Preface

Nothing short of a tectonic shift in feminist legal studies has occurred in the two decades since *Women and Law in Colonial India* was published in 1996. Where I had, at the end of the introduction to the original edition, lamented that a significant body of legal historical scholarship was yet to take shape, the intervening period has seen the emergence of a very sophisticated set of historical investigations which have uncovered not only new kinds of archives, but suggested innovative ways of interpreting old ones. In part, the scholarship has paralleled the extraordinary visibility of legal institutions and questions of law in determining the contours of gender justice and gender relations more generally. The new scholarship has had the effect of challenging some of the assumptions of the earlier edition, refining many of its enquiries and adding to the insights that it drew on.

The new historical investigations have been prompted in part by developments in three interlocking spheres: first, the concerns, disappointments and engagements of contemporary Indian feminism with the domain of law reform, including emerging disagreements between feminists themselves on the wisdom of expanding the domain of state law into greater areas of women's social lives, and possible alternatives that can be explored, given the limits of due processes; second, an increased legal literacy in Indian society more generally, including perverse and wilful use of the legal system as a weapon, and not always as an instrument of change; and, third, a broader set of political transformations that have made feminist understandings of women and law available to jurisprudential practice and to political readings of the place of law in matters of right versus faith, family versus individual, community versus women's rights, and so on. These are at times aligned with, while at others they remain disjunct from, feminist law reform and legal strategy.

In classrooms and seminars, streets and courtrooms alike, in two of India's most tumultuous decades, the relationship between women and the law has been

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critiqued, redefined, redrawn and generally productively recharged. The massive public participation in the redrafting of the Criminal Law (Amendment) Act of 2013, following national public outrage at the 'Nirbhaya' rape of 16 December 2012, renewed memories of the incredible optimism about law and its transformatory capacity in the 1983 amendments to the rape law. Currently raging debates about the outlawing of 'triple talaq' in particular and reform of personal laws more generally take us back to the compromises that were made following the Shah Bano case in 1985. The Indian #MeToo movement, which erupted in 2018, has revealed women's impatience with the tedious turns of the law on questions of sexual harassment at the workplace; though confined to the upper echelons of the economy in media and film worlds (which was preceded by an attempt to use tactics of anonymously 'naming and shaming' against male faculty in Indian academia), the movement has had a swift and encouraging impact on deterring perpetrators and on rethinking workplace norms. Today, there are also entirely new reworkings of the relationship between faith and right, as in the increasing claims of women to the right to worship in public spaces and equally in the legal prohibition of women from such spaces.

There are unmistakable signs, in short, of the contradictory appeal of law as a possible site of justice among women in India today.

Would such major transformations in the public life of law not warrant an entirely new book? Can all the stimulating additions and changes of the past 20 years be accommodated in the book's original framework? For some time now, there has been an encouraging use, both in law schools and elsewhere, of *Women and Law in Colonial India* as an introduction to how the law has historically framed women, and the importance of those legacies for how women have refashioned the law in contemporary India. For the most part therefore, this revised and enlarged version remains a work of historical synthesis, rather than offering original commentary on contemporary concerns. In short, it continues to meet the need for a text intended primarily for undergraduates in India to begin their engagements with our rich and contradictory historical legacy. It brings the method of social history to the law student as much as it generates debates and discussions about how the law has framed history, particularly in matters concerning the status of women, for the history student.

The attention in this book has remained focused largely therefore, though in a richer, fuller way, on its earlier themes: why, and since when, the law became the most important, and hopeful, site for transforming the position of women in Indian society; the tangled histories of personal law, and consequences for questions of marriage, inheritance and divorce within communities; legal protections for women who labour; questions of political representation; and regulations of sexuality and reproductive family forms. It does not include criminal law except

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insofar as it became the concern of colonial administrators interested in stable and reliable labouring populations, as in the attempts to curb female infanticide, or in discussions of sexual violence within and outside the home.

Footnotes have been retained as an impetus to further reading and research. Changes in language and terminology, especially where they are the result of sustained feminist campaigns, have also been noted and incorporated.

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