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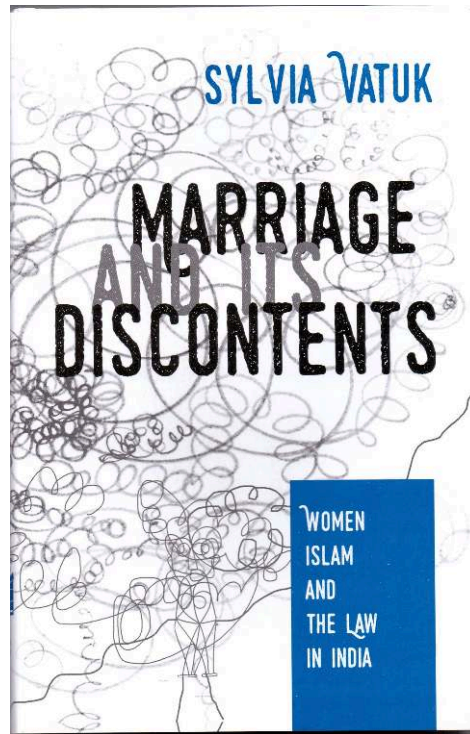
*Sylvia Vatuk. Marriage and its
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Sylvia Vatuk. 2017. *Marriage and its Discontents: Women, Islam, and the Law in India*. New Delhi: Women Unlimited. 273 pages.

- 1 Sylvia Vatuk has been making rigorous contributions to South Asian scholarship for decades now. Her works have been immensely helpful for anthropologists and sociologists, especially those who are interested in the fields of gender, marriage, and kinship. While her initial research focused on North Indian Hindu communities, over the past two decades she has also shifted her attention to Muslim communities of South India. *Marriage and its Discontents: Women, Islam, and the Law in India* is a compilation of papers she has published over the past 15 years, based on this more recent research. The book uniquely focuses on encounters of Muslim women with non-State religious bodies (extra judicial) and State actors (in Chennai and Hyderabad) in addressing and settling their marital discords. In due course, the book also clarifies several stereotypes, particularly those associated with family and marriage, regarding the Indian Muslim community.
- 2 In the Introduction chapter, Vatuk clarifies that Muslim women do not initially reach out to civil courts to settle matters of marital discord. Instead, the first recourse for resolving marriage-related disputes are family members and kin, and if this intervention does not prove useful, women approach their local mosque and its leaders (Vatuk 2017:xi). Only when this option too proves unhelpful do they go to a civil court. While the book addresses many themes related to women's rights and marriage under Islamic law and Indian civil law, it particularly focuses on experiences of divorce. Vatuk explains that contrary to popular perception, *talaq* (a husband-initiated divorce) is not the only way of ending a marriage. Islamic law has provisions for women to initiate a divorce as well, a process which is called *khul*. Crucially, she draws attention to how women's rights might be manipulated by husbands as well as *qazis* (religious leaders) in order to benefit the husband, and in this way, she lays out the actual workings of law, rather than simply discussing what the law says. The book also discusses other changes that the Indian Muslim community in South India are undergoing, such as those related to practices of spouse-selection and women's movements.
- 3 The book comprises 8 chapters, each focusing on a distinctive aspect of Muslim Personal Law (MPL) and its lived reality. These chapters can also be read along three axes: the first axis focuses on the legal framework (Islamic law or Civil law) through which experiences and negotiations of divorce and its various forms or options are encountered; the second dismantles various stereotypes related to women's rights as provided in Islamic law as well as misconceptions regarding marriage and divorce amongst Muslims in India; and the third axis concerns itself with identifying larger practices and changes related to marriage, family and divorce amongst Muslims in India.



- 4 **Legal Frameworks:** Vatuk begins and ends the book with chapters that directly deal with how Islamic law as well as civil law manages women's grievances with regard to divorce. In chapter 1, Vatuk explains with great nuance how the extra-judicial system undertakes what she calls a "paternalistic approach" (p. 3) towards women. This is evident when women turn to the law to help them through a process of divorce, and instead are advised by these legal bodies to reach a compromise (p. 4) and not dissolve their marriage, mainly because these administrators view women as weak and in need of protection that is to be provided primarily by a husband. Various strategies are adopted to discourage divorce, for instance delaying pronouncing a decision on a case in the hope that the spouses will reconcile their differences, or suggesting the feuding couple seek out counselors who are not professionally trained and whose constant advice to the couple is to make the marriage work. If the situation seems past the point of settlement, then the woman is encouraged to opt for *khul* instead of a *talaq*. This is because if the couple opts for a *talaq*, the husband is obliged to repay the wife's *mehr* and also provide for her financially for three months, whereas with a *khul* the woman forfeits her rights to financial maintenance by the husband. Since this is advantageous for the husband, the male dominated legal administration system (non-State especially), coaxes the woman into exercising her right of *khul*. At times, this provision is therefore also dubbed "male-initiated *khul*" to indicate that women might not want to initiate a divorce but are forced to do so. In this way, Vatuk brings attention to the difference between "what law says and what law does" (p. 3), as she explains that although according to MPL, women do have rights in matters of divorce (maintenance for example), the way laws are practiced can subvert these very rights, and make the situation disadvantageous to women.
- 5 Such a nuanced rendering of how law is practiced is indeed insightful and while Vatuk does provide a comprehensive account, a further unpacking of how this paternalistic attitude really works would have been helpful: What is said in the counseling sessions beyond encouraging women to compromise? What do the counselors, judges and lawyers, make of their role in settling these disputes? Scholarship in Anthropology of Law is rife with ethnographic works as well as anthologies that lay bare the exact workings of law. Indeed, the book in which this chapter first appeared, Basu and Ramberg's (2015) *Conjugal Unbound Sexual Economies, State Regulation, and the Marital Form in India* and other works, including those by Holden (2008), Ghosh (2008), Hasso (2010), Loos (2006), have provided rigorous insight into what law does and not just what it states. In a similar vein, a more detailed commentary on the content and affective undertones of counseling, and legal aid at large, would have certainly made this chapter all the more interesting.
- 6 The final chapter too (Chapter 8) engages with the theme of legal structure as it discusses one of the most controversial cases in Indian legislative history, namely the Shah Bano case, which debated whether and for how long, according to Indian civil law, a husband is responsible for supporting his wife after he has divorced her, and how this might clash with MPL. This is an important case to revisit especially in light of the July 2019 law passed by the Indian government that criminalizes instant triple *talaq*. This law received mixed reactions wherein the supporters believe it to be a step in the direction of making MPL more woman-friendly, and the opponents consider it to be a way to control, and to an extent demonize, Muslim private lives. Both the Shah Bano case and the recent criminalisation of triple *talaq* have contributed to the on-going

debate regarding instating Uniform Civil Code (UCC) in India. Indeed, a short discussion on the UCC would have provided a robust framework to the rich ethnographic material of this book.

- 7 **Addressing Stereotypes:** In explaining the workings of state and non-state actors and how they administer Civil and Islamic law in matters of marriage, one important aim that Vatuk has successfully achieved is to dismantle several stereotypes associated with Muslim communities in India. One of the most widely held stereotypes is that Muslims marry early and divorce several times (and immediately) to enter into another marriage. In Chapter 2, Vatuk tells us that the marriage age of Muslim women is not substantially lower than that of other communities (it's just below 21 for women). She also explains that *talaq* is not as widespread as it is made out to be (information which is crucial in critically assessing the recent criminalizing of triple *talaq*) and instead there are more cases of husbands abandoning their wives than seeking *talaq*, as the latter requires them to assume financial responsibility for their wife. She also clarifies that, contrary to popular opinion, *talaq* is not always pronounced in a fit of rage, and instead is often a culmination of a long period of separation between husband and wife. Another popular stereotype regarding Muslim women is that they tend to remarry quickly, whereas Vatuk found that their rate of remarriage is quite low, and also that contrary to popular opinion, Muslim men do not have multiple wives (Vatuk 2017:63). In challenging these stereotypes, Vatuk makes a poignant argument in that she states that the challenges Muslim women face in their marriages are not necessarily related to their religious identity and in fact are more cultural, that is, akin to a pan-Indian culture that shapes treatment of all Indian women irrespective of their religious background. She explains that a careful reading of the expectations of Muslim women in marriages, tales of their abandonment, and difficulties in achieving divorce reveals similarities with the narratives of women from other religious groups. To that extent, these issues are “systemic ones that are largely cultural than purely religious” (p. 79). It is indeed well-documented by scholarship that religion and culture are not in strict binary opposition, and indeed influence and derive from one another. Therefore, a short discussion on the overlaps as well as careful distinctions between the two, or at least how Muslim women view religion and culture to be distinct, would have further bolstered Vatuk's argument. Another stereotype associated with the rights of Muslim women is that they do not have the right to divorce, and Vatuk clarifies this in several chapters, particularly chapter 4. Vatuk spells out the various options available to Muslim women to dissolve their marriage, including *khul* and provisions offered by civil law as well. At the same time, she brings attention to the ways in which these rights might be subverted by men (husbands and *qazis*). Such a nuanced analysis furthers existing scholarship that discusses the complicated and contradictory manifestations of women's agency including works by Jeffery and Jeffery (1994), Kalpagam (2000), Gold and Raheja (1994) and others.
- 8 **Continuities and Changes in Muslim Society:** The last set of chapters, quintessential to Vatuk's research and writing style, take us through the changes and continuities within Muslim communities in South India. In chapter 6, based on ethnographic research conducted on one Sunni family (extended kin networks included), Vatuk examines whether patterns of spouse-selection have undergone transformation. She notes that while previously all marriages had been arranged with cross-cousins, with the turn of the 21st century these practices or rules had become a bit more lax. For instance, earlier marriages with a woman belonging to “*ghair khandan*” were only allowed when it was a

second wife, but more recently, there has been more leniency in marrying a woman (first wife) from a “*ghair khandan*,” to the extent that she is from a respectable family. She also notes that the current generation emphasizes finding a spouse with the right education and occupational qualifications, and also factors in physical appearance (Vatuk 2017:208). That said, this generation too desires to uphold the ideology of “pure blood” (p. 213) and therefore, a preference for close-kin marriage remains. According to Vatuk, another reason for this preference is because the dowry expected is lower in these situations, and there is an unspoken guarantee that the woman will be treated well in her husband’s home. This is one of the most informative chapters of the book, and contributes to a recently growing literature on studying spouse-selection in India, such as works by Bhandari (2020) and Twamley (2014), which aims to understand changes in the institution of marriage and analyze identity-building amongst young Indians.

- 9 Chapter 3 takes the discussion on dowry further, as Vatuk traces how the meanings of dowry have transformed. Initially, she notes, the practiced custom was of *jahez*, (clothes, jewelry of the bride that she brings with her to her new home) and giving of “*jore ka paisa*” (money for clothes) by the bride’s family to the groom’s family. More recently, however, these terms seem to have expanded their meanings, as the expected gifts are not restricted to clothes, but the bride is also expected to bring with her a large lump sum of money. Indeed, a more often-used term now to denote this new trend, as it were, is *len-den* (give-take). To some Muslims, this new gift-giving practice is mainly a Hindu custom, namely of dowry, and they lament this “cancer of dowry” that has spread to their community. Vatuk also analyzed two local Muslim community newspapers and found that these newspapers/magazines carried several articles urging Muslims to give up this “Hindu practice.” In this way, Vatuk explains how a marriage custom plays an important role in drawing religious community boundaries.
- 10 In Chapter 7, Vatuk traces marital discords amongst four couples as she believes that “stories of separation and divorce can shed light on the nature and dynamics of contemporary marriage” (Vatuk 2017:221). In analyzing these stories, she brings out how ultimately the responsibility of making a marriage work falls on the wife, particularly as the marriage depends on her ability to carry out her domestic and marital duties without any resistance. A wife is expected to put up with her husband and support him even if he has an affair or is unable to contribute to the household financially or is an alcoholic or physically abuses her. Being able to tolerate her husband’s errant behavior and making the marriage work even under trying circumstances are indeed the hallmarks of being a good wife. This is a poignant chapter especially for an analysis of contemporary India, for often it is believed that Indian society is undergoing a transformation wherein the ideals of the good wife have changed. However, this chapter brings to light that the ideal of the good wife continues to find centre in domestic duties and the sentiments of compromise and adjustment— aspects that were also the findings of a few classic works in South Asia including Dube (1996, 2001), Papanek (1979), and Uberoi (2009). Indeed, this discussion too bolsters Vatuk’s argument that reasons for marital discontents are more cultural than religious.
- 11 Chapter 5 looks at the responses of Muslim women to Islamic law through the lens of feminist movements and women’s organizations. Here, Vatuk discusses Muslim women activists’ hesitation to identify themselves as feminists and explains how they do want

Islamic law to be more woman friendly but also emphasize that “neither their religion nor their personal law are ultimately responsible for Indian Muslim women’s oppressed condition” (Vatuk 2017:159). They also want a re-reading of the Quran to undermine “both Islamist patriarchal distortion and western stereotypes of Islam.” (p. 154). Yet, they do not denounce Islamic Law or find it inherently patriarchal.

- 12 While the book is expansive in its extent, it suffers from that perennial issue that any compilation work does, namely, that the chapters do not necessarily flow from one to another, and a lot of information is repeated throughout the chapters. As a result, it is perhaps better read as individual chapters. Additionally, though the book claims to provide an in-depth discussion of the role of non-State actors in administering the law, the extent and scope of this explanation is limited. Indeed, while Vatuk spells out in the Introduction chapter that women tend to first approach family members in settling marriage disputes, there is little discussion of this support system. Vatuk has elsewhere described the importance of female support or female relations amongst Muslim communities, and this book too would have benefitted from more information on what the role of female members of a family or community is in settling marital discords.
- 13 A fitting publication from Women Unlimited—a leading feminist publishing house of India—this book is a compelling read on the lives of Indian Muslim women, which will appeal to scholars, students, and the general population, and indeed is a timely contribution. It provides a realistic picture of the matters of marriage and divorce, gender performances, and religious duties of Indian Muslim communities in a gripping and rigorous writing style, which Vatuk is known for. Crucially, it shows convincingly that the lens of understanding contemporary marriages should not be restricted to unpacking *nibhana* or sentiments of making-it-work but should also shift to the tales of marriage discontents and breakdowns—a path that a few scholars are now charting.

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