

FEMINIST ETHNOGRAPHY

SOCIOLOGY

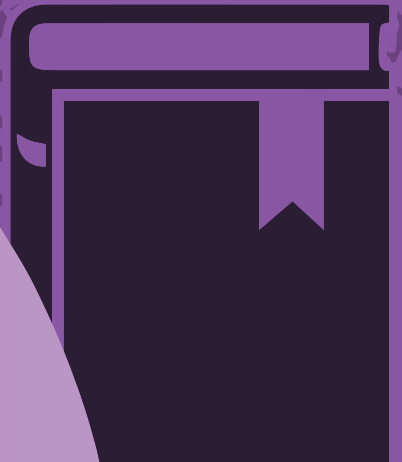
JUSTICE

REDRESSAL

COURT

MEDICO-LEGAL

LAW



## The social life of the law

The distinction between law in books and law in practice is often forgotten in mainstream legal studies. Sociologists have reminded us that law is not only constituted by the social, but that law also produces social life. For as law is impacted by the society it is designed for, it also in turn impacts the culture of the society.

It is not enough to study written judgments of appellate courts. Pratiksha Baxi's ethnographic analysis of the rape trial in a district and sessions court shows us the importance of courtroom speech. It is hidden from public scrutiny because the way prosecutors, defence lawyers and judges question rape survivors in courts are not transcribed verbatim in written record.

Baxi argues that consent is medicalized in Indian trials. By which she means that colonial medico-legal textbooks are used to disbelieve and distort women's testimonies. She has described the use of the 'two-finger test' as the biggest medico-legal fraud perpetuated on women in the history of forensics. The use of colonial medico-legal textbooks by defence lawyers to question and discredit rape survivors persists today.

Such conventions and practices lie beyond the pale of mainstream law reform. Baxi's work shows us how mainstream law reform often simply re-organises or re-arranges the relationship between legality and illegality. She demonstrates that although to force a rape survivor to compromise is illegal doctrinally but the culture of compromise permeates criminal courts. Her work shows that illegality resides at the heart of state law. And often state law itself is privatized. How else might we explain the rampant use of the rape law to criminalize love?

Hers is one of the first courtroom study to show how children testify to rape in courts built for adults. Even though there have been some changes in a few courts, by and large courtroom architecture and procedure create hostile conditions of testimony.

Dr. Baxi's interdisciplinary approach helps us appreciate the power of feminist ethnography to reveal how victims of violence often have to contend with the built-in biases in systems where they go to seek redressal and justice.