

Mandira Sharma and Seira Tamang, eds. 2016. *A Difficult Transition: The Nepal Papers*. New Delhi: Zubaan.

*A Difficult Transition: The Nepal Papers* is published by Zubaan, an independent feminist publishing house in New Delhi under its series on sexual violence and impunity in South Asia. This edited volume offers a much needed collection of in-depth and critical writings—a poem, a bibliography, eight essays, and three interviews. The book provides the reader with an over-arching yet, at the same time, detailed understanding of the history, politics, and culture of sexual violence and impunity by locating these in the politico-legal contexts of the aftermath of the armed conflict and the ensuing transitional period in Nepal. Even though more than a decade has passed since the active conflict ended, the issues and questions raised by these writings stand relevant, and perhaps more importantly, unaddressed, unheeded, and at times, strategically ignored by various stakeholders. Despite few shortcomings, this book is a welcome additional resource to think about Nepal’s “difficult transition.” It brings together scholars, researchers, activists, poets, journalists, law practitioners, and advocates to spark “difficult conversations” in order to break the silence that has engulfed the topic of sexual violence and impunity in Nepal. This review will attempt to briefly summarize the arguments made by the essays although it would be impossible to cover all aspects of the book here.

The introductory section has three contributions. The first piece is co-written by Urvashi Butalia, Laxmi Murthy, and Navsharan Singh situating the Nepal volume in the larger research context of Zubaan’s above-mentioned series and explaining some of the key points of inquiry that informed the research team. They point out the evident silence that shrouds the topic of sexual violence as a weapon of war and crime against humanity, lack of intersectional approach to looking at violence, flawed or failed transitional justice mechanisms, and rampant practices of impunity. They grapple with the question of whether these concerns are unique to South Asia or have a universal resonance. At the core of this book lies a belief that there is a much need felt for a multi-disciplinarian and dimensional scholarship to build a “comprehensive and critical analysis of existing jurisprudence on sexual violence” (p. ix).

The second piece is a powerful poem by Pranika Koyu provocatively titled “An Invitation to Bam Dev Gautam.” It is a bold invocation lined

with satire and rage, with an almost accusatory tone, critiquing the double standards, hypocrisy, normalization, blatant sexism, and lack of any kind of integrity when it comes to our leaders (Gautam is Nepal's former Deputy Prime Minister and the Minister of Home Affairs), institutions, and society. The poem begins with "Transitional phase?/Where does it begin or end/I know not" and ends with "A woman to be raped in the normal course of/transition of this country," by which the poem is able to locate its polemics into the political narrative of the book. The third piece, introducing the essays in the reader by co-editor Seira Tamang, not only contextualizes the permissive environments which is deeply and structurally rooted in "the interstices of Nepal's colonial and post-colonial vectors" (p. xxxiv) but also skillfully pulls apart the essays and their arguments to re-weave them into a narrative in which the book finds a sturdier conceptual and analytical framework.

The main section of the book is prefaced by an annotated bibliography titled "Writings on Sexual Violence and Impunity in Nepal" by Surabhi Pudasaini which is crucial in both providing a much needed curation of works on this issue but also engaging in the exercise of creating bibliographies that provide a more nuanced understanding of the works than just listing them down. The piece points out that there has been a considerable lack of interest from the academics in studying violence against women which becomes evident by the fact that of the thirty nine writings enlisted from 1994 to 2014, most of these writings are reports and research conducted by various non-governmental organizations, bilateral and multilateral donor agencies. Pudasaini does admit that she was not able to include the doctoral and Master's theses produced by various universities like Tribhuvan University as well as memoirs written specifically by Maoist women. Bibliographies serve as a methodological tool with a rigor to provide an analytical and critical insight into the factory of knowledge production—highlighting the gaping voids and crevasses—in this case, showing that there is a dearth of feminist work from both an academic or activist position in examining the various forms of sexual violence and impunity in Nepal.

The essays included in this section cover—or more aptly, uncover—the stretches of political, historical, legal, and cultural value systems, frameworks, and practices in Nepal that have allowed for the voices of the victims of grim human rights violations, especially sexual violence like sexual assault, torture, and rape, to be muffled and stifled. The two essays,

namely, “The Hindu State, Women’s Activism and the Cultural Coding of Sexuality” by Seira Tamang and “Hunters versus Defenders: Rape in the Legal History of Nepal” by Dhiraj Pokhrel and Mandira Sharma both adopt a historical lens to critically look at both the cultural and legal codings of female sexuality as being problematic. Tamang argues that women have always been subjected to the patriarchal gaze by society and the state in which “analyses of laws related to sex crimes reveal a framing not in terms of the rights to her physical integrity, but as crimes against a woman’s modesty or honour” (p. 73). This cultural coding seeps into both the legal and development frameworks, shaping the discourse on sexual violence in Nepal. One of the implications of such coding, as suggested by Tamang, is how mediation and informal settlement is chosen instead of undertaking formal investigations and legal steps when attempting to provide “justice” to the victim of an act of sexual violence.

Pokhrel and Sharma further this argument by bringing in an interesting concept of males as “both hunters and defenders—the law breaker and the lawmaker/enforcer” (p. 104). They conclude that the “hunter injures the invisible honor and sanctity, the defender, in turn, proves such invisible injuries and perpetuates the patriarchal narratives” (p. 104). They reach this conclusion by analyzing the codes of the *Muluki Ain* (for example, how limited its definition of sexual violence was to *jabarjasti karaṇī*, forced sexual intercourse). While both the essays dig into the historical framings deepening the crevasses between the theory and practice of transitional justice mechanisms, the writers could have also elaborated on the cultural codings related to the notions of “impunity” and “justice.”

Most of the essays emphasize how the thirty five-day statute of limitations by which to report cases of rape was a contentious issue posing a big hurdle for the victims of sexual violence and perpetuating the silence and impunity for the perpetrators to take advantage of. Bishnu Maya Bhusal, in her essay “Prosecutorial Processes in Armed Conflicts and States of Emergency” points out that “despite the scores of reported incidents of sexual violence during the conflict, this limitation created a significant obstacle for victims intending to commence legal action” (p. 150). In addition to this legal chasm, Sharma and Pokhrel provide a case study of Purna Maya in their other chapter, “Impunity for Conflict-related Sexual Violence in Nepal.” Purna Maya is not only a victim of sexual violence but someone who is further victimized by the “functioning of impunity in everyday settings” (p. 107) where her case is

refused to be filed, and her truth consistently dismissed by authorities. In the essays, it is pointed out that this statute of limitations become problematic when addressing rape crimes committed during the conflict period where the victims did not or could not file a first information report (FIR) due to various reasons like social stigma, threat against their lives, inaccessibility to such a mechanism, harassment by authorities, lack of victim and witness protection law, and inability to maneuver around the legal procedures. Both these essays also point out that in numerous occasions, the decisions and rulings of the Supreme Court have been neglected. For instance, “the Supreme Court has twice ordered the revision of the statute of limitations, but it remains unchanged” (p. 164). They provide a critique of the Truth and Reconciliation Commission (TRC) as a transitional justice mechanism in the context of weak jurisprudence of the Supreme Court, arguing that the “truth commissions” cannot be a substitute to the criminal justice system which requires a larger scrutiny of our justice system.

Mallika Aryal in “Truth, Silence and Justice: The Maoists’ View” also points out that “survivors of sexual violence will never find the courage to come out and talk about what happened because the TRC Act and the commission doesn’t have the mandate” (p. 200). While Aryal’s focus in the article is to conduct an investigation into sexual violence committed by the Maoists and/or the People’s Liberation Army (PLA) during the conflict period, it pivots into exploring the notion of truth and justice amongst former female PLA soldiers. “After the War: Transitional Justice in Nepal” by Reshma Thapa claims to “discuss the patterns of sexual violence and impunity during the armed conflict between 1996 and 2006 in Nepal” (p. 205). However, in analyzing the TRC laws, it provides similar information to that given in other essays in the book. Other than Tamang’s, and Pokhrel and Sharma’s essays, most of the essays in the book do not have a conceptual or analytical framework for examining the prevalent sexual violence and impunity and are limited to providing a descriptive, albeit comprehensive, overview. Hence they lack in strong arguments.

One essay that stands distinct from the rest is Surabhi Pudasaini’s second contribution, “Reflections on Occupy Baluwatar.” It takes on a self-reflexive and critical introspection into the making of “Occupy Baluwatar” (OB) which was a “youth-led social movement for justice” (p. 279) during 2012–2013. This movement demanded the state to be accountable to victims of human rights violations, specifically violence against women (VAW). A critique of

the development agendas attached to VAW and a self critique of the restrictive situatedness of the OB movement, this essay is perhaps more emblematic of a contemporary challenge of dealing with the difficulties in addressing issues of violence and impunity that are so historically and politically rooted.

Finally the book includes three interviews. Two of them are done by the Indian journalist Laxmi Murthy: one with Dr Harihar Wasti on “Forensic Investigation in Sexual Violence in Nepal” and the second with human rights lawyer Mandira Sharma “On Court Martials and the Impossibility of Justice.” In the final interview, “Triply Disadvantaged—Dalit, Poor and Female,” Pudasaini talks with Dhan Kumari Sunar, a Dalit/women’s rights activists who is also a former member of the National Women’s Commission. These interviews help identify various ground realities, challenges and loopholes of achieving “truth” and “justice” for victims of sexual violence in Nepal.

Moving on to discuss some of the weaknesses of the book, the essays have not been curated in a manner in which they engage with each other to push forward the discussions around the themes therefore, making various elaborations and sections redundant to the readers. Another major issue with the book is that most of the essays employ an armchair research approach in which they look at already existing literature to frame their argument. Except for a few, the writers haven’t conducted extensive fieldwork, interviews, and interactions to support their work. This methodological gap becomes stark when it comes to conceptualizing and defining violence, truth, and justice because none of the essays are able to explore these notions from the victim’s perspective. While some of the essays include case studies, most of them have been extracted from reports and research conducted by organizations so they are not first-hand narratives and there is not much unpacking of those reports. More importantly, the introductory piece by Butalia, Murthy and Singh had laid out some key questions and concerns that were framing the inquiry of which the essays were able to delve deeply on the failures of our domestic laws and policies but they could not examine the idea of “bodily integrity and autonomy” as well as question the notions of “reparation and beyond” for the victims of sexual violence. Therefore, one of the shortcomings of this collection is that it does not have a strong conceptual and analytical framework where the idea of violence, justice, truth, reconciliation, reparation, and impunity are defined, contested, and critically redefined.

Despite these shortcomings, the book is a landmark in breaking the silence around and in furthering an understanding of how issues of sexual violence and ensuring justice for the victims in a post-conflict nation riddled with impunity is affected by complex social, cultural, and political frameworks intertwined in both judicial and everyday practices.

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