
Enfranchised Selves: Women, Culture and Rights in Nineteenth-Century Bengal

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Narratives of the acquisition of citizenship rights are often self-referential and self-grounded. A fully formed theory of rights emerges as the active subject of history, animating debates and initiating change in the direction of self-realisation. Such a theory of citizenship rights falls short when it is called upon to account for activities and ideas of people who are eventually to emerge as bearers of rights. For such people may seem from a western point of view to possess very imperfect approximations of the perfected concept. Their fitful progress towards what in hindsight may be summed up as 'rights-like' competencies seems to derive from struggles for very different entitlements.

If we examine how Indian women made themselves into citizens between the mid-nineteenth and the mid-twentieth century, the attainment of rights seems to be the consequence of a number of movements that did not aspire directly to procure citizenship for women: social reform, social legislation, female education, new religious sects, class struggles and anti-colonial mass movements. The expected trajectory of a suffragist movement actually accounts for very little of the process. Nor do we find in the course of the various social movements and reforms a clear and self-conscious articulation of rights as such.

In a sense, this peculiarity is useful. As an extreme Hindu right-wing consolidates its ascendancy over Indian politics today, subtly dismantling all manner of citizenship rights even within a formal democracy, it uses the logic and rhetoric of cultural nationalism very effectively. Rights, it is suggested, are an alien and colonising notion, meant to strip the Indian woman of her many-splendoured religious identity and to make her over into a grey, empty, disembedded and deracinated citizen, a clone of her erstwhile masters, her citizenship banishing her from her authentic roots. In order to escape from charges of mimicry, we need not deduce the history of rights from a singular theoretical construct that originated in western thinking. We can see this history, instead, as the eventual and uncertain point of coalescence for many different historical movements that resulted in legal personhood for the woman – underpinned by state guarantees for certain immunities and entitlements. Thus this analysis seeks to preserve the authenticity and distinctiveness of the Indian experience while conjoining it to conceptions of what Martha Nussbaum has identified as ‘human capabilities’ that are universal.¹

John Rawls offers a political conception of justice that emanates from ideas that are latent in the public political culture of a society and that arise out of the implicit self-understanding of public actors. Ideas of justice, therefore, belong to the democratic political culture where they are articulated. Seyla Benhabib extends this vision much further by pointing out that there is actually no disembedded abstract individual subject – to whom rights will adhere – who is set apart from her larger social matrix, her inherited culture. She suggests that the subject attains an identity or constructs selfhood through a ‘narrative unity’ which can only occur through dialogues with society.² Habermas establishes a similar continuity between the individual and her lifeworld, unsettling the opposition between the two, and very pertinently recalling that all individual rights were acquired and sustained through collective social struggle.³ These are powerful responses to the more communitarian arguments of Charles Taylor who would view notions of impregnable citizenship rights as a potential threat to minority cultures, and would advise a partial mitigation of the former in order to ensure the survival and continuity of such cultures.⁴ In this essay I will reassess these positions in the light of the historical experience of Indian women.

Nancy Fraser points out that liberal democracy withholds effective citizenship rights from women by undermining their consent in the

private sphere. Women's real subordination in this realm insidiously cancels out their formal rights in the public domain.⁵ Examples from Indian history add a few twists to this framework. Colonialism withheld citizenship rights from men, while liberal reformism abbreviated their unlimited mastery over the lives and deaths of women in the private sphere. Moreover, self-determination and a fledgeling notion of something like rights – translated as a few immunities from sexual, physical or intellectual death – emerged as political values in the sphere of women's lives even before they were articulated in the public and political realms. What looks like dead-letter liberalism acquires different histories and possibilities in the Indian context.

We will focus on nineteenth-century Bengal, politically a very active province, which then housed the capital of the empire. In Bengal, struggles for certain immunities and entitlements for the Hindu woman unfolded alongside of simultaneous – at times overlapping and at others conflicting – struggles for Indian nationhood. Entangled with both, in complicated ways, were movements for an enlargement of the disciplinary rights of religious communities. As we shall see, very often all these demands converged and clashed over the bodies of dead women, on whose behalf liberal nationalists claimed immunity for their lives. Cultural nationalists would counter this claim by referring to the onslaughts of a triumphant western power-knowledge on the traditional bases of indigenous culture. Unless Hindu prescriptions were assured of power over the life and death of women, cultural nationalists claimed, their religious communities would be rendered fatally misshapen.

The other distinctive feature of Indian history was that all colonised Indians were disenfranchised people until the very end of British governance, before which a minuscule minority of rich and educated men obtained the right to vote. In this limited but important sense, disadvantages existed that were common to both women and men. As a consequence, among all shades of anti-colonial nationalist discourses, self-determination came to be generally accepted as an absolute political good, creating further complications in the relations between the community and women. Indeed, women themselves would often link self-determination with their own condition as they began to publish their experiences and to intervene in the public sphere. They thus took the edge off nationalist critiques of colonial power by pointing out that an anterior colonisation and subjection had already occurred in the realm of gender relations, for Hindu men ruled over their women as despotically as did their colonial masters.⁶

There was yet another complication in the Indian situation. Men lacked the privileges of high masculinity and were hence deprived of the possibility of administrative and military leadership or entrepreneurial opportunities. Furthermore, their rulers often accused them of physical weakness and effeminacy. They usually articulated their hegemonic claims on the basis of a perceived powerlessness of their class, rather than from a position of power, in order to claim representative rights over all classes of Indians. Colonialism thus denied men special claims to power, thereby further generalising their political disadvantages.

In this essay, I will analyse three related and overlapping fields in which a certainty about absolute immunities and entitlements for women began to emerge in the nineteenth century. In particular I will focus on three crucial acts of legislation which spanned the nineteenth century: in 1829, the abolition of the custom of burning or burying alive Hindu widows; in 1856, the legalisation of remarriage for Hindu widows; and, in 1891, the raising of the age of consent within and outside of marriage. All of them referred to Hindus, though the 1891 act also applied to Muslims. Each also required a collision with upper-caste Hindu religious prescriptive norms that increasingly provided the horizon of 'clean' practices for upwardly mobile segments of low castes as well.

Crucial to understanding these legislative acts is the division which British legislators and judges assumed within the colonial legal domain. The colonial Anglo-Indian law had a 'territorial' scope, and ruled over the 'public' world of land relations, criminal law and the laws of contract and of evidence.⁷ It came to be accepted as a basic principle, at least from 1793, that 'in cases of succession, inheritance, marriage, caste, and religious usages and institutions, the Mahomedan Law [was] for the Mahomedans and the Hindu Law for the Hindus'.⁸ According to one English judge, then, 'the law of the conquering nation was universally a territorial law, but the conquered nation retained its own as a personal law'.⁹ Gibbon's reading of Roman law was used, for example, to retain a space of self-governance for the conquered nation. This space was primarily conceived as a domestic one and the question as to who would rule over this sphere was acutely contested in the debates about the three legislative acts that are under discussion in this paper. Indeed, the colonial state explicitly turned this domain over to the two major religious communities. Late nineteenth-century Hindu revivalist-nationalists insisted on the

absolute inviolate integrity of this domain, which simultaneously represented a trace of lost freedom as well as an anticipation of future nationhood. This meant the preservation of the full disciplinary regime of brahmanical gender norms. Liberal reformers, on the other hand, regarded the governance of this domain as an exercise of their own transformative capacity to redefine the community through their Indian initiative, otherwise denied in colonial times.

Each of the legislative acts analysed here related to the mandatory deaths of women: to their physical deaths in widow immolation, to the very low age of consent that led many child wives to die of the complications of premature intercourse, and, finally, to their social and sexual deaths in widowhood. All three of the acts originated in the conflicts between Indian liberal and conservative opinions, in which the state often reluctantly and belatedly responded to liberal arguments. The Indian reformist initiative shaped the legislation and provided its content as well as arguments for self justification. It was consolidated through intense debates in the emergent public sphere of the new print culture, vernacular prose and journalism, the public theatre, bazaar paintings and cheap woodcut prints, polemical tracts and popular farces. From the 1860s on, some women also began to articulate their opinions in print. The public sphere was organised largely around these issues, diverging therefore from the public/private divide that is assumed in western modernities. Domestic issues, moreover, were suffused with a public and political meaning.

Liberals and conservatives shared some discursive methods and practices. The state granted relative autonomy to religious beliefs and practices, allowing legislative change only if custom could be shown as violative of scriptural injunctions. Thus both liberals and conservatives dealt in the currency of scriptural arguments and citations and both flaunted impeccable brahmanical learning and origins. However, when they mobilised popular support for their arguments in the public sphere – a highly significant departure in the realm of norms that had not been necessary earlier – both strained to display an ethical face, going beyond the injunctions and prohibitions through which norms usually speak. More important, in matters of domestic norms, both began to use the argument of women's consent as a central reference point, which again marked a departure of tremendous significance. For the colonial condition and the Indian claim to a share of political rights and at least a consultative status in governance rendered self-determination a political value of significantly greater

importance than western liberal theories of social contract or general will. The difference between liberal and conservative positions lay above all in the definition of contemporary customs pertaining to domesticity.

Liberals claimed that existing domestic practices or customs ensured the subjection of women in the domestic domain, which, they argued, invalidated male claims to political rights. Although liberals frequently criticised sexual double standards in domestic practices, implicitly formulating an argument in favour of equality, they did not entirely elaborate its full potential. They chose to rest their case on the argument that custom abused and constricted women to such an extent that adherence to these customary rules would render Indians unfit for self-governance by any measure. Moreover, given the relative autonomy of the religious norms under colonial dispensation, liberals regarded this campaign as a possibility for self-transformation and self-fashioning which was absent in all other realms of life in which the state ruled arbitrarily.

Conservative arguments also underwent an important shift. Earlier, their defence of custom had sought to establish its scriptural underpinning as well as its larger humanity. Both widow immolation and celibate widowhood, they claimed, were based on consent, while child marriage led to conjugal bliss. By the 1870s and 1880s, however, a stridently nationalist note entered their discourse, which did not contest political subjection, but claimed complete cultural autonomy and immunity from colonial intervention. The man, they said, had already been transformed by alien knowledge, whereas the woman, still largely governed by religious-ritual norms, embodied freedom, cultural authenticity, and, ultimately, the nation of the future. She thus had access to unique political rights only by way of an entire embrace of the rule of custom. As long as she embraced custom, faith and culture would live in her and in her alone. If, however, norms required her death, a form of human sacrifice, then her death would only enlarge her political function. Faith and culture would survive colonialism only if the woman consented to die for them. Conservatives feared that the reform of faith and culture would close the circuit of colonisation to which the minds and lifeworlds of Indians were subjected.¹⁰ Evoking a collective demand for cultural recognition, conservatives aimed at a 'reification of identity' that would mask internal power lines.¹¹

What lay between the laws that liberals desired and conservatives refused was a system of non-consensual and indissoluble marriage

that was performed before the girl entered puberty. Once puberty set in, she had to go through a life cycle rite of ritual cohabitation with her husband, without which her womb would remain polluted and the sons of the womb could not make pure offerings to ancestral spirits. Almanacs warned that offerings by such sons would as surely pollute ancestors as the drinking of menstrual blood.¹² To ensure the performance of this rite, marriage was essential in early infancy, for the exact moment of puberty was both uncertain and very early in warm climates. Marriage was a woman's only access to a sexual relationship.

Even if it was unconsummated or even after she was widowed, the woman needed to remain absolutely chaste, since the performance of the marriage sacrament made her the half-body – '*ardhangini*' – of her husband. Any other sexual relationship could only be an adulterous one, a crime under colonial law and a sin according to religious norms. Widow immolation was not obligatory, but it certainly signified rare and great virtue. Otherwise, the celibate widow was surrounded by ritual prohibitions and deprivations that signified a life of permanent inauspiciousness. In the nineteenth century there were many learned debates about the custom of '*ekadasi*', or ritual fasting without a drop of water every fortnight, even on her deathbed.¹³

Above all, Manu, the ancient, eponymous lawgiver, had declared that she must never acquire rights in her own person and that she must, rather, be ruled by father, husband and son at the different stages of her life. If she lived by these regulations, she was promised both power and honour within the household. Hence a valorisation, an aestheticisation of the discipline of norms took place. With the birth of cultural nationalism in the late nineteenth century, discipline was transfigured as authentic religion, culture and nation. I argue in this essay that this new rhetoric, which coupled independence with normative discipline, proved irresistibly resonant in the context of a more explicitly charged racist and authoritarian colonial governance in late nineteenth-century Bengal. The government's proposal to equalise the judicial powers of Indian magistrates, to the point of extending their jurisdiction over European subjects, had raised howls of naked racist agitations and propaganda in European circles.¹⁴ A politics of recognition, even when cast in culturalist-conservative, rather than political terms, would produce enormous resonance and weaken the reformist impulse considerably. The Age of Consent Act reflected a temporary retreat from the self-interrogation that

had strongly characterised the earlier reformist impulse of the liberals.

Despite the discursive strategies they sometimes shared, liberal reformers and conservatives deployed arguments regarding consent with quite different intentions. Prior to the criminalisation of widow immolation, the colonial state had evolved an elaborate mechanism for confirming the widow's consent to being burned alive, just before it took place. This act of consent was, however, often plagued by a dilemma. For sometimes the widow would not only consent to immolation, but would even insist upon it. Yet in some cases, once the pyre was lit and the burning began, widows sought ineffectively to escape the flames, proving that the experience of burning alive could not be fully anticipated beforehand. Consent or insistence prior to the act of burning was therefore based on ignorance.¹⁵ The dilemmas surrounding widow immolation were resolved when the state passed an act abolishing it, which bypassed the issue of the widow's consent altogether. In the final act, the word 'consent' was used only to affirm that immolation would remain a criminal act even when it was carried out on the basis of the widow's full consent.¹⁶ In order to protect widows from being burned alive, the state effectively disqualified their own will and opinion.

Endorsing this nullification of women's consent, reformers like Rammohun Roy noted that widow immolation was valorised by scripture, but only when the widow was in a perfectly serene and dispassionate frame of mind and expected no gain from the act. In reality, however, widows were either crazed with grief or tempted by expectations of eternal reunion with their husbands in afterlife when they consented to or requested immolation. Under these circumstances women could never fulfil the scriptural conditions for an authentic and permissible act of immolation. In his other writings, Roy would interrogate the entire prescriptive process of female socialisation that denied female intelligence, starved the woman of education and knowledge, incarcerated her in the kitchen, thereby ensuring her consent to a brutal disciplining.¹⁷ The reformers, therefore, ignored the explicit consent of the woman in order to focus on its coerced production, and thus opened themselves up to a larger interrogation of an entire gender system. The conservatives, on the other hand, accepted explicit consent as an absolute given and used it to foreclose any such broader agenda.

A highly revolutionary clause of the act on widow remarriage of 1856 introduced an implicit but real violation of several basic tenets

of Hindu marriage. Clause VII of Act no. XV of 1856 specified: 'In the case of a widow who is of full age or whose marriage has been consummated, her own consent shall be sufficient to constitute her remarriage lawful and valid'. This passage implied that the woman could dispose of her own person, indeed that she could give herself away. This clause thus violated the basic form of marriage in which the girl was always given away by her father to her husband as an object of exchange between two lineages, a transaction in which her consent was entirely immaterial. A further implication was that the woman herself had a right to her own person, a claim that entirely nullified Manu's strict injunctions against female autonomy. More importantly, the widow's consent opened up the possibility of an entirely different kind of conjugal relationship, based on premarital love and romance, as the widow was the only adult woman who now became available for a romantic, yet licit, relationship.

Accounts of such relationships were partially removed from the domain of scandalous stories, pornographic and misogynist literature, and acquired the status of serious and complex novels.¹⁸ In the first book published by an Indian woman, *Chittabilashini*, by Krishnakamini Dasi, an imagined dialogue takes place between two widows who contemplate the possibility that they now would have to propose to men themselves, since their parents would hardly be inclined to arrange a remarriage for them. Indeed, in the life stories of several nineteenth-century widows, this radical transgression of feminine codes did occur and desperate widows did confess to their love of men, now that legitimate marriage was a distinct possibility on the horizon.¹⁹ This reformist legislation thus enacted alternative imaginaries of female lifeworlds.

Ishwarchandra Vidyasagar, the inspiration behind the Act on Widow Remarriage, had contrasted the repeated remarriages of ancient widowers to nubile young wives, in order to point out both the sexual double standards and to justify female sexuality as natural and given, even when unanchored in a living husband. This notion of unconditional female sexuality as a part of the natural order of things met with violent resistance, waged in the name of a higher moral order in which sexual double standards were natural, and both male and female sexuality were conditional upon the nature of licit relationships. Otherwise, even incest would have been natural. An irrepressible female sexuality was caricatured to warn elderly and unattractive husbands that their dissatisfied wives might take to murdering them, now that

they could be sure of the possibilities of remarriage. The resistance waged against this act hence negated woman's own consent on the ground that her body was her husband's private land that no one could fertilise without his consent and monstrous births would be the result of such a union.²⁰

The nineteenth century was the century par excellence for reviewing the Hindu conjugal system. The debates on widow immolation had more or less split Hindu society right down the middle.²¹ The agitations surrounding widow remarriage, in the 1850s, further widened these cleavages. On trial were the foundational texts of Bengali Hindu conjugality: the ancient sacred book of *Manusmriti* and the Dayabhaga modifications later undertaken by Raghunandan in the sixteenth century. The core conviction that held the system together was that the true wife remained faithful to her husband even after his death, for she was the *ardhangini* – the half-body of the husband. On that basis women were granted limited rights of usufruct to their husband's share of the joint family property under traditional Dayabhaga law.²²

Upon this stable structure of marital asymmetry fell the massive blow of the 1856 act legalising widow remarriage. The full normative implications thereof were sorted out in legal case after case, even beyond the end of the nineteenth century. An interesting aspect of these legal contests was the conflicting judicial interpretation of the 'most enabling clause'. Some judges used this clause to allow low-caste widows to inherit their first husband's properties. Yet the act was drafted with high-caste widows about to remarry in mind, who had not had the right to remarry. In order to neutralise some of the orthodox outrage against the act, high-caste widows about to remarry had to renounce all claims to their first husband's property. Low-caste widows, by contrast, had been customarily allowed to remarry as well as to retain their share of their deceased husband's property, and now stood to lose that right under the new act. So some of the subsequent judicial rulings sought to maximise gains: for the upper-caste widow the right to remarry and for the lower-caste widow the right to share marital property.²³ This interpretation of legal application, that laws desired to maximise entitlements, served to undermine the prescriptions of custom and scripture.

Many criticisms were launched against this law, and against Ischwarchandra Vidyasagar, the reformer who agitated for it. Vidyasagar was himself bitterly disappointed by the results of the act,

which in my assessment were more successful in the realm of normative thinking than in terms of practical or immediate effects.²⁴ As a result of the act, adult widows, not only infant, virginal widows, could now legitimately remarry. But as a more significant longer-term consequence of the act, the normative fit between absolute female chastity and wifehood was ruptured. It is worth noting, of course, that the previous normative convictions continued to rule. For the first time, however, norms had to cede ground to legal prescriptions that pulled in a different direction.

Indeed at this juncture a very interesting gap opened up between morality and legality. Widow immolation, the absolute proof of womanly virtue, was criminalised in 1829, while widow remarriage – a moral sin – was legalised in 1856. The new reformist laws did not carry much moral conviction, but they did have legal sanction, while much of the old moral order was now outlawed. In this historical moment the symbiotic relationship between morality and legality, their substantive unity and identity, were brutally ruptured. And the space that the rupture opened up allowed the appearance of a few tentative claims for immunities and entitlements within the public sphere.

This space was enlarged little by little, as legal loopholes continued to appear. The *Kerry Kolitani vs. Moniram Kolita* case of 1873 further complicated discussions of the Widow Remarriage Act.²⁵ A widow, under the law of *Dayabhaga*, enjoyed a usufruct on her husband's property only on the condition that her chastity was beyond question. Chastity, however, had to be proven at the time when widowhood commenced and then the widow was granted a share of the property. Under the older structures of morality, of course, her claims would be forfeited if she were subsequently to violate chastity, since she inherited only as her husband's half-body. But under the new laws, private property carried very different connotations that overrode the charge of 'unchastity'. In another case in 1873, a widow was accused of promiscuity after her inheritance was finalised, and the charge was proven in court. Her relatives argued that she would have to renounce her titles under *Dayabhaga*. The High Court, however, ruled finally that her claim was based on her state of chastity at the point of her husband's death. Since the charge of promiscuity referred to a period after she had inherited, the court ruled that it was not relevant to her claim. Once she had inherited the property, her title became absolute.

This sensational case acquired notoriety as 'The Great Unchastity Case' in Bengali Hindu circles. Yet the responses to the case were divided along interesting lines. While the newspaper *Murshidabad Patrika* thundered indignantly that the High Court decision would encourage immorality among widows,²⁶ Dacca Prakash admitted in 1873 that 'when once the widow has come into possession of her husband's property, it is no longer his but hers, and no one has any right to deprive her of that'.²⁷ At this point the newspaper the *Bengalee* made a significant intervention in the debate about the decision. Without challenging the absolute nature of private property rights, the *Bengalee* tried to salvage morality through a different route, implementing the argument of cultural distinctiveness and emphasising the alien nature of colonial law and judiciary. 'What we object to is the arbitrary interpretation put by judges on our ancient texts in the face of the opposition of the single native judge who had a seat on the court.'²⁸

The High Court decision was a very bitter pill to swallow. In the discourse of cultural nationalism, a woman's monogamy was the stated condition for national distinctiveness, cultural excellence, political virtue, upon which the Hindu claim to nationhood depended. 'We are but a half-civilised, poor, sorrowful, subjected, despised nation. We have but one jewel, our chaste women, and that is the treasure of seven realms, a priceless jewel ... this so-called subjection of our women produces this sacred jewel of chastity which still glows radiantly throughout the civilised world, despite centuries of political subjection.'²⁹ Women's chastity, then, had a real and explicit political value, not merely a symbolic one. It was as if the lost nation had been pushed back into the small, precious, threatened sacred space of her vagina.

It was not then mainly a legal quibble that followed upon the case, nor did Hindu society regard it as such. One outcome was that the right to property had been secured as separated from moral conditions as interpreted by the community. A bourgeois notion of the absolute value of property had been given priority over scriptural discipline.

Moreover, too many seepages had opened up within the variegated public sphere for the moral order to remain intact. In a notorious murder trial of 1873, a few interlocutors questioned the fundamental certainty surrounding the question of who was a good woman. The case involved the head-priest of a powerful pilgrimage centre at

Tarakeswar who had raped the young girl Elokeshi with her parents' connivance, and then had installed her as his mistress. Her husband, then in Calcutta, heard of the rape upon his return home, and murdered her in a fit of jealous rage. He confessed and the Indian jury acquitted him on the grounds of insanity and in the face of overwhelming popular sympathy. The European judge demurred, the case was sent up to the High Court, and the husband was sentenced to be deported for life. There were unprecedented expressions of solidarity on his behalf, and in 1875 he was given a royal pardon. The case is interesting, for it was reported and discussed at great length in newspapers, depicted in Bazaar paintings and woodcut prints, and prompted an outpouring of cheap farces and tracts. In fact, its enactment made the fortunes of a public theatre company in Calcutta.³⁰

The contention that Elokeshi had entered into a longstanding adulterous relationship with the Mohunt was not in doubt.³¹ Popular representations of the case generally concluded that the woman's husband was within his rights in taking the law into his own hands. There was wide agreement that even though Elokeshi had been gravely wronged, she had forfeited the right to live. But some voices argued otherwise. A reformist newspaper sympathised with her husband's fate, but upheld the High Court verdict: 'in sympathising with the unfortunate Nobin (the husband) people forget that the victim was not the man that he and all Bengal believe to be a vile seducer, nor the still worse scoundrel who had bartered her daughter's virtue ... but a girl of tender years ... What had she done to forfeit her young life?'³²

Elokeshi had been unchaste but that no longer seemed to suffice as an adequate reason for her death. For the polyphonic public sphere had destabilised convictions by pluralising moral arguments. Casting Elokeshi as a victim, not just of a 'vile seducer' but equally of her wronged and justly enraged husband, marked a momentous shift in the monolithic moral order. The new sensibilities unleashed by this case did not become hegemonic, but they ruptured older certainties, shaking up the rule of prescriptions that earlier required no self-explanation in order to remain pertinent. Norms were thus peeled away from religious commands that were beyond questioning. They were prised apart from a common sense where they had lain submerged without questioning. They were rendered post-conventional, but not defeated.

As norms lost their absolute moral certainties, and as certain basic immunities began to acquire a moral basis of their own, the old

discipline of the community sought new arguments. It found them in the discourse of cultural nationalism. What was the life of a woman in comparison with the life of a culture? Were the new colonial laws that safeguarded the woman's immunity from death not endangering the culture and the community of Hindus? If the dispositions of women were to change, what would remain of the old moral order? If difference from alien values lay in greater pain and even death of the woman, then pain and death should be celebrated, not questioned. In the context of the death of a girl of ten from marital rape in 1890 and in the subsequent discussions about an increase in the age of consent within marriage, one participant noted: 'This discipline is the prize and glory of chaste women and it prevails only in Hindu society'.³³ What would justify this fidelity? It was the survival of culture against the designs of colonialism, they said: 'No, no, a hundred battles like Plassey, Assaye, Multan, could not in terribleness compare with the step Lord Landsdowne has taken ... The Hindu family is ruined.'³⁴ By comparing Lord Landsdowne's Age of Consent Bill with the battles that signified British territorial conquests, they suggested that real colonisation, had, in fact, just commenced in the form of the take-over of culture.

The nineteenth century saw massive debates on the abolition of widow immolation, the legalisation of widow remarriage, and the increase of the age of cohabitation within marriage. The last issue, in particular, led to unprecedented nationalist mobilisation against the Age of Consent Act, which the state had pushed forward in 1891.³⁵ What is remarkable is that all these momentous controversies revolved around the death of the woman: her physical death in the cases of widow immolation and the age of consent, and her sexual death in the case of the widow remarriage issue.

More importantly, these cases became subjects of debate because the state had proclaimed that, in the matter of personal law, Hindus and Muslims would decide their own fate according to their own custom and scripture. Scriptural interpretation became a highly contested issue, upon which depended lives and deaths of women and of Hindu patriarchal culture. Even more significant were the debates enabled by the emergence of a public sphere after Christian missionaries introduced cheap vernacular printing presses. At the same time, a serviceable and supple Bengali prose was fashioned to enable little-educated, ordinary people to read about the newly proposed laws and the debates around them and, occasionally, to add their own reflections

and experiences in the cheap popular tracts and newspapers.³⁶ The public theatre also shaped thinking on these matters as social satire and farce became its most popular themes from the 1870s on. Scandalous court cases involving conjugal and sexual norms were attended by large numbers of people, reported and discussed in great detail in newspapers, re-enacted in popular farces and even painted in woodcuts and bazaar art.³⁷ And, since women's lives were at the heart of this discussion, a market emerged for women's writings, which then began to appear in print in not insignificant numbers from the 1860s.³⁸

The woman as author was a completely new social category. Before the nineteenth century, not a single full text written by a woman has come down to us in Bengal. Through their publications, women now vaulted over the public-private divide, while they remained physically largely in seclusion. It was no easy matter becoming an author. When the nineteenth century opened, the illiteracy of the Hindu woman was a normative requirement, ensured by custom with the decree that the literate woman was destined to be widowed. There were a few exceptions to this general rule, but, on the whole, they were remarkably meagre.³⁹ Christian missionary schools failed to make a dent, for their system of tutoring married women in their female quarters of the household foundered on family fears about conversion. Mid-century Hindu reformers were faced then with overwhelming social ostracism when they prodded an indifferent state to fund a few schools for girls. A few daring husbands taught their child wives in great secrecy, and a few bold fathers sent their daughters to school. These produced an orthodox backlash of formidable proportions, including attacks on schoolbuses, obscene press campaigns, and the intimidation of families. The educated woman became a folk-devil in popular representations: immoral, lazy, selfish, a reader of romantic novels and neglectful of basic household duties, she was even depicted as having lost her breast-milk and her reproductive organs. Education was the signifier of sexual difference, the site and the justification of male power. Its appropriation by women would invert social and sexual roles and even the biological organs. Both orthodox and the cultural nationalists equally upheld the traditional Hindu woman, learned in household wisdom and rich in fidelity and tenderness, as the sign of a living culture.⁴⁰

Women writers were nonetheless encouraged by a cheap print literature that was easy to read and portable and by the development

of prose that was easy to write, and a growing public interest in what women had to say about themselves. Above all, they were encouraged by the rumours that women were reading and writing in these new times. In a remote East Bengal village, in an extremely orthodox upper-caste household, Rashsundari, a young and timid housewife was so stimulated by such news that she developed a double life. Pretending still to be the docile wife, she taught herself the letters in great and fearful secrecy in the solitude of her kitchen, where she spent her days. When she was a mature mother of many sons, she began to read and write openly. In 1868, she finished a narrative of her life – *Amar Jiban* or *My Life* – which happens to be the first autobiography in the Bengali language. In this text she welcomed the new times, particularly the rule of the Queen, when women at last learned to read, without which, she said, they would remain dependent on men all their lives.⁴¹ She celebrated her literacy by coining a magnificent new word: *jitakshara*, or the woman who has mastered the word. The mastery did not refer to economic independence or mobility. Rather, it suggested independence of thinking and intellectual autonomy, which would free women's minds from male instructions. She frequently used the metaphor of blindness and sight vis-à-vis illiteracy and literacy, again suggesting that seeing with men's eyes was another name for blindness. Reformers might have sought companionate wives when they educated their women; women, however, regarded their education as freedom to think independently of men.

The entitlement to reading was contrary to prescription and it was forbidden by authoritative voices in the community. By insisting on mastering the word, women therefore chose to defy the commands of their culture; they moved towards a new horizon, self-acquired and held against prescription. The stricture against education came to figure as the source of a broad structure of injustice. In 1849, a group of reformers met a girl of 9 at her home since they had heard that she was learning to read and write. In order to assess her progress and test their hypothesis that women could indeed learn when they are taught, they asked her to compose a poem in their presence. She wrote a verse that rhymed perfectly in Bengali:

Women of this land are kept like animals
 They get no education, men do not respect them.
 Men treat them with contempt just because they are women.
 Since men cannot be born without women
 Why do they not accept that women have inner qualities?⁴²

Older women, learning to write, publicised their bitterness against their social world, their community commands, in great profusion. They described a great wrong done to them in the name of religious prescription by men who had actually defied the will of God. Soudamini Debi wrote to the women's journal *Bamabodhini Patrika* in 1865: 'Are we not the children of the Great Father? How much longer do we stay chained at home ...?' An anonymous woman wrote in 1868: 'Our Father! Must we live in chains all our lives, even though we are your daughters? Alas, were we born in this land to perform low tasks?'⁴³

These were dangerous words. In a community where life-situations are explicitly hierarchised according to caste and gender, women claimed equality in learning opportunities in the name of a common humanity. Moreover, they alleged a male conspiracy to withhold education from them. 'Ignorant and cruel men have separated us from this priceless and infinitely pleasurable jewel that is knowledge, and we foolish women still serve them like servants', wrote Kailashbashini Debi in 1863.⁴⁴ The woman, she said, did not get a fair exchange in return. Men left her reigning in a household which, contrary to their claims, was without love or pleasure. 'The Hindu household is a most terrible mountain range, infested with wild beasts.'⁴⁵

Mastery over words was thus acquired in the name of a common humanity which, contrary to scripture or custom, was interpreted to signify equalisation of a basic competence. A poem in a women's magazine told men:

Men you have inflicted a terrible wrong
On the defenceless women of this land
And, to pay for that,
You will forever be exiles in your own land.⁴⁶

Indeed, the fact that men had stolen women's right to education would be paid for with a loss of men's own citizenship rights. Education became the signifier for an entire order of gender, a language for speaking about rights and of their abduction by men.

In this essay I have not attempted to provide either a comprehensive or a connected history of women's rights-acquisition, since there was no such sequenced, deliberate journey. Nor have I referred to the significant landmark events in the process. Instead I have analysed disjointed events and sought out unlikely and small places where rights-like properties were claimed or displayed at a time when rights

as a concept had little currency in the vocabulary of Bengali Hindus. At the most, a basic immunity was solicited for the woman's physical and sexual life, which was to be rendered unconditional. The woman herself had claimed certain entitlements for herself that strained against the commands of her family, her male guardians, and her community.

Seyla Benhabib and Jürgen Habermas have braided together the woman as a subject with her society and her lifeworld. In a sense, my study bears this out, for the nineteenth-century approaches to immunities and entitlements developed within the larger structures of new, unstable and uncertain moralities and sensibilities. But for many of the new voices that were articulated in the public sphere, the narrative unity that made them into subjects had to break away from the inherited ancestral culture that entirely framed their existence. The act of secession from culture was more significant than the fact that a new world was also in the making, which provided some sustenance. The new female autobiographies express the wrenching separation from the lifeworld. The modern female self had to narrativise itself against the grain of ancestral culture.

Modernity ruptures cultures, lifeworlds, and communities into many conflicting fragments. The public sphere, in turn, creates a dialogic relationship between them. These dialogues, however, may not always be conducive to consensus, to the invention of a new compound where all orders would find something of themselves. For consensus may also be compromise, retention of that which has always disempowered some and will continue to aim to disempower – in the name of threatened culture if no longer in the name of patriarchal discipline.

Notes

1. Martha C. Nussbaum, *Sex and Social Justice* (Oxford University Press, Oxford and New York, 1999), pp. 39–54.
2. Seyla Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (Polity Press, Cambridge, UK, 1992), pp. 14–17.
3. Jürgen Habermas, 'Struggles for Recognition in the Democratic Constitutional State', in *Multiculturalism*, ed. Amy Gutman (Princeton University Press, Princeton, NJ, 1995), pp. 107–14.
4. Charles Taylor, 'Politics of Recognition', in *Multiculturalism*, ed. Amy Gutman (Princeton University Press, Princeton, NJ, 1995), pp. 25–73.
5. Nancy Fraser, 'What's Critical about Critical Theory: The Case of Habermas and Gender', in *Feminism*, vol. 1, ed. Susan Moller Okin and Jane Mansbridge (Elgar Publishing House, Aldershot, UK, 1994), p. 87.
6. Poems written by anonymous women in *Narishiksha*, part 2 (Calcutta, 1884), pp. 210, 194.

7. See Sir William Markby, erstwhile judge in Calcutta High Court and fellow of Balliol College, *Hindu and Mohammadan Law* (Calcutta 1906), pp. 2–3.
8. Regulation IV of 1793. Cited in the Original Civil Court Ruling of 16 March, 1868 by Justice Markby, in the Secretary of State versus the Administrator-General of Bengal, *The Weekly Reporter*, Bengal, Calcutta, 1858, Supplementary Volume I, p. 57.
9. Regulation IV of 1793, p. 63.
10. See Tanika Sarkar, *Hindu Wife, Hindu Nation: Religion, Community, Cultural Nationalism* (C. Hurst, London, and Permanent Black, Delhi, 2001).
11. See Nancy Fraser, 'Rethinking Recognition', *New Left Review*, May–June 2000, pp. 112–13.
12. See *Nutan Panjika* (Serampore, 1870–1871), p. 1.
13. See Ishanchandra Vidyabagish, *Ekadashi Vyavastha* (Boalia, 1856).
14. See Mrinalini Sinha, *Colonial Masculinity: The Manly Englishman and the Effeminate Bengali in the Late Nineteenth Century* (Manchester University Press, Manchester, 1995), pp. 33–69.
15. See Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (University of California Press, Berkeley, 1998), pp. 11–42.
16. See Regulation XVII of 1829.
17. See S. D. Collet, *The Life of Letters of Raja Rammohun Roy*, ed. D. K. Biswas and P. C. Ganguly (Sadharan Brahma Samaj, Calcutta, 1962).
18. See, for instance, Bankimchandra Chattopadhyaya, *Bishabriksha* (Calcutta, 1873).
19. *Chittabillashini* (Calcutta, 1856), pp. 64–6.
20. See, for instance, Ramdhan Tarkapanchanan Bhattacharyya, *Vidhabavedannishedhak*, (Dharmasabha, Boalia, 1864).
21. Mani, *Contentious Traditions*.
22. See Lucy Carroll, 'Law, Custom and Statutory Social Reform: The Hindu Widow Remarriage Act of 1856', in *Women in Colonial India: Essays on Work, Survival and the State*, ed. J. Krishnamurty (Oxford University Press, Delhi, 1989), pp. 1–27.
23. Carroll, 'Law, Custom and Statutory Social Reform', pp. 1–27.
24. Ashok Sen, *Ischwarchandra Vidyasagar and the Elusive Milestones* (Papyrus, Calcutta, 1977); also see Sumit Sarkar, 'Vidyasagar and Brahmanical Society', in *Writing Social History* (Oxford University Press, Delhi, 1998), pp. 216–82.
25. Carroll, 'Law, Custom and Statutory Social Reform', p. 3.
26. *Murshidabad Patrika*, 18 April 1873, Report on Native Newspapers (Bengal, 1873).
27. *Dacca Prakash*, 20 April 1873.
28. *Bengalee*, 17 May 1873.
29. Manmohan Basu, *Hindur Achar Vyavahar* (Calcutta, 1873).
30. See Tanika Sarkar, 'Talking about Scandals: Religion, Law and Love in Late 19th Century Bengal', *Studies in History*, 13 (1997).
31. See 'The Queen versus Madhub Chunder Giri Mohunt', Calcutta High Court, 15 December 1873, in *The Weekly Reporter*; Criminal Rulings (Calcutta, 1874).
32. *Bengalee*, 1 November 1873.
33. *Dainik O samachar Patrika*, 15 January 1891, RNP (Bengal, 1891).
34. *Bangabashi*, 21 March 1891, RNP (Bengal, 1891).
35. The history of this bill is discussed extensively in Sarkar, *Hindu Nation, Hindu Wife*.
36. By Revd Long's reckoning, as many as twenty-five new newspapers were started to discuss widow remarriage. See Benoy Ghosh, 'The Press in Bengal', in *The History of Bengal, 1757–1905*, ed. N. K. Sinha (Calcutta University Press, Calcutta, 1967), p. 227.
37. See Jatindra Jain, *Kalighat Painting: Images from a Changing World* (Mapin Publishing, Ahmadabad, 1999), pp. 16–96; also Tanika Sarkar, 'Talking about Scandals', pp. 63–97.
38. See Usha Chakravarty, *Conditions of the Bengali Women in the 19th Century* (Calcutta, 1960).

39. William Adam, 'Female Instruction', in *Second Report on the State of Education in Bengal, 1836*, ed. and reprinted by A. N. Basu (Calcutta University Press, Calcutta, 1941), pp. 187–8.
40. See Tanika Sarkar, *Words to Win: The Making of Amar Jiban, a Modern Autobiography* (Kali for Women, Delhi, 1999), pp. 67–89.
41. See Sarkar, *Words to Win*.
42. Benoy Ghosh (ed.), *Samayikpatre Banglar Samajchitra*, vol. 2 (Papyrus, Calcutta, 1970), pp. 27–8.
43. See Sarkar, *Words to Win*, pp. 71–3.
44. Kailashbhashini Debi, *Hindu mahilaganer Heenabastha* (Calcutta, 1863), p. 62.
45. Debi, *Hindu mahilaganer Heenabastha*, p. 67.
46. *Narishiksha*, part 2, p. 210.