

A Critical Analysis of Women's Empowerment in India:  
Uncovering the Continuing Influence of Patriarchy

Executive Summary of Thesis

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## **Introducing the Problem**

The main concern of this study is to explore the relationship between women's empowerment and the continuing influence of patriarchy in India. This research assessed the extent to which the goal of gender equality has been achieved in India. Through this research I have analyzed the inequalities faced by women within the political and economic sphere. I also inquired into the inequalities faced within the family structure. I critically analyzed the influence of patriarchy on the inequalities which women experience in these spheres. Through my research I analyzed the efficiency of laws which attempt to curb these inequalities.

The Indian Constitution acknowledges women to be equal citizens political participants and hence no different from their male counterparts. A far cry from their contemporaries in other democracies where women struggled for decades for the right to vote. Constitutionally, women in independent India are equal citizens. Yet women in India continue to experience political, social, economic, and cultural marginalization in their day to day lives.

Women in India face the challenge of inadequate representation, gender wage gap, increasing violence in both public and private spheres and cultural discrimination. India is still male dominated society where women's choices are limited due to the influence of patriarchal norms<sup>1</sup>. Women face discriminatory practices such as dowry, honor killing, witch hunting, gender biased sex selection, several types of sexual assault, lack of political representation, economic disparity among other. The Constitutional promise of freedom, equality and justice remain unfulfilled despite many attempts made by the government to empower women. This is indicative of the continuing influence of patriarchal structures over the political and legal landscape. After all, India has a complex socio-cultural landscape which is deeply rooted in patriarchal beliefs and practices.<sup>2</sup> Even though political and legal interventions, social reforms and a growing economic structure has posed a challenge to the discriminatory attitude toward women, there is a possibility that the patriarchal structure has modified with time too. This means that the overt forms of discrimination may have been replaced with more covert methods. My research attempted to understand the extent to which patriarchy affects position of women in the political sphere, the workplace, and domestic sphere.

Our society and everyday lives incorporate patriarchal practices quite subtly, so despite having a political legal system which condemns discrimination, women in continue to hold the subordinated position in the society. The natural assumption that recognizing women as equal citizens will liberate them from the scourge of patriarchy seems to be incorrect. What was supposed to be the remarkable story of women's emancipation and empowerment remained the story of women's subordination and disempowerment. This paradoxical situation of women in India has created a sense of anxiety especially in the sphere of politics. This can be seen through the continuous demand for women's empowerment made by non-governmental organizations, interest groups, legal groups, political parties, and citizen bodies since independence. All governments which have come to power agree that women are still struggling to achieve the standards of equality set by the constitution. The position of women in India has changed mostly in a superficial manner and the core source of discrimination continues. The only thing that has changed is the ability of political and legal systems to do something about this.

Political and legal institutions are better equipped to defy patriarchal oppression due to the presence of a strong Constitution which focuses on delivering equality, freedom, and justice to all its citizens. The problem is that most political and legal institutions are either unable to recognize the patriarchal practices or they are unwilling to do so. My research investigated why political and legal institutions are unable to uncover patriarchal influence which is continuously affecting the lives of women in India. Is it because political and legal rights are not enough or is it because the notion of empowerment has colluded with patriarchy? By answering these questions my research attempts to contribute to the ongoing discourse on rights for women.

In recent years, the empowerment of women has been recognized as the central issue in deciding the status of women. Guaranteeing opportunities of empowerment is the state's responsibility that needs to be fulfilled through legal or policy mechanisms. The term empowerment refers to the ability through which a person has the choice and opportunity to shift their position from the marginalized to the empowered. Empowerment is the process which creates an environment through positive political, economic, and social policies for the development of women which enables them to realize their full potential.

For this, equal participation in decision making, equal access to health care, education, employment, and legal institutions are considered as imperative. Strengthening of legal systems, modification of societal attitudes, changing gender stereotypes, elimination of discrimination and violence are integral parts of women's empowerment. As Mohanty highlights, empowerment is a complex process which not only grants basic civil and political rights, constructs an inclusive and responsive politico-legal sphere, but also that the process of achieving women's empowerment lays emphasis on formal institutional arrangements, especially political and legal systems. Laws and policies thus become important instruments for women's empowerment.<sup>3</sup>

Menon also states that laws are often used as a strategy of legitimacy, as laws have the capacity to pursue justice. One of the main goals of laws and legal mechanisms is to achieve justice. Justice is mostly defined by the moralities which govern the society at that time. Laws examine the moral values of society and determine which values are essential for the sustenance of an egalitarian system. Simply explained, laws function as an agent for legitimizing various practices, norms, and beliefs in society. In doing so it also delegitimizes those norms, beliefs and practices which help in sustaining the category of the marginalized or oppressed.<sup>4</sup>

This is particularly visible in the Constitution of India which summarizes its basic commitments to freedom, equality, fraternity, and justice in the Preamble itself. This is further indicated in the Part III and Part IV of the Indian Constitution. The Fundamental Rights and Directive Principles of State Policy are legal frameworks way ahead of their time and meant to bring positive change in society. The Constitution creates a political legal structure which makes a real attempt to generate empowerments for all those who are marginalized. Under the aegis of the Indian Constitution, laws become the instrument to challenge patriarchy and to establish empowerment.<sup>5</sup>

Through my research I analyze the extent to which laws and policies reduce the influence of patriarchy on political, economic, and family structures. Interestingly, the State has intervened through laws in all these three spaces with the intention of empowering women in India. These three spheres are equally relevant in bringing in gender equality. I acknowledge that there are many important themes and areas to explore while analyzing gender equality in India, for example, education, health, development, and even disability yet my focus will be on the political sphere, economic sphere, and family.

## **Understanding the ‘Relationship’ between Women’s Empowerment and Patriarchy**

Gender equality and empowerment are important political themes today. There is a very clear pattern of gender-based discrimination which exists in India. From being underrepresented in political sphere, misrepresented in economic sphere, to experiencing gender-based discrimination in private sphere, women have become the convenient targets of patriarchal beliefs. This has not gone unnoticed by the political and legal institutions who are constantly deliberating methods and mechanisms to remove gender discrimination. But is it possible only through political and legal intervention?

I ask this question throughout my research, “Are political and legal institutions, as they function today, truly capable of eradicating gender-based discrimination in India?” “Are laws and policies completely uninfluenced by patriarchal norms and practices?”. Through select readings of laws and policies for women, I analyze the extent to which they can bring in gender equality and empowerment. It has often been pointed out that laws for women reflect patriarchal norms instead of eradicating them. Menon highlights that there are mainly four interlinked strategies which are used by laws. Firstly, laws can openly discriminate against women, secondly, laws are interpreted in patriarchal ways, thirdly laws treat unequal’s equally without addressing the hierarchies which oppress women, and fourthly, laws render women’s experience as invisible.<sup>6</sup>

In all these strategies, women have access to some form of equality, but the legal system cannot support all these types of equality in the long run. In the long run, it will show preference to one form over the other therefore, limiting the scope of equality for women. There is a possibility that laws which are meant to create equality for women are influenced by patriarchal norms. Through my research I analyzed whether the laws and policies for women’s empowerment collude with patriarchy. And if they do, then are laws capable for creating equality for women? I also elaborate on the unique concept of equality within the Indian political system.

Equality is the foundation of the Indian political system. Take away the right of equality from the constitution, and we are left with a democratic system which promises nothing but the continuation of oppressive structures of domination. India unfortunately has many such systems, like class, caste, religion, race, ethnicity, disability, and gender. My research focused on gender equality, specifically the political and legal attempt to deliver gender equality.

Formal equality for women is enshrined within Indian law yet is not without contention. On one hand the constitution delivers equality of sameness, therefore focusing on more gender-neutral laws. On the other hand, the same constitution also delivers equality of difference, therefore encouraging laws which recognize women's experience. Ratna Kapur and Brenda Cossman highlight that within the Indian legal system equality for women is interpreted through three approaches. They observe that most laws, policies, and judgements for granting women equality are either protectionist, sameness, or corrective. Protectionist approach assumes that women are weak and subordinated, and the state needs to protect them through laws. The sameness approach assumes that women are the same as men, so laws are constructed without acknowledging any difference between the two. In corrective approach women are given special treatment by the laws in order to overcome past discrimination. Despite having an extremely broad view of equality, women in India continue to experience discrimination and disempowerment. The reason is that formal equality rarely interrogates the conditions and structures which cause inequality.<sup>7</sup>

Protectionist approach assumes women are subordinated and essentializes differences between men and women. Sameness approach supposes that women's experiences are the same as men and so, male experiences are privileged over women's experiences. The corrective approach recognizes differences but there is no clarity as to when and how this difference needs to be recognized. All these approaches, often used by political and legal institutions, have made equality for women a complicated concept. The discourse on equality for women appears to be trapped within these three notions of equality. The lawmakers and courts rely on either or all these approaches to deliver equality for women.

Simply put, the current political discourse on equality for women assumes that women are defenseless and hence, dependent on only legal and political institutions. It also assumes most of the

time that all women have the same experience of inequality irrespective of where they are located in the socio-economic hierarchy. The last and most problematic assumption is that, in order to be equal, women must have the same experiences and privilege as men. Almost to say that male experiences are the benchmark of empowerment. If this is case, then how are laws and policies challenging patriarchy?

Walby will define patriarchy as ‘...as a system of social structures, and practices in which men dominate, oppress and exploit women.’<sup>8</sup> It is a gendered hierarchy whose foundations lay in social, economic, political institutions and cultural practices which have historical legitimacy. Moreover, patriarchy is a system dependent on sexual difference. It is a system where the male dominates over the female and creates spheres of inequality. If laws are androcentric in nature, or are interpreted without challenging patriarchal practices, then what sort of equality for women can they generate? It appears that patriarchy relies on laws to continue its domination. If this is true, then the promise of equality will fail, as the political and legal institutions may themselves support and legitimize patriarchal norms and beliefs. If so, then how do we overturn centuries of discrimination?

It is assumed that having the right equality is enough to overcome centuries of discrimination. But can equality exist if the very source of inequality is not eradicated? For women to be equal to men, laws will need to weaken patriarchal domination which exists in the political, economic, and social spheres. This is easier said than done. As seen above, patriarchy is a pervasive structure of domination which depends on the subordination of women. Before independence, the absence of right to equality allowed patriarchal norms to flourish in all spheres of life. Even though the subordination of women was challenged rigorously, the laws could only function in a limited manner.

After independence, the scope of equality increased phenomenally due to its recognition as a right. This recognition meant that many patriarchal norms and practices which were normalized in social, political, and economic spheres were delegitimize. The political space opened to discussions on women’s rights and many oppressive practices against women were criminalized, for example dowry. Yet, women in India stand politically underrepresented, economically backward and socially subordinated. Rights did not bring the revolutionary change in the status of women as imagined.

They barely weakened the blight of patriarchal oppression which women experience. Actually, many times, political and legal institutions have come out in support of patriarchal practices too. It appears that patriarchy has adapted to the changing nature of the political and legal system. The overt and pervasive nature of patriarchal norms has been replaced with a more hidden and insidious type of patriarchy. Patriarchy uses the complex notions of equality and empowerment to survive and is slowly leeching away from the goal of gender equality. Through my research I highlighted the parasitic relationship between patriarchy and women's empowerment and make a modest effort to provide suggestions to subvert the same.

### **Brief Review of Select Literature**

Susan Moller Okin states,

“It is important to realize from the outset that the analysis and criticism of the thoughts of political theorists of the past is not an arcane academic pursuit, but an important means of comprehending and laying bare the assumptions behind deeply rooted modes of thought that continue to affect people's lives in major ways.”<sup>9</sup>

Like Okin says, in order to understand why something exists, one must study the past and all its available theories. So, this section focused on the review of select literature in relation to the major concerns of my research. Here I reviewed select works on the themes of gender equality, laws, and women's issues.

Flavia Agnes in her book, *Law and Gender Inequality: The Politics of Women's Rights in India* addresses the relationship between women's rights and politics within the realm of family laws. She attempts to map out gender and law reforms within the context of political and legal strategies. She offers a view on the origin and development of family laws in India and the various state intervention in context to gender equality. Her study is divided into two main parts; firstly, pre-colonial, and colonial legal systems; secondly, post-colonial legal systems in context to women's rights. She studies the impact of ancient texts and scriptures on the formations of women's rights in India. Then the book explores the influence of British legal systems on the politicization of personal laws in India.



Her book then moves to examine the legal system after independence which has committed itself to achieve equality. She claims that the Constitution became the benchmark against which women's rights for equality were measured in India. She observed the law reforms in Hindu, Muslim, Christian and Parsi civil codes in context to the demand for gender equality in India. She examines the need for a uniform civil code to establish gender equality in the religious and community spheres. She concludes that women's rights to equality are challenging to achieve in India. They are constrained with a set of patriarchal norms and are also shaped and molded by several social, economic, and political currents. She suggests two strategies for the women to gain equal rights within the personal laws. Firstly, she states that one needs to dissociate concerns of gender from the context of identity politics and secondly to make economic rights the center of matrimonial relations. She states that the institution of marriages which is the major domain of personal laws is closely linked to the institution of property linking economic rights of women from marriage rights make equality easier to achieve. She concludes by saying that patriarchal practices are continued through both economic and political practices and laws, especially personal laws need to recognize this<sup>10</sup>.

Flavia Agnes examines the personal laws in relation women's rights for equality with great clarity and sensitivity. She delivers a lucid understanding of the influence personal laws have in the position of women within the community and state. She also highlights that laws have played an important role in marginalizing women instead of freeing them. The continuous subordination which women experience in the community and personal space can be attributed to outdated laws which are meant more to fulfil the state's political agenda rather than create equality for women. While her work critically analyses the personal laws, she unfortunately does not reflect on individual women's experience in relations to state and laws. To understand the relationship between women's issues and the Indian state in more detail I reviewed Rajeswari Sundar Rajan's work *The Scandal of the State: Women, Law, and Citizenship in Postcolonial India*.

Rajeswari Sundar Rajan gives an eloquent understanding of how 'women' are intellectualized in India and what is the relationship between state and women in her book *The Scandal of the State: Women, Law, and Citizenship in Postcolonial India*. In this book, Sundar Rajan, deals with two main themes; firstly, the importance of state in understanding women's identifies and secondly, the impact

of women's issues on state's functions. She considers the real social- cultural realities which influence women's identities and issues. Through case studies, Sundar Rajan maps out the manner in which the Indian state falls short of its promise of women's rights. She analyses many different issues, like a custody battle over Muslim child bride, forced sterilization of mentally ill female patients in state institution, the problem of female infanticide in Tamil Nadu recognizing prostitution as a labour instead of crime and the surrender of Phoolan Devi, who was a famous outlaw. She highlights the different stand points of the state in addressing the complex reality of women's issues and demands.

According to Sunder Rajan, the identity of women in India are conceptualized in two ways. Firstly, women as different from men and secondly, women are different among themselves based on religion, caste, occupation, class, and other categories. She states that the Indian state has two types of legislation for women, one which treats them as a 'unitary' category and another which treats them as 'differentiated' category. She analyses the complications the Indian state must deal with when addressing women's issues. The continuous confusion that the state experiences to recognize women as either a 'subject' or a 'citizen' has led the state to take decisions which have comprised women's rights. She also reflects on how the state uses laws, to shape the identity of women and the dependency of women issues on these laws<sup>11</sup>.

Her work is a compelling work which exposes the realities and complexities of women's issues and demands in India. She analyses women's issues through various lenses and offers unique yet realistic perspectives on the relationship between India state and women's identity. Despite being an extensive analysis, her book does not cover some key themes of my research, like women and equality and women's representation in politics, women, and sexual violence among other things. For this I refer to Nivedita's Menon's *Recovering Subversion: Feminist Politics Beyond the Law*.

To address this question, I reviewed Nivedita Menon's work, *Recovering Subversion: Feminist Politics Beyond the Law*. Menon analysis whether recourse to law is an effective strategy. According to her observations, laws was initially sought as a potential source for emancipation of women but since the nineteen eighties, the women's movement gradually shifted away from laws. Laws are inherently discriminatory to women and often acts as an instrument of patriarchal practices. She

states that the law assumes equality among men and women who are located differently in cultural, social, and economic formations. The law, according to Menon, is a flawed instrument, yet the only one which has emancipatory potential.

She moves on to investigate the notion of rights within the sameness vs difference debate in feminist legal theory. She addresses this notion by analyzing the debate over abortion, sexual violence, and reservations. Through her reading of related legislations and analysis of major theories, she concludes that laws are not emancipatory in their nature but rather adhere to the power systems by producing and regulating identities. She states that the law is producing a single identity of 'woman' and constructing laws to regulate this identity. Through this the law subtly imposes patriarchal structures under the guise of delivering rights. Women feel like they have free will and equality as the law assumes it, but in actuality they have very little of both. They compromise with basic entitlements within the patriarchal structures. So instead of being emancipated, women are marginally subjugated. The law ends up being a subversive site instead of an emancipatory site. She argues law can only be viable in distributing equality if it follows the strategy of litigation, that is, using existing laws defensively or aggressively to advance claims of women<sup>12</sup>.

Menon is severely critical of the political and legal spaces in addressing women's issues, to the extent that her core argument shifts feminist deliberations beyond the scope of law. But since the publication of this book there have been many judgements and policies which have exposed the patriarchal structures and weakened them greatly. Routinizing patriarchal practices is severely challenged and discouraged in the political space. State and non-state actors are showing a greater level of commitment in bringing women's rights than before. While there are still many challenges to the women's demand for equality, the legal situation is not as dismissal as indicated in the book. This means that there is scope for new strategies to develop to challenge patriarchal oppression through laws itself.

All these three texts have contributed to constructing very clear picture of the relationship between women, Indian State, and the laws. The suggestion and strategies given by these scholars have helped in understanding the need for feminist legal intervention to create gender equality. Despite their contribution, these works have not directly deliberated the relationship between women's

empowerment and continuous patriarchy which is the core theme of my research. None of these texts investigate the influence of patriarchy over intersecting themes of political representation of women, oppression of women in workplace or the violence on women in the domestic which is another concern of my research. My research focuses on introducing some strategies to subvert the relationship between women's empowerment and patriarchy. These texts have contributed greatly on the discourse of women and rights. I only make a humble effort in contributing to the discourse on women's empowerment.

## **Research Concerns**

My research investigated the relationship between empowerment and patriarchy in India. In the political legal structure women are recognized as equal through rights. Yet the position of women in social, political, and economic structures are far from equal. Women have equal civil and political rights in India. It means that women can vote and contest for representation without any discrimination. They will also attain all civil and political privileges equally. This means that as democracy progressed and strengthened in India, the political position of women in India will also improve. But this did not translate into a political reality and women in India continued to retain the position of subordination. This is a confusing scenario as India has strong legal framework to support equality of women, and a political disposition for women's empowerment, so the lack of equality and empowerment should not appear to be so deliberate. It is this confusion that becomes the foundations of my research. Through my research I attempted to answer the following concerns:

1. To what extent does the guarantee of rights in the Constitution of India promote gender equality?
2. Do the experiences of inequality indicate the existence of a continuous strand of patriarchy?
3. Have the guarantees of equality successfully undone patriarchal influence?
4. If patriarchy remains unquestioned then to what extent is the claim for women's empowerment in India effective; alternatively does this lack render all strategies and policies to achieve empowerment as useless?

5. Does questioning patriarchy provide an effective and transformative platform for guaranteeing women's empowerment?

The constitutional guarantee of equality was the first step in changing the position of women in India as it posed a challenge to patriarchal oppressions. The idea that women were subordinated to men ought to have been eradicated when women were declared as equal citizens. But unfortunately acquiring equality and empowerment is a much more difficult process. Patriarchy is a multifaceted hierarchy which continues in more than one sphere. It is a social, cultural, economic, and political hierarchy and so the subordination of women cannot be undone without challenging patriarchy in all spheres. And herein lies, the challenge of women's equality and empowerment. I attempted to understand how the right to equality is impacted by continuing patriarchy and how in turn this influences policies and laws made for women's empowerment. I analyzed efficiency of laws which aim for women's empowerment but are failing to challenge patriarchy. In order to do so, I analyzed the position of women in three main spheres: the political, the workplace and the domestic.

Women barely make it into representative institutions. Women are either not elected or they do not get a chance to contest elections as political parties prefer to give tickets to male candidates. Political parties were and still are hesitant to give tickets to women, especially if she is to contest against male candidates. Overall women's representation in political institutions in the past many decades has been less than desirable. To solve this issue, women reservation was considered as a solution. The demand for women's reservation became important and in 1993 for the first-time women's reservation was granted within local self-government. The local self-governments of rural and urban areas had thirty-three per cent reservation for women and the position of chairperson was also reserved. In 1996, The Constitution (Eighty First Amendment) Bill which guaranteed thirty-three per cent reservation for women in the parliament was introduced. Due to strong opposition this bill was not passed. In 2008 again, an attempt was made for women's reservation under The Constitution (Hundred and Eight Amendment) Bill which asked for one third reservation in both Lok Sabha and state assemblies. This bill was also not passed. The representation of women in government bodies continues to remain less than preferred.

According to the report published by the election commission, in the 2019 Union election 67.18% of total women electorate cast their vote, making them active participants in the democratic process. Yet, out of 8052 candidates, only 726 were women out of which only 78 women won seats in the Lok Sabha. For better or for worse, 78 is the highest number of women to be elected in the Lok Sabha ever<sup>13</sup>. In state assemblies also the number stays less than desired. Only in local self-governments do we see some presence of women due to reservation but there is no massive change in the political status of women.

It is not wrong to assume that despite having equal political rights and a very prominent presence in Indian democracy, women's representation in decision making institutions is disappointing. For a group to have such a large presence in democracy and yet being under-represented for decades indicates that the political space has not modified itself to accommodate the demands of the said group, in this case women.

The issue of under-representation of women in political institutions has been acknowledged. Many government reports have often highlighted that woman are not allowed the same opportunity as men to be equal participants in political representation. Women are important political participants, especially for mobilization and socialization purposes, but when it comes to holding positions of power, women are sidelined. Through my research I investigated to what extent is the influence of patriarchy on political representation of women in India? Can reservations be the only solution to improving representation of women? Does women's reservation challenge patriarchy or does it negotiate with it? If so, then how can we break down the patriarchal influence on women's representation and replace it with a more equal system?

Another main concern of my research is the position of women in the economic sphere. Patriarchy is the structure which exploits women by maintaining their position of oppression, which is done very effectively by denying opportunities of employment and ownership of property which was a prevalent practice before. So, women's empowerment is strongly associated in terms of access to equal economic opportunity. The recognition of women as equal citizens in politics also created space for recognizing them as equal players in the economic sphere.

The economic sphere, especially the workplace has proven particularly challenging for achieving the goal of women's equality. Under Article 16, Women in India have equal access to employment opportunities, and under special conditions the government can also give special privileges to women.<sup>14</sup> Also, under special laws like, Equal Remuneration Act, 1976, Maternity Benefits Act, 1961, Maternity Benefits (Amendment) Act, 2017 and The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the discrimination against women is severely criticized. Legally, a real attempt has been made to challenge patriarchal domination within the workplace. But has it changed the status of women in the workplace?

The discrimination of women at workplace continues as even today most women have access to only jobs which are identified as 'appropriate for' women or 'pink collared' jobs. The problem of 'double day' work, which is paid full time work at the workplace, and unpaid full-time work at home, is still a major cause of concern. According to the Periodic Labour Force Survey, 2019 average wage of women in India was Rs. 8,034 per month, which is 33% lower than the average wage earned by men which is Rs. 12,048. Women tend to be employed in lower income jobs, with only 13% earning more than Rs. 12,500 per month<sup>15</sup>. This shows that the workplace is still extremely discriminating to women. To make matters worse the stereotyping of women continues and opens new avenues of exploitation. Women also constantly experience sexual harassment at workplace. The unsafe work environment severely limits the access women have to economic empowerment. India has many laws which create the condition necessary for empowerment in the workplace, yet the result is far from desirable. Can such laws profoundly change the bias which is entrenched in the society or are laws covertly, fueling this bias? Do these laws related to workplace even challenge the patriarchy?

Through my research, I analyzed the journey of laws against violence on women at the workplace. For this purpose, I critically analyze The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This law challenges the humiliation, bullying and blatant violence women have been experiencing at the workplace. It not only delegitimizing but also condemns sexual harassment at workplace, a sphere which is broadly defined. Yet this law somehow gets stuck within the patriarchal interpretation of victim aggressor. This law continues with the victim-aggressor prototypes because of which women are seen as the perpetual victim and the man as perpetual aggressor. These fixing of roles encourages gender stereotypes and adds layers to

discrimination, instead of challenging it. It also creates a space for patriarchy to adapt itself to a new system.

Despite appearing pro-women frameworks these laws remain seem to exist within the boundaries of patriarchal structure. Through this research I analyzed the possibility that instead of challenging and destabilizing patriarchal structures laws only make cosmetic changes and retain the exploitative framework? My research analyzed the influence of patriarchy on laws for women's economic equality. Is it possible to frame laws which truly create a fair and equal workplace?

Another major concern of my research shifts the focus from the public sphere to the private sphere. It deals with the debate on themes on 'public-private dichotomy' and 'dominance' which is also central to the discourse on women's empowerment. The public is the space where all political and economic activities take place. The reach and legitimacy of the Constitution and legal structures are mostly limited within the public realm. Due to this the oppressive patriarchal practices within the domestic are ignored. Barely any recognition is given to those power structures which emerge from the domestic and influence or limit women's rights. As Kymlicka (1990) will say, "...public-private distinction has reinforced the tendency to exempt family relations from the test of public justice."<sup>16</sup> This neglect of the personal and the domestic brings the entire public-private dichotomy under the critical lens of feminist scholarship. To understand and/or challenge the influence of the power relations which emerge from the family is essential as it will help the State distribute the right to equality. One of the major concerns of this thesis will be understanding the mindset of the Indian State in relation to the position of women within the family.

Now the State is undergoing a deep sense of anxiety in its move to recognize the position of women in the family. Through legal intervention like Dowry Prohibition Act, 1961 and Protection of Women from Domestic Violence Act, 2005, legal institutions are recognizing the violence which women experience within in the family. Yet the very same legal institutions are silent on framing laws against marital rape. This indicates that there are only some practices within the domestic which the laws question, while other practices are dismissed off. It seems that violent patriarchal practices can be challenged by the laws but only if it does not displace the power structures too much. This also shows that political and legal institutions choose which type of equality and empowerment women



deserve and till what extent. To ignore the systematic oppression within the domestic means to ignore its commitment to the ideals of liberty, equality, and justice. To understand and resolve this anxiety which the State experiences, it is important for my research to study the position of women within the domestic.

For this purpose, I am critically reading the provisions against violence on women within the domestic sphere. I will analyze Dowry Prohibition Act, 1961 and Protection of Women from Domestic Violence Act 2005, and the absence of marital rape under Section 375 of the Indian Penal Code among others. Dowry Prohibition Act, 1961 and Protection of Women from Domestic Violence Act 2005 actively disparage the violence against women in the family, but both are rarely used efficiently. While both laws aid in challenging violence within the domestic, the access women have to these laws and its application must be critically analyzed. If these laws are existing in a cosmetic manner, they will end up reinforcing patriarchy within the domestic. Same goes for the absence of laws against sexual assault in the family. While the laws on sexual assault have changed greatly since 2013, yet they have been unable to address the very prominent problem of marital rape. The laws unfortunately assume that within a marriage there is perpetual consent. The silence on laws against marital rape highlight the hesitance laws makers must challenge patriarchy within the family. My research sought to answer the question whether laws are the recourse to transformation of the position of women in the society. Is it possible for laws, to recognize marital rape as a crime and thus, highlight the presence of patriarchal domination within the most intimate relations?

Through my research I investigated to which extent the guarantee of rights within the Constitution of India promoted gender equality. There are many patriarchal practices which exist within the political sphere, workplace, and domestic structures due to which the oppression of women is sustained. Is it possible that the experiences of inequality indicate the existence of a continuous strand of patriarchy? If that is the case, then have the guarantees of equality successfully undone patriarchal influence? Are rights even equipped to undo patriarchy in absence of social change? By answering to these concerns my research attempts to make some contribution to the ongoing discourse on women's empowerment

## **Research Methodology**

My research uses critical theory and feminist theory to explore the relationship between women's empowerment and patriarchy. Both critical theory and feminist theory are similar as they focus on socio-economic inequalities. Both these theories also attempt to propose a change in the current system. Critical theory is extremely essential to my research as it helps in identifying structures and practices which lead to oppression and inequality. Feminist theory helps in specifically theorizing the key themes of my research that is, women's empowerment and patriarchy. By using critical theory and feminist theory, my research can observe the inequality faced in political economic and family structures more vividly. The combination of these methods helps in identifying the causes of inequality in various spaces, rather than just one. It supports a clearer understanding of gender-based inequality which exists in more than one sphere. It helps in providing a very clear and critical perspective of the patriarchal structure which can be considered as the hegemon in my research. Both these theories aid in observing the way the state orchestrates consent so that it is dominated by a hegemonic power. This is also the main concern of my research which seeks to understand whether the state uses laws to create consent to patriarchy instead of challenging it?

I do admit that it is possible to conduct the study in the form of a quantitative method by collecting data in order to understand different levels of empowerment and disempowerment which women face and its relation to patriarchy. I choose to adopt a qualitative approach as it will include the primary and secondary sources of theorists who have provided exceptional insights and have contributed to the ongoing discourse on the question of women's empowerment in India.

## **Organization of the Study**

The emergence of rights in India contributed greatly in political, economic, and social transformation. It acted as an instrument for emancipation from political oppression, economic differences, and social discrimination. The fundamental right as enshrined within the Part Three of the Constitution of India, delivered citizens the access to equality, freedom, and justice. Interestingly, women in India got the same access to rights and its benefits as their male counterparts.

Despite this, as decades progressed many feminist scholars noticed that while women were formally equal, and they were experiencing inequality which was going unrecognized by the law.

In Chapter one, I will focus on introducing the political legal context of women in India. The issues and challenges which women face in political, economic, and family spaces will be highlighted. In the first section I will deliberate over the concept of women's equality and women empowerment and their dependence over each other. I attempt to highlight the feminist interpretations to right to equality and how they are necessary to frame the concept of women's empowerment in India. The manner in which the Indian Constitutions constructs equality to accommodate women's issues and experiences in key to the process of empowerment. The relation between women's equality and empowerment is mutual, one cannot exist without the other. Through this section I attempt to map out the characteristics and challenges of women's equality in India. In the second section of this chapter, I attempt to investigate if women's empowerment and patriarchy are linked together or not. Women's empowerment and patriarchy are supposed to be mutually agnostic in nature as they have different goals. Empowerment seeks freedom and equality, while patriarchy seeks domination and oppression of women. Yet, many a times I have observed that women's empowerment is restricted so that patriarchal norms and structures are not disturbed too much. Laws and policies which are supposed to challenge patriarchy may end up negotiating with it. Is it possible that women's empowerment and patriarchy are not on opposing ends but rather closely related? In this section, the relationship between empowerment and patriarchy is critically analyzed. In the third section, I study the relevant literature in this field. The primary works which I will be reading are, Susan Moller Okin's *Women in Western Political Thought*; Carole Pateman's *The Sexual Contract*; Anupama Roy's *Gendered Citizenship: Historical and Conceptual Explorations*; Nivedita Menon's *Recovering Subversion: Feminist Politics Beyond the Laws* and Rajeswari Sundar Rajan's *The Scandal of the State; Women, Law, and Citizenship in Post-Colonial India*. In the last section of this chapter, I will focus on the concerns and organization of my research.

In the second chapter I provide an understanding of the relationship between women's empowerment and patriarchy in the sphere of politics. The sphere of politics depends on the presence of women, not only because they make a sizable percentage of voter share but because they contribute greatly to the political and economic spheres. In the first section of this chapter, I highlight the close link

between political presence and empowerment of women. I also highlight the way women are disempowered in the political sphere, especially for representation in political institutions. In the second section of this chapter, I draw out the necessity to increase and encourage women's representation in political sphere to challenge the patriarchal oppression. I ask the question, whether the absence of women in political spaces is linked with the continuous influence of patriarchy? In the third section, I critically analyzed the impact of reservation for women in political institutions by critically comparing The Constitution (Eighty First Amendment) Bill, 1996 and The Constitution (Hundred and Eight Amendment) Bill, 2008 and among other suggestions. I question the validity of reservation as a tool to break down patriarchal structure. I observe whether reservation for women lessens the influence of patriarchy, or does it reinforce it? In the last section, I focus on the discussing the relationship between women's political presence and the subversion of patriarchy.

The third chapter extends the discourse of empowerment from the sphere of politics to the sphere of work which links both the public and private. One of the most persistent forms of inequality which women face is the discrimination at workplace. The first section attempts to understand the continuation of the public and private and its impact on the positions of women in the workplace. Economic freedom is one of the foundations of empowerment, yet the space where this freedom is realized is ill defined/ The workplace is perhaps the most patriarchal of all spheres, as it follows the rigid public private divide. It rigidly defines, which work women must do, where women must work and till what extent they should contribute to the economic realm. The workplace positions women as subordinated to men. This section introduces the manner in which the workplace becomes a sphere of oppression for women and how it enforces the public private divide instead of challenging it.

In the second section, I focus on the inequality which women experience in the workplace and the influence of patriarchy on it. From skewed gender wages to stereotyping at workplaces, there are many issues which women face in India in economic sphere, despite having many laws which attempt to create an equal workplace for women and men. I attempt to answer the question why discrimination exists when there are laws which create an equal space of women? In the third section, my research focuses mainly on the legal provisions that have been put into place to ensure empowerment of women. I focus mainly on the critically analysis of The Sexual Harassment of

Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Through this section I attempt to analyze the weather laws alone can weaken the patriarchal structure or are more interventions needed? Overall, this chapter will be an assessment of the influence of laws in bringing in women's economic empowerment. I conclude this chapter by analyzing the continuous influence of patriarchy on women's economic condition.

The disempowering experience of violence against women is the main focus in chapter four. Violence in forms of abuse and assault; physical, psychological, and sexual are dominant means of asserting patriarchal domination over women. In the first section of this chapter, I understand the reasons behind the silence of laws on women in the private and family sphere. I map out why despite shaping the domestic sphere, it is difficult for laws to challenge the violence and discrimination which women experience. I highlight how the laws play a significant role in constructing the domestic sphere and yet are hesitant in entering it to undo the patriarchal discrimination. In the second section, I seek to establish that violence is an important instrument of patriarchal oppression through which women are subordinated. In order to do so I focus will be on the violence against women which is experienced in the public and within the family which laws are hesitant to address. I critically analysed select legislations on the gender-based violence and the impact they have on weakening patriarchy. In the third section, I analysed whether the domestic sphere, challenges patriarchy or continues it. Is it possible that the domestic sphere safeguards patriarchy by limiting the access of laws? In this chapter is address question like, can women be empowered or equal in India if violence against them is tolerated just because it happens within the domestic sphere? Can the political and legal system afford to be silent over the violence against women? Can current laws even weaken the patriarchal domination over women within the domestic? Or does the notion of women's empowerment ignore the violence which women face within the family? I conclude this chapter by presenting some remarks on these issues.

The fifth chapter tries to bring together all my findings and discuss the need to subvert the close relationship between women's empowerment and patriarchy. I proved an overview of all the chapters and uncover the relationship between women's empowerment and patriarchy in India This chapter focused on making recommendations to subvert the influence of patriarchy on women's

empowerment. I provide for some strategizes and techniques to combat the continuing influence of patriarchy on the political sphere, the workplace, and the domestic realm.

My research attempts to address in, a modest way, the loopholes existing within the political and legal system which limit women's equality and empowerment and the continuity of patriarchy. In doing so, I suggest some means of empowering women to achieve the goals of equality, freedom and justice as enshrined within the Constitution of India.

### Endnotes

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<sup>2</sup> High Level Committee on the Status of Women In India. (2015). *Executive Summary: Report on the Status of Women in India*. New Delhi: Government of India. p.3

<sup>3</sup> Mohanty, M. (1995). The Concept of Empowerment. *Economic and Political Weekly*, 30(24), pp.1434-1436.

<sup>4</sup> Menon, N. (2004). *Recovering Subversion*. pp.5-7

<sup>5</sup> Verma, J. S., Seth, L., & Subramaniam, G. (2013). *Report of the Committee on Amendments to Criminal Law*.p.8

<sup>6</sup> Menon, N, (2004). *Recovering Subversion* p.4

<sup>7</sup> Kapur, R., & Cossman, B. (2006). On Women, Equality and the Constitution: Through the Looking Glass of Feminism. In N. Menon, *Gender and Politics in India* . pp.216-218

<sup>8</sup> Walby, S. (1989, May). Theorizing Patriarchy. *Sociology*, 23(2). p.214

<sup>9</sup> Okin, S. M. (1979). *Women in Western Political Thought*. p.1

<sup>10</sup> Agnes, F (1999). *Law and Gender Inequality*, pp 168-188

<sup>11</sup> Sunder Rajan, R (2003). *The Scandal of the State*, pp.1-37

<sup>12</sup> Menon, N, (2004). *Recovering Subversion*. p 204 to 245

<sup>13</sup> Election Commission, India. (2019). *Elections, 2019 (17th Lok Sabha) Highlight-2019*. New Delhi: Election Commission of India. p.2

<sup>14</sup> Government of India. (1950). *Constitution of India*.

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<sup>15</sup> Ministry of Statistics and Implementation. (2019-21). *Periodic Labour Force Survey*. New Delhi: Government of India. p.3

<sup>16</sup> Kymlicka, W. (1990). *Contemporary Political Philosophy: An Introduction*.p.395

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