

Legislating Women's Lives

Women and the Partition of India

BY RAJWANT MANGAT

Cet article fait le tour des actions et motivations de l'État indien qui cherche à localiser et à réhabiliter les femmes enlevées pendant la révolte communale qui a eu lieu lors de la séparation de l'Inde et du Pakistan en 1947. L'Opération centrale du recouvrement par les États indiens et pakistanais, montre bien que cette démarche a fait des femmes un instrument au service des intérêts nationalistes de la collectivité mâle.

The regulation of gender is central to the articulation of national identity and difference. In particular, the perception of women as bearers of group identity and as boundary markers of community has had a destructive effect on their emergence as full-fledged citizens of modern nation-states. The purity/pollution of women's bodies is the most tangible marker of group identity and honour. As Cynthia Enloe states, the sexual purity of women is gauged in ideological terms because women are seen as:

the community's most valuable possessions; the principal vehicles for transmitting the nation's values from one generation to the next; bearers of the community's future generations; members of the community most vulnerable to defilement and exploitation by oppressive alien rulers; and most susceptible to assimilation and co-optation by insidious outsiders. (54)

National revivalism in India, with its logic of totalizing the nation by leveling internal social differentiation and suppressing caste/class dif-

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ference, has targeted women first. Women are constructed as "Mothers of the Nation," their re-productive role stressed, and their bodies instrumentalized in the interests of the state (Jayawardena and de Alwis). As such, the nationalist project, while having drawn women out into the anti-colonialist struggle, simultaneously imposed a new agenda for women as cultural (and national) repositories of tradition. As "Mothers of the Nation" (or potential Mothers), women become objects in the possession of a male-national collectivity. Further, as the property of this collective, women come to symbolize the "sacred, inviolable" borders of the nation (Jayawardena and de Alwis). Women and property are inextricably linked in much of the communal discourse: if male "aggressors" desire women as property, male "victims" equally see the violation of women as a violation of property.

The notion of women as property has dire consequences for their rights

as subject-citizens, especially in times of communal conflict. The position of the Indian state *vis-a-vis* women during the partition of the sub-continent in 1947 presents an historical example of the subordination of women's rights and freedoms to a male national consciousness.

Our women, your women

In the aftermath of partition, the governments of India and Pakistan were deluged with requests from relatives of "missing" women seeking to recover them through government or military action. What follows is a brief look at the actions the Indian and Pakistani governments took to recover and rehabilitate "abducted" women, and the motivations behind their actions.

At the policy level, the first initiative towards restoring women was taken at the November 23-25, 1946 session of the Indian National Congress at Meerut, at which a resolution was forwarded by Dr. Rajendra Prasad, seconded by Maulana Azad, and adopted. The resolution states:

Women who have been abducted and forcibly married *must* be restored to their houses; mass conversions have no significance and validity and people must be given every opportunity to return to the life of their choice. (Constituent Assembly of India 642)

Representatives of the governments of India and Pakistan met on September 3, 1947 in response to escalating violence and resolved to coordinate a joint effort. On De-

ember 6, 1947, an Inter-Dominion Conference was held in Lahore, Pakistan at which the two countries outlined the steps to be taken for the implementation of the recovery and restoration scheme.

The Central Recovery Operation, as it came to be called, was administered by the Women's Section of the Ministry of Relief and Rehabilitation. The primary responsibility for recovery was with a contingent of female social workers assisted by local police. This force was empowered in both India and Pakistan to travel into the other country in search of particular women in order to "recover" them. Menon and Bhasin report that between December 1947 and July 1948, 9,362 Muslim women were recovered in India and 5,510 non-Muslim women in Pakistan. After July 1948, however, it is reported that the rate of recovery slowed considerably, and it was believed by the Indian government that a more binding agreement would be necessary for continued progress. An agreement was again reached between the two countries on November 11, 1948, setting out more specific terms for recovery in each dominion (Menon and Bhasin).

At the Indian Constituent Assembly (Legislative) Session held in December 1949, however, significant dissatisfaction was expressed at the low rate of recovery in Pakistan, especially from Sindh, Baluchistan, Azad Kashmir and the closed districts of Gujarat, Jhelum, Rawalpindi, and Campbellpur. In particular, there was exceptional disquiet at the mention of some supposed 2000 non-Muslim women being held by Pakistani government officials, and at the cease-fire in Kashmir having been agreed upon without negotiating the return of abducted Hindu and Sikh women. Some members urged the Indian government to retaliate, suggesting that only an *exchange* of women should be considered, so that Pakistan receive only as many, and *in the same condition*, as they return (Menon and Bhasin).

To facilitate further recoveries, the Minister of Transport in charge of Recovery, Gopalaswami Ayyangar, put forward the Abducted Persons (Recovery and Restoration) Bill on December 15. The Bill consisted of ten operative clauses which Ayyangar termed, "short, simple, straightforward—and innocent" (qtd. in

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Menon and Bhasin 71).

Over 70 amendments were proposed by 20 members in an extended debate on the Bill, which took three days to pass. The main objections related to the definition of abducted persons, the virtually unlimited powers given to the police with complete immunity from inquiry or accountability, the denial of any rights or legal recourse to the women recovered, forcible return of unwilling women, unlimited duration of the Bill, and the perceived unequal and disadvantageous terms of the agreement for India in relation to Pakistan. The amendments moved by members sought to mitigate many of the gross irregularities they noted and to modify certain other procedural aspects. Despite their efforts the Minister declined to concede a single amendment or modification proposed (except in limiting the duration of the Bill to December 1951). It was passed on December 19, 1949 (Menon and Bhasin).

Many problematic issues remained unresolved with the passing of the Bill. Questions remained as to how the legitimacy of abduction claims could be determined, what to do with women who had borne their abductors' children or were now married and well-settled, and whether women would indeed be welcomed back to their natal and original conjugal homes after having spent many years living with "other" men. The painful choices individual women had to make in this context required thought and careful consideration. It was much simpler, however, for the Indian state to determine timetables and quotas, pursuing a relentless mandate to decide women's fates collectively, and simultaneously using the issue of recovery to realign itself politically against Pakistan.

At the foundation of this political realignment lay the profound sense of betrayal that the creation of Pakistan had meant for many Indian politicians. Menon and Bhasin note that speaker after speaker in the Assembly emphasized what they saw as Pakistan's contempt for flouting the terms of the joint agreement. Particularly contentious was, as previously mentioned, the lower rate of recovery in Pakistan and the arbitrary closure of specific areas in Pakistan to Indian social workers. Such behaviour was articulated in the debates as a reflection of two things: the typical uncivilized and communal character of Pakistan (and Muslim men) and the much more humane, just, and civilized approach of the secular Indian State (Butalia). The feeling that Pakistan needed to be "brought in line" was echoed by members who felt that the restoration of Muslim women to their "rightful" home (Pakistan) was a great "moral duty" (Butalia 135). While the debates in Parliament occurred with respect to Muslim women abducted and held in India, it seems clear that the real subjects of the debates were "Indian" (Hindu and Sikh) women abducted and kept in Pakistan. The concern for Muslim

women in India was only a metaphor for the more important women, “our” women “trapped” in Pakistan.

The question of what women themselves wanted did arise in the Parliamentary debates. What was to be done with women who resisted being recovered and sent back to their families? These women posed a serious problem for the government. The new Bill denied abducted women access to the freedoms and rights that they were due, especially the writ of *habeas corpus*. Both countries had agreed that after March 1947, neither forced conversions or marriages would be recognized. What was to be done if a woman claimed that the relationship she was in was voluntary? While tribunals had been established to decide disputed cases, it was dubious as to whether officials presiding over tribunals were well-positioned to determine the validity of claims. Gopalaswamy Ayyangar was unwilling to admit that any such claims on the part of women could be genuine. “Women or abducted persons are rescued from surroundings which,” he asserted, “*prima facie*, do not give them the liberty to make a free choice as regards their own lives” (Butalia 136).

Hence, it was generally assumed that all abducted women were captive victims and wanted nothing more than to be returned to their original families as soon as possible. However, there were some members with dissenting opinions. Purnima Banerji cautioned the government about being over-zealous:

[Abducted women] should not be made to go back to countries to which they originally belonged merely because they happened to be Muslims or Hindus, and merely because the circumstances and conditions under which they had been moved from their original homes could be described as abduction. (qtd. in Menon and Bhasin 105)

Along the same lines, Mahavir

Tyagi declared that such a recovery was the real abduction, legally speaking. “Would it not be another act of violence,” he questioned, “if [these women] are again uprooted and taken away to the proposed camps against their wishes?” (qtd. in Butalia 137). Despite criticism, the Minister refused to insert a clause in the *Act* to

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ensure that women would not be forcibly moved. As a result, the recovered women, although promised a “free” environment and “liberty” were, by the very terms of the Bill, stripped of every right to legal recourse (Menon and Bhasin). As adults and citizens, these women were then once again exchanged (albeit “*legally*”), this time between countries and by officials of the State.

Rupture and resistance: women recovering women

Official figures claim that the majority of recovered women were below the age of 35 and primarily from rural areas (Butalia). The circumstances of their “abductions,” however, varied immensely. Some women were bartered to secure the safe passage of their families, while others had separated from their group or family during escape. Some women took the opportunity of the chaos of partition to choose their own part-

ners and still others were bought and sold several times, and eventually sold into prostitution or used as “comfort women.” A large number of women, however, were legally married and lived with “considerable dignity and respect” in their husbands’ homes (Menon and Bhasin 90). By focusing briefly on the women in this latter circumstance, I do not intend to suggest that the circumstances that these women found themselves in were not traumatic or painful. Menon and Bhasin counsel that it would be false to presume that the lives of these women “were invariably grim” or that their “abductors” (without exception) were deprived individuals (91). The majority of recovered women, according to Menon and Bhasin, and Butalia, were rehabilitated or restored to their families successfully.

Many women offered resistance, refusing to conform to the demands of either their own families or the government and fall in line with community notions of what was legitimate and acceptable. Some women resorted to hunger strikes, while others refused to talk, or change out of the clothes they were wearing when they were recovered. One young girl confronted Mridula Sarabhai, the force behind the recovery efforts, thus: “You may do your worst if you insist, but remember, you can kill us, but we will not go” (qtd. in Menon and Bhasin 97).

In the face of such resistance, social workers resorted to all kinds of subterfuge to find abducted women. Often the local police, who were supposed to assist in locating women, would send ahead warnings to targeted villages and women would be temporarily stowed away. Imaginative social workers countered this in a variety of ways: by adopting disguises, using false names, acting secretly and alone, or just storming their way into homes where they suspected abducted women were being kept (Butalia; Menon and Bhasin).

There was no uniform opinion

among social workers regarding the recovery of women. Mridula Sarabhai was of the opinion that no woman could be happy with her abductor. However a number of others, Rameshwari Nehru and Anis Kidwai prominent among them, opposed forcible recovery. As Rameshwari Nehru argues, the woman's will was not taken into consideration and she was "once again reduced to goods and chattel status without having the right to decide her own future or mould her own life" (qtd. in Menon and Bhasin 102).

The recovery operation of the Government of India, seemingly humanitarian in its objectives, was nonetheless articulated and implemented within the parameters of two overriding concerns noted by Menon and Bhasin: first, the relationship of the Indian state with Pakistan, and second, its assumption of the role of a paternal role in relation to the abducted women. In the former, it had a political obligation to rightfully claim its subject-citizens. In the latter, it had a moral obligation to then return these citizens to their families and communities. This dual role and responsibility further cast Pakistan as the "abductor-country" and India as the "parent-protector," safeguarding,

not only her women, but, by extension, the inviolate family, the sanctity of the community, and, ultimately, the integrity of the whole nation. (Menon and Bhasin 107)

If the Central Recovery Operation is viewed through the lens of sacrifice, it is revealed as a form of insidious violence perpetrated against abducted women by the Indian state to serve its own needs. Women's lives, their voices, and rights were sacrificed at the altar of national honour and identity. The recovery program is representative of how India and Pakistan related, emerging as a contest of competing claims not unlike individual claims by Hindu,

Sikh, and Muslim men over each other's and their "own" women. To this extent, Menon and Bhasin note that both countries were engaged in redefining national character, demonstrated by their commitments to "upholding honour and restoring moral order" (107). As such, the sins of men who had acted without restraint in a surge of communal "madness" (as the violations of women were described) had to be redeemed through "sexual discipline" and reinforcement of national identities (Menon and Bhasin 107, 108).

Menon and Bhasin also question the logic of legislating the Abducted Persons (Recovery and Restoration) Bill when the maximum number of recoveries had already been made in 1947–1949, before the Bill was introduced in Parliament. They conclude that in the aftermath of the country's partition, the instinct to reclaim what was, by right, its "own" became imperative in itself as a "responsible, civilized state," one that fulfilled its duties towards its (male) citizens by "securing what was their due and in confirming itself as their protector" (123). Recovering women ultimately became a symbolically significant activity, not unlike the more recent desire to recover sacred Hindu sites from "usurping" Muslims (such as the Ramjanmabhoomi/Babri Masjid incident, for example).¹

Menon and Bhasin conclude that the key to understanding the unease surrounding the matter of abducted women lies in the importance regarding the question of legitimate membership—in families, communities, and ultimately, nations. The sanctity of all three lay in keeping boundaries intact, and in maintaining difference. This is why the "illegitimate" new family had to be "disembodied by physically removing the woman/wife/mother from its offending embrace" and relocating her in the "legitimate" family (124).

In its desire to restore normalcy and assert as a protector, the Indian state itself became the abductor, forcibly taking women from their homes

and transporting them across state borders. In its expression of gender identity and public policy, moreover, the state focused on religion, assigning value to the "legitimate" family and notions of community "honour." It did so through the regulation of women's bodies. Indeed, through legislation, executive and police action, as Manon and Bhasin state,

it effectively reconstitutes the multiple patriarchies at work in women's lives within the family and community, and as embedded in institutions and social mores. (125-126)

From the above discussion, it is clear that the abducted woman was central to the government's recovery program not only as the object of an evidently humanitarian effort in rehabilitation, but as crucial to defining identity and demarcating boundaries. Her sexuality, because it had been violated many times over, by abduction, forced conversion, marriage, cohabitation, and reproduction, formed the center of debates about duty, honour, identity, and citizenship. It also highlighted the role of women as reproducers of national and community boundaries and revealed how, for all of these, the integration of women into modern nationhood (epitomized by citizenship) follows an ominously different trajectory from that of men.

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¹This incident refers to the dismantling of the Babri Masjid by Hindu fundamentalists in 1991 owing to their belief that the mosque had been built on Lord Ram's birth site in the city of Ayodhya.

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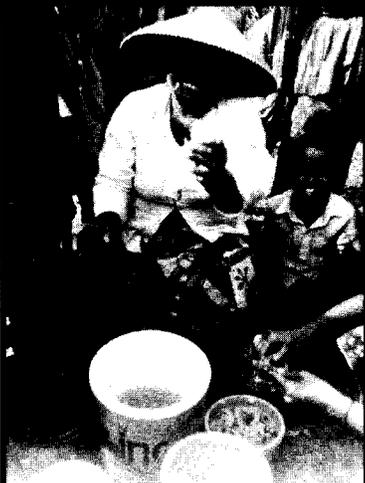
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MANGALIKA DE SILVA

Rage

yesterday, they stormed another storm
it was coming, like a hurricane, with rain
red and scorching, like floods ravaged the lush fields.
second after seconds, thunder like
bursts of gunfire – gushed into the trembling woods
the shrapnel, piercing through the thicket
penetrating them, all of them on the dividing line.
others, trapped “in between”, women they were
some, clutching their infants to their breasts, crouching in the
nook
of a rubble refuge, once a safe home,
now scarred by the heat of shells
and rockets propelled by the lust of hatred and vengeance
a refuge deserted by their gunned down men.
shaken by the shuttering shame of betrayal, others fled.
the youthful wandering Selvi, or the bereaved mother
father long lost, resolves to fight her lot.
she embraces the gun.
mothers engulfed by the sea of mourns, grief and loss
reach out to touch mothers like them across the border;
mothers searching for their missing sons,
consumed by the fire of guilt.
sons and daughters of the same mother
locked in horns of enmity,
fanning the raging desire
of an illusory “nation”.
daughters, sons and mothers, snatched from the
warmth of tenderness, lay lifeless.
bombs bombed, earth burnt out
smell of essence of non existence
vanished with the storm....
another storm....

This poem is dedicated to Tamil, Sinhala and Muslim women who continue to protest and resist the armed repression that has made them deprived and widowed in the raging ethnic war in Sri Lanka.

Mangalika De Silva wrote this poem while she was in the Human Rights Program at the International Institute of Social Sciences, The Hague, The Netherlands where she was a student in 1999.