

Divorce and Democracy

This book captures the Indian state's difficult dialogue with divorce, which was mediated largely through religion. By mapping the trajectories of marriage and divorce laws of Hindu, Muslim, and Christian communities in postcolonial India, it explores the dynamic interplay between law, religion, family, minority rights, and gender in Indian politics. It demonstrates that the binary frameworks of the private–public divide, individual versus group rights, and universal rights versus legal pluralism are insufficient in capturing the peculiarities of religious personal law in India.

The book historicizes the legislative and judicial response to decades of public debates and activism on the question of personal law and a uniform civil code in postcolonial India. It suggests that the sustained negotiations over family life within and across the legal landscape provoked a unique and deeply contextual evolution of both secularism and religion in India's constitutional order. Personal law, therefore, played a key role in defining the place of religion and determining the content of secularism in India's democracy.

Saumya Saxena is a British Academy Postdoctoral Fellow at the Faculty of History, University of Cambridge, and a Postdoctoral Associate at Jesus College, Cambridge. She is a legal historian interested in family law, religion, and gender politics in India. She writes on women's movements, secularism, and law in late-twentieth- and twenty-first-century South Asia.

Divorce and Democracy

A History of Personal Law in
Post-Independence India

Saumya Saxena



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To

Professor Sir Christopher Alan Bayly

To my grandfathers

Shyam Bihari Lal Saxena and Virendra Kumar Saxena

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Abbreviations

AALI	Association for Advocacy and Legal Initiatives
AICC	All India Congress Committee
AIMIM	All India Majlis-e-Ittehadul Muslimeen
AIMMM	All India Muslim Majlis-e-Mushawarat
AIMPLB	All India Muslim Personal Law Board
AIMWPLB	All India Muslim Women's Personal Law Board
AISPLB	All India Shia Personal Law Board
AIR	All India Reporter
AIWC	All India Women's Conference
AWAG	Ahmedabad Women's Action Group
AWAS	Association for Women's Assistance and Security
BJP	Bharatiya Janata Party
BMAC	Babri Masjid Action Committee
BMMA	Bharatiya Muslim Mahila Andolan
CAD	Constituent Assembly debates
CEDAW	Convention of Elimination of All Forms of Discrimination against Women
CPI	Communist Party of India
CPI(ML)	Communist Party of India (Marxist-Leninist)
CrPC	Criminal Procedures Code
DMK	Dravida Munnetra Kahzgam
FIR	First Information Report
HUF	Hindu Undivided Family
IIWA	Iqra International Women's Alliance
IPC	Indian Penal Code
ISIS	Islamic State of Iraq and Syria
IUML	Indian Union Muslim League
JIH	Jamaat-e-Islami Hind
LCI	Law Commission of India
LCR	Law Commission Report
MISA	Maintenance of Internal Security Act
MLA	Member of Legislative Assembly

MP	Member of Parliament
MWRN	Muslim Women's Rights Network
NAI	National Archives of India
NCW	National Commission for Women
NDA	National Democratic Alliance
NIA	National Investigation Agency
NGO	Non-Governmental Organization
NMML	Nehru Memorial Museum and Library
PIL	Public Interest Litigation
PLD	Partners for Law and Development
RSS	Rashtriya Swayamsevak Sangh
SAL	Social Action Litigation
SEWA	Self Employed Women's Association
SEBC	Socially and Educationally Backward Classes Commission
SCC	Supreme Court Cases
SCR	Supreme Court Reporter
UP	Uttar Pradesh
UPA	United Progressive Alliance
VHP	Vishwa Hindu Parishad
WRAG	Women's Research and Action Group
WLUML	Women Living under Muslim Laws