

WOMEN, JUSTICE AND LAW

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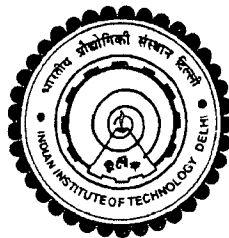
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DEPARTMENT OF HUMANITIES AND SOCIAL SCIENCES

Submitted

**In fulfillment of the requirement of the Degree of
Doctor of Philosophy**

to the



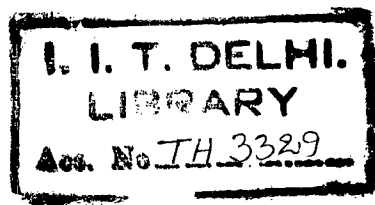
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CERTIFICATE

This is to certify that the thesis entitled, **Women, Justice and Law**, being submitted by **Rajeshree Dutta**, has been prepared under my supervision in conformity with the rules and regulations of the Indian Institute of Technology, Delhi. I further certify that the thesis has attained a standard required for a **Degree of Doctor of Philosophy** of the Institute. The results contained in it have not been submitted, in part or full, to any other University or Institute for award of any degree/diploma.

I certify that she has pursued the prescribed course of research.



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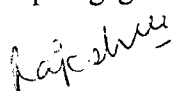
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Rajeshree Dutta

ABSTRACT

In this study our effort has been to explore the relationship between morality and legality from a feminist perspective. Patriarchal conceptions of justice and law have failed to meet the often-conflicting demands of equality and difference voiced by women's movements. The available conceptions of justice based on formal equality do not allow the articulation of gender difference and make themselves vulnerable to patriarchal appropriation, as a result certain moral claims of women remain unaddressed.

Among the available theories of justice, Rawls's justice as fairness comes closest to capturing the moral and political aspirations of feminism. However, Rawls fails to satisfy the feminist requirements of a situated, embodied moral subject and explicit acknowledgement of the ethical issues within family. Care ethics, on the other hand, proposes a moral framework that offers to meet the feminist demands and takes up the asymmetrical reciprocity of the mother child relationship as a paradigmatic moral situation.

Care ethics, in its well-known formulations, has placed itself as an alternative to a morality of justice. The present work argues against this dichotomy. While the theory of justice needs to accept the embodied moral subject capable of emotional attachments, the ethics of care should open itself to the question of justice so that it can respond to the claims of rights posed by women's struggles. We propose a reformulated version of Habermas's discourse ethics, which can reconcile justice and care and also create an opening to rethink the relationship between morality and law from a feminist perspective. This reformulated care based discourse model provides the framework for envisaging a reflective and more sensitive legal system which can respond to issues like rape, pornography, sexual harassment.

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