

I am not sure. If we equate Hindutva with the idea of Hindu Rashtra, in terms of theocratic state, then I agree that the new generation of Indians do not subscribe to that. Be it noted that however, neither Savarkar nor the RSS plead for 'theocratic state'. In that sense, Modi and his rivals in the Sangh parivar are not differing in their notion of the Hindu Rashtra. Therefore, the idea of majoritarianism is not weakening.

Yes, the Modi government has removed a few newly constructed temples in Gandhi Nagar along with few mosques, but all state rituals, celebrations and language as well as nomenclature of welfare schemes and many other programmes are tagged with upper caste Hindu gods, customs and idioms. Such legitimacy to Hindutva ideology is not confined to Gujarat alone. Recently, in Mumbai (capital of the state of Maharashtra ruled not by BJP or Shiv Sena but by the Congress and NCP) Bal Thakare, who had unequivocally rejected the idea of 'secular' India, did not believe in rule of law and known for his 'hate Muslim' campaigns, was accorded full state honours in his funeral. Perhaps the Gandhian critic of BJP/VHP academia would justify such state action in the name of 'popular culture/sentiments!'

The volume convincingly argues with evidences not only from Gujarat but also with other similar studies that state plays central role in facilitating and protecting interests of business and industrial entrepreneurs. It is not retreating. It is reinventing its role to facilitate interests of business and industry. Moreover, the state plays central role in economic liberalisation and Hindu nationalism. The champions of both use state resources, power and network to attain their mission in perpetuating their dominance. Gujarat politics is a case in point.

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Kalpana Kannabiran, *Tools of Justice: Non-Discrimination and the Indian Constitution*, Routledge India, 2012, pp. 520, ₹ 995

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The Directive Principles of State Policy elaborated in Part IV of the Constitution of India require the state to secure a social order for the promotion of welfare of the people by eliminating the inequalities that exist. The economic system is to be operated in such a way as not to result in the concentration of wealth and means of production to the common detriment and the ownership and control of community resources are to be distributed to best serve the common good. There is one point of view that asserts that Part IV of the Constitution is not justiciable and cannot be directly enforced and there is another contrary view which holds that Directive Principles are fundamental to governance and judges must use these principles as guiding lights while delivering judgements. Insurgent constitutionalism attempts

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to infuse life into the otherwise dead letter of the law by injecting a people-oriented ideology in Indian constitutional jurisprudence. The parameters and outlines of this ideology are to be found in the Directive Principles.

This argument developed by K.G. Kannabiran—senior advocate, philosopher and fierce human rights activist—in his book *The Wages of Impunity: Power, Justice and Human Rights in India* (Orient Longman) is taken forward in ‘Tools of Justice: Non Discrimination and the Indian Constitution’ by his daughter and scholar Kalpana Kannabiran. The central theme of her project is to show that Article 21 of the Constitution, which guarantees protection of life and liberty, is not applicable only to state custody and civil liberties. Life and liberty are inherently and profoundly interconnected with Article 15 and the prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. Describing liberty as ‘the Siamese twin of non discrimination’, the book explores the application of this interrelationship in the areas of disability rights, Dalit rights, adivasi rights, religious minority rights, women’s rights and sexuality minority rights.

Describing discrimination as the undermining of dignity, Kannabiran outlines the practices that are destructive of dignity such as segregation, seclusion, negative stereotyping, exclusion, chronic mistreatment and finally—the most severe of them all—collective violence. She identifies key constitutional concepts for the identification and elaboration of discrimination such as ‘hostile environment’, best elaborated in Vishakha’s case where it was held that the existence of an environment at the work place hostile to women constituted sexual harassment. In her book, she develops this argument by extending it to persons with disability operating in a society where physical and other forms of access (ramps, sign language interpreters, etc.) are missing, to tribal areas where the adivasis are hemmed in by a hostile forest bureaucracy and to situations such as those prevailing in the state of Gujarat after the 2002 massacre of minorities where Muslims are segregated and ghettoised.

Against the yardstick of equality and non discrimination, it emerges that in certain aspects of social life, India remains a barbaric and uncivilised country where discrimination is deep rooted and widespread with large scale incidents of violence dotting the jurisprudence landscape. Kannabiran may have found it difficult to decide whether to start with discrimination against persons with disability or caste discrimination or discrimination against women and sexual minorities. The decision to start with disability may have been on the throw of a dice. She begins by looking at the case law which is rather recent and not very comprehensive. She then looks at state policy and legislation and ends with ‘a radically new approach that springs from the question of ability’. In doing so, she moves from the current status of state charity and tolerance to infusing disability rights with dignity and a vibrant view of legal capacity.

The sections on caste examine the sociological and historical scholarship, the case law on reservation for Dalits in employment and education and the issue of untouchability. The battle between the Dalits and the dominant castes, so intense and persistent in Indian society, enters the courts with constitutional battles being fought over issues such as ‘merit’ and ‘efficiency’. Over the years a constitutional

morality on reservation has developed, based on the recognition that without special measures, the process of inclusion would remain a distant dream. This section on untouchability has an interesting outline of S.R. Sankaran's immense contribution to the struggle against untouchability. A senior government servant, he made 136 government orders in 'an unparalleled demonstration of creative and insurgent administration'—all enacted to stamp out the vice of untouchability and to enforce Article 17 (the abolition of untouchability) of the Constitution. The Scheduled Castes hold their own in perhaps all but one crucial arena of power—the judiciary. Kannabiran points out that in 1989, of the 432 High Court judges, only six belonged to the scheduled castes and one to a scheduled tribe. The situation is not very different today.

The section relating to adivasis covers complex constitutional issues relating to adivasi homelands, their liberty and massive forced displacements. Despite the enactment of the Panchayats (extension to the Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, neoliberal economic policies proved triumphant and crippled the implementation of these statutes. Corporate activity, particularly mining, in the tribal areas gives rise to a civil war with the security forces pitted against the adivasis causing untold misery due to suspension of public services, arbitrary arrests, torture, illegal detentions, disappearances and abductions. This provoked what is possibly the most remarkable decision of any Supreme Court or Constitutional Court in the democratic world—*Nandini Sunder Vs State of Chhattisgarh*—where the Supreme Court characterised the state as terrorist and castigated globalisation and its agents—the World Bank and the IMF.

Then there is the section on discrimination against religious minorities. It covers, inter alia, the Sachar Committee Report of 2006, showing discrimination and collective violence against Muslims and social, educational and economic backwardness among certain sections. It also deals with the 2010 decision of the High Court of Andhra Pradesh in *T. Muralidhar Rao Vs. Government of Andhra Pradesh* where the High Court struck down a statute providing for reservation for certain Muslim backward classes. Kannabiran characterised the action of the High Court as symptomatic of 'conservative and deeply discriminatory majoritarian rhetoric'. Finally Kannabiran analyses the paralysis of the right to liberty in the context of communal violence and genocidal massacres.

The last part and probably the most comprehensive section is titled 'Sex, Gender and the Denial of Freedom'. Starting with the history of social reform in India from the late nineteenth to the mid twentieth century, Kannabiran then proceeds to analyse the judgements of the High Courts of the States and the Supreme Court of India over a 60 years period. Later she focuses on the history of legislative measures taken to combat sexual assaults and the various court decisions that culminated in sexual assault being viewed as a derogation of the right to life and personal liberty. She places particular emphasis on sexual violence against women from Dalit, tribal and minority communities and the practiced guarantee of impunity to perpetrators of violence against women. In ending this section,

the historic decision of the Delhi High Court in the Naz Foundation Case has a particular pride of place because it is this decision that brought discrimination against sexual minorities centre stage in India.

This is a superb, path-breaking study and a must for all college students, academics, activists and members of the legal profession.

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Rekha Talmaki, *Socio-Economic Development of Tribal Women: Changes and Challenges*. Delhi: The Women Press, pp. xxiii + 222, ₹ 895

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Rekha Talmaki has made a serious and commendable effort at conducting survey based research on socio-economic status of tribal women in Valod (South Gujarat) where committed Gandhian workers have dedicated more than five decades of their lives in village development activities based on Gandhian principles. Her personal field visits have played crucial role in bringing new insights and analysis with gender lens. She has examined tribal women's predicaments in the context of status of women in India in general where main factors in determining socio-economic status have been income, education and occupation. She has provided an exhaustive literature review focusing on occupational life, health profile of tribal women and tribal women's status in the family decision making. She has also evaluated the situation to find out to what extent Gandhian ideology of Antyodaya is implemented vis-a-vis tribal women, who are the poorest of the poor in the economic ladder and at the bottom of the pyramid.

The author has rightly used a conceptual framework of social exclusion that includes socio-economic parameters of inequality, poverty, social exclusion in India. She has provided definition of tribe. She has highlighted indicators such as working status and demographic aspects of tribes in Gujarat as well as size and distribution of scheduled tribe. She also reveals that sex ratio of tribal women in Gujarat is relatively higher than the rest. The question is, does that indicate they enjoy better status in socio-economic, cultural, educational and political lives? Social geography of Surat reveals volatile changes due to industrialisation, urbanisation and globalisation. In what way have these factors affected lives and survival strategies of tribal women? The author has made an honest attempt to answer these mind boggling questions.

With the help of questionnaire for tribal women that was administered on 498 women respondents from 11 villages selected as sample who were falling in the category of 18–59 years age group, for Gandhian institutions working among them and for financial institutions, nationalised and cooperative banks, the author has tried to analyse various development efforts. She has revealed that large