognize such an obligation on the part of a man (Diwan and Diwan 83, 85).

11 On chastity was vested the power to safeguard property, especially when the woman was either the trustee or the possessor of the land, points out John Langdon-Davies in the context of eighteenth-century England (350).
It is interesting to note that as far back as in the 1930s, in the princely State of Mysore, Section 25 of the Hindu Women's Rights Bill entitled a wife to refuse to live with her husband and claim separate maintenance when, among other reasons, "he is suffering from any venereal or loathsome disease" or "when he habitually misconducts himself with other women" or "when he marries a second wife" (J. Nair 209-10). The present laws appear quite inert by comparison.

"...[T]he edifice of legal justice in India is more or less wholly constructed, interpreted and administered by men, and its underlying concern is primarily the protection of patriarchal privilege," asserts Janaki Nair (5). A more incisive and provocative view put forward by Ratna Kapur and Brenda Cossman questions the very rationale behind protection of women as the weaker gender. It observes that while granting protective measures in one set of cases, in another set of cases the courts uphold the view that for the purpose of legislation women and men are the same and therefore the law must treat them in the same way (M. Nair 15).

On the one hand the state subordinates the claims of religion to those of the polity by executing reforms in personal laws. And on the other it acts as a patriarchal ally by upholding male privilege, avers Archana Parashar (44).