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## BOOK REVIEW

### THE NATIONALIST HISTORY REDEFINED

*Sunil John\**

**"WOMEN AND LAW IN COLONIAL INDIA: A SOCIAL HISTORY"**

by Janaki Nair

Kali for Women and National Law School of India University, 1996,  
pp. 259, Rs. 300

Tracing the social history is what a number of historians have attempted in the past, but Janaki Nair's persistent attempt to highlight women's participation and their demand for new and just social order, whether by protest or by legislation, is quite unmatched and will go a long way towards rewriting the Indian social and legal history of the colonial times.

It was only after the arrival of the colonial masters to India in the seventeenth century that the legal differences in India became evident and began to be measured through the Western eyes and their western standards. The British contributions to the unification of India cannot be seen in isolation. Though the purpose of introducing the railways and the postal services were to improve the movement of the British troops and strengthen their hold on Indian boundaries and the economy, it improved the people's movement within the country and informed them of the conditions of people in the other parts of India, especially the English understanding babus employed by the Britishers. Both the social reform movement and the nationalist movements were steered by these urban English speaking, western educated middle class Indians.

The presence of patriarchy in almost all the spheres of Indian life seems to have no known history. Physical circumstances and regional differences have rendered patriarchal values so much pre-historical that patriarchy has emerged as 'part of nature' and hence accepted as natural not just by men alone but also by women. It was these middle class western educated Indians who identified and voiced against the patriarchy based social problems of women. The earliest reform movement in India drew a lot of support from the orientalist, especially William Johns, J.D.M. Derrett and James Mill who learnt Indian languages and translated to English such works as 'Dattaka Mimamsa' and 'Tithi Tattva'. Of course it contained their interpretations and impressions of the Indian culture and the understanding of the Indian womanhood.

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These works influenced the social reform movement in India by the western educated Indian men and they highlighted the differences in the application of the legal ideas among Indians on the lines of caste, region and religion. This made necessary the need to codify the Indian laws by 1830s and it was for the courts to deliver justice on the essential doctrine of "justice, equality and good conscience". In order to bring some coherence to the body of laws, the first Law Commission was set up under Macaulay, law member of the Government of India. In 1860, the Law Commission produced the draft of the Indian Penal Code and the second Law Commission drafted the Criminal Procedure Code in 1861 and reorganised the judiciary. However reformist administrators, such as Warren Hastings and William Bentinck never thought of reforming those laws which would free the Indian women from the bondage of social, cultural and religious norms as all the changes benefitted only the men. The various studies undertaken during the colonial period brought out the image of the Aryan women as the helpmate of the Aryan men in sacrifice and war, thus creating a stereo-typed and ideal-typed women which subsumed all other forms of womanhood and became the ultimate middle class standard for all Indian women.

Janaki Nair has argued, that it was this figure of womanhood which was thoroughly de-historicised, that social reformists like Ishwar Chandra Vidhyasagar, Mahadev Govind Ranade, Raja Rammohan Roy and Bal Gangadhar Tilak had in mind when they argued for more education for women or the legislation against Sati. It is in this context of the development of the socio-legal history of women that Janaki Nair has framed her chapters to cover each and every issue that dealt with women. From the earliest legal intervention into the working conditions of women in plantations to the latest judgment of the Kerala High Court regarding the property rights of Syrian Christian women, she has covered every social, political and economic segregation of women in India. Throughout all her chapters, one can feel the development of the Indian feminist movements and the building up of the argument for the need of a larger representation of women in the legislature to deliver the good.

Janaki Nair's chapter on Nationalist Patriarchy and the Regulation of Sexuality clearly underlines the position of the nationalist leaders regarding women's sexuality and its control. The base for all patriarchal discourses in India is the woman's chastity and the inherent fear of the male about the female sexual prowess. Newer traditions and customs actually emerged to control this sexuality of the women. The nationalists were more worried about the erosion of Indian traditions and values and replacing them with the western ideologies than the growth of social problems. The fear that the women's movement might exactly do this made them extremely cautious of the women they were supporting and the type of legislations that these women leaders took up in the legislatures. Consider Muthulakshmi Reddy's plea for marriage reform:

"Let us bring back to our modern society our ancient ideals of chastity, self control and renunciation as self-indulgence and selfishness brings in its train disease and death".

The nationalists ideal of patriarchy makes a very good sense of the defeat of the Uniform Civil Code which seek to have a Uniform Family Law for all the religious groups and minorities. It is interesting to note that while uniformity in the civil and the criminal laws were much sought after, family laws remained untouched both by the British rulers and by the later day nationalists. Since family laws dealt largely with women, they were termed as personal and hence "religious". The major laws enacted therefore dealt only with the majority Hindus.

Janaki Nair, in her book "Women and Law in Colonial India: A Social History", has succeeded in defining the range of problems faced by women in India, paying full attention to the complex ways in which caste, class and community construct gender in order to evolve a strategy which will produce a total social transformation of the Indian society. This alone can bring social equality and deliver social justice to Indian women.