

Understanding Patriarchy: Legal And Societal Implications

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Abstract:

This article explores the concept of patriarchy and its legal reflections, examining how patriarchal structures have historically influenced laws and policies across various societies. Patriarchy, characterized by the dominance of male authority and the subordination of women, permeates legal frameworks, affecting women's rights and societal roles. The article delves into key legal cases and legislative measures that reveal the ingrained biases of patriarchal systems, particularly in areas such as family law, employment, and reproductive rights. It highlights landmark judicial decisions that have challenged these patriarchal norms and sought to promote gender equality, illustrating the ongoing struggle for women's rights within the legal domain. By analysing the intersection of patriarchy and law, this article underscores the necessity of reforming legal frameworks to dismantle entrenched gender biases. It advocates for a comprehensive approach that not only addresses legal inequalities but also fosters societal change, empowering women and promoting gender justice. Ultimately, the article aims to provide a critical understanding of how patriarchal ideologies shape legal discourse and the urgent need for transformative measures to achieve true equality in contemporary society.

Keywords: Patriarchy, Gender Justice, Feminist Jurisprudence, Law, Legal Reflection

INTRODUCTION

Patriarchy is a pervasive social system characterized by the dominance of men over women and other marginalized genders. It manifests in various domains, including family structures, workplace hierarchies, cultural norms, and legal frameworks. The philosophical underpinnings of patriarchy, based on the works of key thinkers such as Friedrich Engels, Simone de Beauvoir, Judith Butler, and bell hooks, among others unpacks the real picture of an unequitable society. The origins of patriarchy can be traced back to ancient agricultural societies, where the advent of farming shifted power dynamics. Engels¹, argues that the establishment of private property led to the control of women by men. As men sought to ensure the legitimacy of their heirs, women were relegated to subordinate roles, bound by both economic dependency and social norms.

In contrast, feminist historians like Gerda Lerner² have highlighted how women once held significant power in matriarchal societies. Lerner's work emphasizes the need to acknowledge these historical contexts to understand the systemic nature of patriarchy. This duality presents a historical narrative where women's roles have been both influential and systematically undermined. In contemporary discussions around gender roles, it's common to encounter narratives that emphasize the patriarchal structures that have historically dominated many societies, including India. However, a closer examination of ancient Indian history reveals a more nuanced picture—one where women often held significant power, respect, and autonomy.

In India, however the rise of patriarchy is based on the socio-political changes and the integrity and amalgamation of religions, social values and cultures throughout the historical developments of the incidents. Ancient India, spanning several millennia, was a diverse and complex civilization. Its early texts, such as the Vedas, Upanishads, and various epics, provide insights into the status of women during different periods. Contrary to the widely held belief that women were universally oppressed, there are numerous accounts that highlight their strong positions in society.

In Vedic literature³, women were revered as knowledgeable and skilled individuals. They participated in religious rituals and were often depicted as sages and scholars. Figures like Gargi and Maitreyi are celebrated for their intellectual contributions. Gargi, a philosopher, famously debated with male sages, demonstrating that women had a voice in philosophical discourse. Moreover, ancient texts like the Manusmriti⁴ do advocate for certain restrictions on women, but these were often context-specific and varied widely across different regions and communities. For instance, in the Bhakti movement, women emerged as powerful spiritual leaders, with figures like Mirabai challenging social norms and asserting their spiritual and personal independence. Women in ancient India also enjoyed considerable economic autonomy owning property, managing businesses, and engaging in trade. Evidence from inscriptions and archaeological findings indicates

¹ Engels, Friedrich. *The Origin of the Family, Private Property and the State*, 1884.

² Lerner, Gerda. *The Creation of Patriarchy*. New York: Oxford University Press, 1986.

³ Madhavan, K. (Trans.). *The Rigveda: A New Translation*. New York: HarperCollins, 2004.

⁴ Kane, P.V. *History of Dharmasastra: Ancient and Medieval Religions and Law in India*. Vol. 1. Poona: Bhandarkar Oriental Research Institute, 1930. (This work provides a comprehensive commentary on the *Manusmriti* and its historical context.)

that women were involved in various professions, from agriculture to textiles. The concept of "Stridhan"—the wealth that a woman acquires and controls—further illustrates the economic agency women possessed⁵.

Education for women was not merely an exception but a recognized norm in many ancient Indian societies. Girls were educated in various subjects, including the arts, sciences, and philosophy. The presence of female scholars in ancient universities, such as Nalanda and Takshashila, reflects the importance placed on women's education. Women also held significant political power in ancient India. Queens like Rani Durgavati and Razia Sultana⁶ demonstrated that women could ascend to leadership roles. The historical accounts of these rulers reveal a commitment to justice and governance, challenging the notion that women were relegated to the domestic sphere.

The contributions of women to arts, literature, and culture in ancient India are noteworthy. From music and dance to poetry and storytelling, women played pivotal roles in shaping cultural narratives. Their involvement in festivals and rituals further solidified their status as key figures in both family and community life.

As societies transitioned from nomadic to agrarian, the need for stable family structures grew. In agricultural communities, inheritance and lineage became crucial for the transmission of property. This shift solidified male authority as landowners and heads of families, establishing a patriarchal system where women were often viewed primarily as bearers of children and caretakers of the household. Philosophically, this economic necessity fostered the belief that women's primary role was to ensure the continuation of the family lineage. Thus, practices like dowry and limited access to property rights emerged, reinforcing economic dependency on men.

The British colonial period introduced new dimensions to the discourse on gender. Colonial rulers often highlighted the 'backwardness' of Indian society, using it as a justification for intervention. Reform movements, both by Indian reformers and colonial authorities, sought to challenge certain traditional practices like child marriage and sati. However, these interventions often did not fundamentally disrupt the patriarchal structure; rather, they sometimes reinforced it by framing women's liberation within a colonial context. Philosophically, the reforms, initiated debates about women's roles, but they also faced resistance from traditionalists who feared that empowering women would destabilize societal order. This tension contributed to a duality in the perception of women—both as symbols of cultural heritage and as subjects needing 'rescue.'

As India entered the 20th century, feminist movements began to gain traction, challenging the philosophical underpinnings of patriarchy. Influenced by global feminist thought, Indian women started to advocate for rights, education, and autonomy. Thinkers like Kamaladevi Chattopadhyay and Sarojini Naidu emphasized women's contributions to nation-building, asserting that true progress could not be achieved without gender equality.

This modern philosophical shift recognizes the interplay between gender, class, and caste, highlighting how patriarchy is not a monolithic structure but is shaped by various socio-economic factors. Contemporary feminist discourse seeks to deconstruct traditional narratives, advocating for a re-evaluation of women's roles in society.

Despite the historical dominance of patriarchy, various cultural practices and regional traditions also provided spaces for women's empowerment. From matrilineal societies in the northeast to the portrayal of powerful female deities in Hindu mythology, there are instances that challenge patriarchal norms.

Philosophically, these elements represent a resistance to patriarchal structures, showcasing the complex interplay between tradition and progress. By reclaiming these narratives, contemporary movements aim to redefine gender roles and challenge the philosophical justifications for patriarchy.

The philosophy behind the creation of patriarchy in India is multifaceted, shaped by ancient texts, economic necessities, colonial influences, and ongoing cultural dynamics. While patriarchal structures have historically marginalized women, the discourse around gender has evolved significantly, especially in modern times. Understanding these philosophical foundations is crucial for dismantling outdated norms and promoting a more equitable society, where both men and women can thrive without the constraints of rigid gender roles. As India continues to navigate its rich tapestry of traditions and modernity, the journey towards gender equality remains an essential pursuit, rooted in both historical awareness and future aspirations.

While the trajectory of women's rights and status in India has experienced various ups and downs through history, the narrative of an entirely patriarchal ancient society oversimplifies the complexities of gender roles. Women in ancient India were not merely passive figures but active participants in religious, economic, and political life. Their contributions and agency should be recognized as foundational elements of Indian culture and history.

⁵ Bose, Nirmal Chandra. *Stree Dhan: Women's Rights to Property in India*. New Delhi: Deep & Deep Publications, 2000.

⁶ Khan, A. *Razia Sultan: The Only Woman Ruler of Delhi*. New Delhi: Roli Books, 2017. Also see Vatsyayan, Kapila. *Durga Wati: The Forgotten Queen*. New Delhi: Publications Division, Ministry of Information and Broadcasting, Government of India, 2008.

Understanding this legacy can inform contemporary dialogues around gender equality, highlighting the strength and resilience of women throughout Indian history. As society continues to grapple with gender issues today, looking back at these historical precedents can inspire new paths towards equality and empowerment.

FEMINIST EXPLANATION OF PATRIARCHY

While the Liberal Feminism advocates for equality through legal and political reforms Radical Feminism, represented by figures like Andrea Dworkin⁷, criticising the foundational structures of patriarchy. Thinkers like Mary Wollstonecraft argue for women's rights to education and participation in society. Wollstonecraft⁸ in "A Vindication of the Rights of Woman" posits that women are not naturally inferior but are made so through lack of education and opportunity. Radical feminist Dworkin emphasizes the need to dismantle patriarchal systems entirely rather than seek reform within them. This perspective views patriarchy as an oppressive force that requires revolutionary change. The concept of Intersectional Feminism, developed by Kimberlé Crenshaw⁹, recognizes that experiences of oppression are shaped by overlapping identities, including race, class, and gender. This approach highlights how mainstream feminist movements often overlook the complexities faced by women of colour and other marginalized groups. In the postmodern idea of feminism Judith Butler¹⁰ introduces a nuanced understanding of gender as performative. In "Gender Trouble," Butler argues that gender identity is not innate but constructed through repeated social performances. This perspective challenges traditional binaries of male and female, offering a more fluid understanding of gender that disrupts patriarchal norms. Butler's theory suggests that by redefining gender, individuals can challenge the very foundations of patriarchy. This approach empowers marginalized groups to resist the constraints of rigid gender roles and create new spaces for identity and expression.

SOCIAL MANIFESTATIONS OF PATRIARCHY

Patriarchy deeply influences family structures and the traditional gender roles often dictate that men are providers while women are caregivers. Sociologist Jessie Bernard¹¹ highlights how marriage can be a site of inequality, with women sacrificing their autonomy for the sake of familial stability. In her work, Bernard introduces the concept of "the married woman's dilemma," where women's identities become conflated with their roles as wives and mothers. This underscores how patriarchal norms limit women's opportunities and reinforce dependency.

Education and the system of workplaces has also historically perpetuated gender stereotypes very swiftly into the country and families. Scholars like Bell Hooks argue¹² that education should be a tool for liberation rather than a mechanism for perpetuating oppression. In "Teaching to Transgress," hooks emphasizes the importance of critical pedagogy in challenging patriarchal norms within educational contexts. Workplace dynamics also reflect patriarchal structures through ideas like the glass ceiling, a term coined by Marilyn Loden¹³ that describes the invisible barriers women face in advancing their careers, despite women's increasing participation in the workforce, systemic discrimination persists, often rooted in deeply ingrained biases about gender roles.

Cultural Representations are very unequal in gender contexts creating and assigning values to the gender centric ideas in a strategic way. The media plays a crucial role in shaping societal attitudes toward gender. Laura Mulvey's¹⁴ concept of the "male gaze" in her essay "Visual Pleasure and Narrative Cinema" critiques how women are often objectified in film and media. This objectification reinforces patriarchal ideals, portraying women as passive objects rather than active subjects. In literature, patriarchal themes manifest in character development and narrative arcs. Virginia Woolf's¹⁵ "A Room of One's Own" advocates for women's voices and experiences to be recognized in literature, challenging the male-dominated literary canon. Woolf argues that economic independence and a space of one's own are essential for women's creative expression.

Patriarchy is deeply embedded in political systems is the strongest and most impactful for it, creating the most long-lasting implications in the society. The underrepresentation of women in governance reflects patriarchal values that prioritize male leadership. Judith Sargent Murray's writings in the 18th century called for women's participation in politics, asserting that women's insights are vital for societal progress. Contemporary feminist movements, such as the #MeToo movement,

⁷ Dworkin, Andrea. *Pornography: Men Possessing Women*. New York: Putnam, 1981.

⁸ Wollstonecraft, Mary. *A Vindication of the Rights of Woman: With Strictures on Political and Moral Subjects*. London: J. Johnson, 1792.

⁹ Crenshaw, Kimberlé. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." *Stanford Law Review*, vol. 43, no. 6, 1991, pp. 1241-1299.

¹⁰ Butler, Judith. *Gender Trouble: Feminism and the Subversion of Identity*. New York: Routledge, 1990

¹¹ Bernard, Jessie. *The Future of Marriage*. New York: William Morrow, 1972.

¹² Hooks, Bell. *Ain't I a Woman: Black Women and Feminism*. Boston: South End Press, 1981.

¹³ Loden, Marilyn. *Feminine Leadership or How to Succeed in Business Without Being One of the Boys*. New York: Crown Publishers, 1985.

¹⁴ Mulvey, Laura. "Visual Pleasure and Narrative Cinema." *Screen* 16, no. 3 (1975): 6-18.

¹⁵ Woolf, Virginia. *A Room of One's Own*. London: Hogarth Press, 1929

highlight the urgency of addressing sexual harassment and gender-based violence. Activists like Tarana Burke¹⁶ emphasize the need for collective action to dismantle patriarchal systems that perpetuate abuse and inequality.

DICHOTOMY AND PATRIARCHY

The distinction between public and private spheres has been a significant topic in sociology, political theory, and gender studies. This dichotomy shapes our understanding of individual rights, societal norms, and the roles of various institutions in our lives. While the public sphere is often associated with politics, work, and social interaction, the private sphere encompasses the home, family, and personal relationships. The origins, implications, and critiques of the public-private dichotomy, highlights its relevance in contemporary society.

The public-private dichotomy can be traced back to ancient philosophical thought. In classical Greece, philosophers like Aristotle distinguished between the *oikos* (household) and the *polis* (city-state), implying that the household was a private domain concerned with family and domestic affairs, while the city-state was a public realm governed by citizens. This division laid the groundwork for understanding individual roles in society and governance. During the Enlightenment, thinkers such as John Locke¹⁷ and Jean-Jacques Rousseau¹⁸ emphasized the importance of individual rights and the social contract. The private sphere was seen as a space for individual freedom and personal development, while the public sphere became associated with civic responsibility and collective governance. This period solidified the idea that personal and political realms could be distinctly categorized.

The public-private dichotomy has profound implications for gender roles. Traditional views often confine women to the private sphere, relegating them to domestic responsibilities and caregiving roles. Conversely, men are typically associated with the public sphere, engaging in work, politics, and social leadership. This division perpetuates gender inequality, limiting women's access to power and decision-making. Feminist scholars, such as Nancy Fraser¹⁹ and Judith Butler²⁰, critique this dichotomy, arguing that it reinforces patriarchal structures. They emphasize the need to recognize how private issues, such as domestic violence and reproductive rights, intersect with public policies and social justice. The public-private dichotomy also influences the labour market and creates a gender pay gap disparity as the work is often viewed as a public activity, dominated by men and is glorified as very important and worth a good remuneration while unpaid domestic labour is relegated to the private sphere with very less or no worth assigned to it. This distinction contributes to economic inequalities, as domestic labour is frequently undervalued and unrecognized in economic metrics. Fluid Boundaries create a critique that the public-private dichotomy is overly simplistic and does not reflect the complexities of contemporary life. In reality, the boundaries between public and private are often fluid. Social media, for instance, blurs the lines between personal and public expression, raising questions about privacy, consent, and public persona. An intersectional approach reveals how factors such as race, class, and sexuality intersect with public and private identities. For example, marginalized communities often experience unique challenges that defy the traditional public-private divide. Recognizing these intersections is crucial for understanding the nuances of power dynamics and social justice.

PATRIARCHAL REFLECTIONS IN LAW IN INDIA

Legal frameworks often reflect the public-private dichotomy, particularly in discussions of privacy rights. Courts have grappled with the balance between individual privacy and public interest. Landmark cases, such as *Roe v. Wade*²¹ in the United States, illustrate how private choices (like reproductive rights) can become contentious public issues. Public policies often dictate the boundaries between public and private spheres. For example, laws governing domestic violence and harassment illustrate how private matters necessitate public intervention. This intersection challenges the notion that private issues should remain outside the realm of public concern.

India's legal system is a complex tapestry woven from its diverse cultures, traditions, and historical contexts. While the Constitution of India enshrines principles of equality and justice, many laws continue to reflect patriarchal values that have historically marginalized women and other genders. Although the Constitution of India is hailed as one of the most progressive legal documents in the world, promoting values of justice, liberty, equality, and fraternity but despite its provisions aimed at ensuring gender equality, the influence of patriarchal philosophy continues to permeate various aspects of Indian society and legal practice. This article explores the interplay between the Indian Constitution and patriarchal norms, examining how constitutional promises sometimes conflict with societal realities.

Constitutional provisions in the line of gender equality can be found in Part III²², fundamental rights that lay the groundwork for gender equality as Article 14 that ensures equality before the law and equal protection of the laws for all

¹⁶ Burke, Tarana. "The Me Too Movement: A Call to Action." *The New York Times*, October 14, 2017

¹⁷ Locke, John. *Two Treatises of Government*. London: Awnsham Churchill, 1689.

¹⁸ Rousseau, Jean-Jacques. *The Social Contract, or Principles of Political Right*. Geneva: Marc-Michel Rey, 1762.

¹⁹ Fraser, Nancy. *Fortunes of Feminism: From State-Managed Capitalism to Neoliberal Crisis*. London: Verso, 2013

²⁰ Butler, Judith. *Bodies That Matter: On the Discursive Limits of "Sex"*. New York: Routledge, 1993.

²¹ 410 U.S. 113 (1973)

²² Seervai, H.M, *Constitutional Law of India*, Universal Law Publishing, 2016

individuals, regardless of gender, Article 15 Prohibiting discrimination on grounds of religion, race, caste, sex, or place of birth and Article 16 that guarantees equality of opportunity in matters of public employment.

These articles reflect a commitment to dismantling discriminatory practices. However, the practical application often reveals a gap between these constitutional promises and the entrenched patriarchal attitudes in society.

Besides the fundamental rights, the Directive Principles²³ aim to promote social and economic welfare. Notably, Article 39(a) directs the state to ensure that all citizens, men and women alike, receive equal pay for equal work. However, the implementation of these principles has often been undermined by patriarchal norms, which dictate that women primarily occupy caregiving roles, limiting their access to economic opportunities.

However, the ambiguities in Language that is the use of gender-neutral language that often fails to address specific needs and rights of women. While Articles 14 (equality before the law) and 15 (prohibition of discrimination) proclaim equal rights for all citizens, the language does not explicitly prioritize the eradication of gender-based discrimination. This ambiguity allows for varying interpretations, often sidelining women's issues in legal discourse. The Indian Constitution also explicitly recognizes the personal laws, which govern marriage, divorce, inheritance, and custody etc. which vary across religions and often perpetuate gender inequalities. The coexistence of personal laws with constitutional rights creates a complex legal landscape where gender biases can be legally sanctioned, thus undermining the Constitution's commitment to gender equality. The Constitution however, guarantees²⁴ thirty three percent reservation for women but does not mandate reservations for women in legislative bodies at the national level, which has resulted in significant underrepresentation in politics. Although some states have introduced local body reservations, women remain significantly underrepresented in the Parliament. This lack of representation perpetuates a political culture that often overlooks women's issues and perspectives, thereby reinforcing existing biases in policymaking. While the Constitution provides for protective measures for women, such as the Dowry Prohibition Act and the Protection of Women from Domestic Violence Act, these laws often focus on victimization rather than empowerment. The emphasis on protection can sometimes reinforce stereotypes of women as helpless, thus failing to address the systemic issues that lead to gender-based violence and discrimination.

The Constitution's provisions for gender equality often face significant implementation challenges. Although laws exist to protect women's rights, societal attitudes and institutional biases frequently hinder their effectiveness. For example, laws intended to combat sexual harassment or domestic violence are underutilized, and victims often face stigma, lack of support, and inadequate access to justice. The judicial interpretations of constitutional provisions have sometimes perpetuated gender biases. While there have been landmark judgments promoting women's rights, inconsistent rulings reflect a broader societal reluctance to fully embrace gender equality. Cases that reinforce traditional gender roles or prioritize familial honour over individual rights highlight the ongoing struggle for true equality under the law. While the Indian Constitution is a remarkable document that lays the groundwork for a democratic society, its shortcomings in addressing gender bias reveal the complexities of implementing true equality. The coexistence of progressive provisions with personal laws, societal norms, and systemic barriers necessitates a critical reassessment of how gender equality is framed and realized in India. Addressing these biases requires a concerted effort to reinterpret and amend existing laws, ensuring that they explicitly protect and empower women. Only then can the Constitution fulfil its promise of equality for all citizens, transcending the limitations that currently exist in its application to gender issues. The journey towards genuine gender equality in India remains ongoing, demanding vigilance and advocacy at all levels of society.

Personal Laws

The Hindu Succession Act of 1956 is a prime example of how personal laws can reflect patriarchal norms. Initially, the Act favoured male heirs in matters of inheritance, allowing property to pass only to sons. Although amendments in 2005 granted daughters equal rights to inherit ancestral property, challenges remain. In practice, societal attitudes often dictate that women do not claim their rightful shares, reinforcing economic dependency and patriarchal norms. Under Muslim Personal Law, practices such as polygamy and unilateral divorce (talaq) further highlight patriarchal structures. The Muslim Women (Protection of Rights on Divorce) Act of 1986 aimed to safeguard women's rights post-divorce but often falls short in practice. Many women find themselves navigating complex legal and social hurdles, perpetuating their vulnerability. Christian marriage laws, while somewhat more egalitarian in terms of divorce, still contain provisions that reflect patriarchal values. For instance, the Indian Christian Marriage Act, 1872, requires a woman to seek her husband's consent for divorce, highlighting the unequal power dynamics within marital relationships.

²³ Part IV of the Constitution

²⁴ The 1978 Amendment to the Indian Constitution, specifically the Constitution (73rd Amendment) Act, 1992, is often mistakenly referenced regarding the 33% reservation for women. However, it's important to clarify that this amendment is focused on local self-governance and not specifically on the 33% reservation at the national or state legislative levels

Criminal Law: Gender Bias and Injustice

Certain sections of the Bhartiya Nyaya Samhita (BNS), 2023 reflect gender biases that can undermine justice for women. For example, Section 63, which defines rape, has been critiqued for its narrow legal definitions and focus on women's morality rather than their autonomy. Furthermore, the rape of married women by their husband where the woman is more than 18 years of age is still not acknowledged as rape making it difficult for such women to seek justice.

The Protection of Women from Domestic Violence Act, 2005 was enacted to address domestic abuse, yet its implementation is fraught with challenges. Many women face social stigma and economic constraints that prevent them from seeking protection. Additionally, enforcement of the law often relies on patriarchal attitudes within law enforcement agencies, leading to inadequate support for victims. The Protection of Children from Sexual Offences (POCSO) 2012 is still struggling to assert its prevalence over the personal laws, allowing the traditions of child marriages.

While the social welfare laws like the Maternity Benefit Act of 1961 offers crucial protections for working women, it also highlights systemic inequalities. The law provides paid maternity leave, but the burden of childcare often falls disproportionately on women. This expectation reinforces traditional gender roles and may lead employers to discriminate against women during hiring and promotions. The Dowry Prohibition Act of 1961 aimed to curb the practice of dowry, which remains a significant issue in India. Despite legal prohibitions, dowry-related violence and harassment continue unabated. The persistence of this practice highlights the gap between law and societal attitudes, demonstrating how deeply entrenched patriarchal norms can persist even in the face of legal frameworks. Although child marriage is also illegal under the Prohibition of Child Marriage Act, 2006, it remains prevalent in many regions. The law's effectiveness is often undermined by cultural practices and economic pressures, perpetuating cycles of poverty and gender inequality. The failure to enforce this law illustrates how patriarchal norms can shape legal outcomes. Laws to create financial independence in women, like the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 aimed to provide a safe work environment for women. However, cultural attitudes toward women's roles in the workplace often hinder its effectiveness. Many women hesitate to report harassment due to fear of retaliation or societal stigma, reflecting the deeply ingrained patriarchal mindset.

Recent Legal Activism: An Anti-patriarchal Approach

Activists and organizations are increasingly challenging patriarchal laws and advocating for reforms. Landmark judgments by the Supreme Court, such as the decriminalization of same-sex relationships and the recognition of a woman's right to enter places of worship reflect a shifting legal landscape.

In the case of *Just Rights for Children Alliances v. S. Harish*²⁵ the court said that viewing a child sexual exploitation and abuse material is punishable under section 15 of the POCSO Act of 2012 and section 67B of the Information Technology Act, 2005. The court suggested that Union government needs to bring amendments in POCSO Act to replace the expression of 'child pornography' with the wider expression of 'Child sexual exploitation and abuse material' so that the true nature of the offense can be reflected more accurately. The court also suggested to bring change in Section 15 subsection 1 of the POCSO Act to make it convenient for the general public to report any such incident. Further in the case of *Re Alleged Rape and Murder Incident of the Trainee Doctor in RG Kar Medical College and Hospital Kolkata*,²⁶ the Supreme Court said that such kind of cases needs immediate action and prevention of violence prominently the gender-based violence must be the top priority of all and these matters need a prompt address. *Vishaka & Ors. v. State of Rajasthan*²⁷ established guidelines to prevent sexual harassment of women at the workplace, while *M. C. Mehta v. Union of India*²⁸ addressed the issue of environmental pollution and its impact on women's health, emphasizing women's rights to a safe environment. *B. P. Singh v. State of U.P.*²⁹ is the case where the court upheld the right of women to equality and the need for social justice in cases of domestic violence. *Mohini Jain v. State of Karnataka*³⁰ highlighted issues of women's rights in education and the right to equality. *Sarla Mudgal v. Union of India* is the case where the court pondered upon the issue of the legality of polygamy and its implications on women's rights in the context of personal laws. Court declared the practice of instant triple talaq unconstitutional, affirming women's rights in marriage and divorce in the case of *Shayara Bano v. Union of India*³¹. In *Navtej Singh Johar v. Union of India*³² consensual same-sex relations were decriminalised while recognizing the rights of LGBTQ+ individuals, including women. The court focused upon the women's rights and property, emphasizing the need for gender equality in inheritance in the case of *Krishna Singh v. State of Bihar*³³, while court addressed women's representation in politics and the importance of free and fair elections in the case *Indira Gandhi*

²⁵ 2024 INSC 716

²⁶ 2024 INSC 613.

²⁷ AIR 1997 SC 3011

²⁸ AIR 1987 SC 1086

²⁹ AIR 2001 SC 428

³⁰ AIR 1992 SC 1858

³¹ AIR 2017 SC 4609

³² AIR 2019 SC 1688

³³ AIR 1988 SC 1871

v. Raj Narain³⁴. The case of *D. K. Basu v. State of West Bengal*³⁵ focuses on the rights of individuals, including women, against police brutality and wrongful detention. *C.B. Muthamma v. Union of India*³⁶, challenged the discriminatory provisions against women in the Indian Foreign Service rules, which required women to be unmarried or widows to be eligible for foreign postings. The Supreme Court ruled that these provisions were unconstitutional and violated the fundamental rights of freedom and equality. In *Suchita Srivastava and Another v. Chandigarh Administration*³⁷, the petitioners questioned the constitutionality of the requirement for mandatory pre-abortion approval from a medical board under the Medical Termination of Pregnancy (MTP) Act, 1971. They contended that this approval process significantly violated a woman's right to privacy and her autonomy regarding her own body. In *Joseph Shine v. Union of India*³⁸, the Supreme Court unanimously invalidated Section 497 of the Indian Penal Code, which criminalized adultery. The Court emphasized that any legal provision impacting the dignity and equality of women is against the spirit of the Constitution. The report stated that it is the right time to declare that the husband is not the master of the wife anymore and any such legal dominance of one sex over the another is an unacceptable notion in any society. The Court found that Section 497 infringed upon a woman's right to dignity, violating Article 21 of the Constitution. *State of Jharkhand v. Shailendra Kumar Rai and Others*³⁹ is the case where the Supreme Court ruled that anyone performing the outdated two-finger test on a victim of rape or penetrative sexual assault will be considered guilty of misconduct. The Court mandated a review of medical school curricula to ensure that the two-finger test is not included as an acceptable procedure for examining survivors of sexual assault and rape. The Court expressed strong disapproval of the continued use of such tests, highlighting the need for modern, respectful practices in the examination of survivors.

The judiciary in India has been the pioneer body to stand up for women rights and have taken tremendous lead in upholding the gender equality. The court have time and again⁴⁰ took not only a firm cognizance of women concerns but have also been instrumental in inculcating the sense of activism in law making bodies in India. The Supreme Court's decisions⁴¹ often critique patriarchal structures that undermine women's rights. By challenging traditional notions that confine women to specific roles or responsibilities, the Court promotes a more egalitarian view of gender relations⁴².

The Supreme Court of India serves as a crucial institution in the fight for gender equality, interpreting laws and the Constitution to promote justice for women. Its philosophical commitment to equality, social justice, and empowerment reflects a progressive vision for a more equitable society. Through landmark judgments⁴³ and a willingness to engage with contemporary issues, the Court continues to shape the discourse around gender rights in India.

CONCLUSION:

The intersectional approach is crucial for addressing the complexities of gender and law in India. Feminist activists are increasingly emphasizing the need to consider caste, class, and religion alongside gender in their advocacy for legal reform. This approach acknowledges that patriarchy affects different groups in distinct ways, necessitating nuanced solutions.

Feminist movements have evolved to challenge patriarchal norms at various levels. The Women's Liberation Movement seek to address legal inequalities, advocating for reproductive rights, equal pay, and anti-discrimination laws. Scholars like Angela Davis⁴⁴ highlight the intersection of race and gender within these movements, emphasizing the importance of

³⁴ AIR 1975 SC 2299

³⁵ AIR 1997 SC 610

³⁶ AIR 1979 SC 1868

³⁷ AIR 2009 SC 84

³⁸ AIR 2018 SC 489

³⁹ AIR 2022 SC 3280

⁴⁰ *C.B. Muthamma v. Union of India and Others*, AIR 1979 SC 1868, *Air India v. Nergesh Mirza*, AIR 1981 SC 1829, *State of Maharashtra and Another v. Madhukar Narayan Mardikar*, AIR 1991 SC 2176, *Neera Mathur v. Life Insurance Corporation of India and Another*, AIR 1992 SC 392.

⁴¹ *Vishaka and Others v. State of Rajasthan and Others*, AIR 1997 SC 3011, *Githa Hariharan and Another v. Reserve Bank of India and Another*, AIR 1999 SC 1149, *Mohd Ahmed Khan v. Shah Bano Begum & Ors*, AIR 1985 SC 945, *Anuj Garg and Others v. Hotel Association of India and Others*, AIR 2008 SC 1.

⁴² *Suchita Srivastava and Another v. Chandigarh Administration*, AIR 2009 SC 84, *Joseph Shine v. Union of India*, AIR 2018 SC 489, *Federation of Obstetric and Gynecological Societies of India (FOGSI) v. Union of India and Others*, AIR 2019 SC 1011, *Secretary, Ministry of Defence v. Babita Puniya and Others*, AIR 2020 SC 1583, *Aparna Bhat and others v. State of Madhya Pradesh and others*, AIR 2021 SC 578, *Hotel Priya, A Proprietorship v. State of Maharashtra and Others*, AIR 2022 SC 523, *Prabha Tyagi v. Kamlesh Tyagi*, AIR 2022 SC 463.

⁴³ *State of Jharkhand v. Shailendra Kumar Rai and Others*, AIR 2022 SC 3280, *Deepika Singh v. Central Administrative Tribunal*, AIR 2022 SC 410, *Akella Lalitha vs Konda Rao and Others*, AIR 2022 SC 582, *X v. The Principal Secretary Health and Family Welfare Department, Delhi NCT Government and Another*, AIR 2022 SC 564, *Aureliano Fernandes v. State of Goa and Others*, AIR 2023 SC 1

⁴⁴ Davis, Angela. *Women, Race, & Class*. Vintage Books, 1983.

inclusive activism. Legal frameworks definitely are crucial in dismantling patriarchy. The introduction of laws aimed at protecting women's rights, such as the Violence Against Women Act, has been instrumental in addressing gender-based violence. However, the implementation and enforcement of these laws often reveal gaps that require continuous advocacy. Simone de Beauvoir's⁴⁵ "The Second Sex" argues that women must assert their autonomy to escape the confines of patriarchal definitions. De Beauvoir's existentialist perspective encourages women to pursue their identities beyond societal expectations, paving the way for personal and collective liberation. Envisioning a society free from patriarchy involves rethinking gender roles and relationships. This transformation requires collaborative efforts across all genders. Activists like Michael Kimmel⁴⁶ emphasize the importance of engaging men in feminist movements to dismantle toxic masculinity and redefine masculinity in positive ways. Education plays a pivotal role in this vision. Integrating gender studies into curricula can foster critical awareness among future generations, enabling them to challenge patriarchal norms from an early age.

Patriarchy is a complex system that permeates various aspects of society, shaping identities, relationships, and power dynamics. As society evolves, there is a growing need to reimagine the boundaries between public and private. Initiatives that promote work-life balance, support for caregiving roles, and policies addressing domestic violence reflect an acknowledgment of the interconnectedness of these spheres. The public-private dichotomy can serve as a framework for collective action. Movements advocating for women's rights, LGBTQ+ rights, and racial justice often challenge traditional notions of privacy and public engagement. By reframing private struggles as public issues, these movements can foster systemic change and promote greater equality. Philosophers and theorists have provided invaluable insights into the historical roots, manifestations, and implications of patriarchy. As we strive for a more equitable society, it is essential to continue questioning and dismantling these entrenched structures. By embracing diverse feminist perspectives and fostering inclusive dialogues, we can pave the way for a future where all individuals, regardless of gender, can thrive.

⁴⁵ Beauvoir, Simone de. *The Second Sex*. Translated by H.M. Parshley, Vintage Books, 1974

⁴⁶ Kimmel, Michael. *Guyland: The Perilous World Where Boys Become Men*. HarperCollins, 2008.