

Gender, Sexuality and Custody: Issues at Stake

15th February 2020, ICSSR Guest House, Osmania University

In India, the issue of custody arose in the context of custodial violence against women from marginalized sections such as Mathura, Rameeza Bee and many others in the 1970s and 1980s. Women's movement raised it as a major issue during the protests for changes in rape law in the early 1980s. The State as a protector too assumes expansive and invasive custody when women with mental health problems are taken into institutional custody. Several instances of the authorities getting the women sterilized came into light in the 1990s. Equally important is the protective custody for women fleeing violent homes or for those rescued from trafficking and housed in state-run custodial homes that are run with regulation and control of these women's mobility and sexuality. Young adults fleeing from forced marriages or seeking to contract self-arranged marriages end up here till their custody is decided by the court. The State often allows access to women from their parents, despite it not being in the women's interest. In short, when the State assumes custodianship of adult women, its operations often replicate or replace or reinforce familial/ patriarchal control over women.

In the wake of increased migration of young single women to cities for education and work, many universities increased their accommodation facilities for women while several private facilities for women students and working women have also increased. Even though the university (especially elite and well funded central universities) hostels are relatively more liberal in their rules and regulations, compared to private residential establishments, they have begun to increase surveillance and restrictions on mobility, conduct, dressing and new undertakings that the students need to sign. Private hostel management imposes rules and regulations in which the residents do not have any say. Often they involve parents too in order to keep the young women under control. The Residents' Welfare Associations (RWA) also impose restrictions on renting out premises for young unmarried men and women with the aim of maintaining gender segregation before marriage can be maintained in these apartments. Such arbitrary rules have been challenged by residents in the court too.

The family meanwhile continues to be the primary custodian of young adult women where unmarried women of whatever age are considered the property of the parents and the family and their independent choices of partners violently contested. Often, in the cases of elopement and marriage, the woman's family members file false cases against the man and the woman in order to get custody of the woman. The largest number of habeas corpus

petitions are filed in these cases where the custody of the daughter in order to force her to dissolve her marriage. Families, police and judicial system debate who gets the custody over a woman without considering her agency over her choice and decisions. While the recent case of Hadiya in Kerala exemplifies this anxiety, the spate of 'honour' killings all over the country illustrate the violence that is deployed to retain the community and caste boundaries of endogamy.

A significant development in the management of custody of adult women and children needing shelter is the outsourcing of state custody to private bodies/homes on the ground that the government-run bodies are mismanaged or open to the influence of outsiders. Such private shelter homes are deemed beyond the accountability framework that the state institutions, themselves very opaque, are subject to.

It is in this background that we want to organize a one-day workshop on custody with a focus on short-stay homes, shelter homes and women's hostels. We invite activists, students and women's organizations to share their experiences and concerns about the institutions that have been set up to protect, shelter and care for women. The workshop will deliberate on the following:

- **The nature, fairness and functionality of regulations and controls that cut across institutions**
- **How do these regulations affect women who have to shuffle between the law enforcement agencies, government regulations and the familial pressures?**
- **How the women's groups negotiate these regulations, either as managers or associations of inhabitants of these hostels**