

Chapter 5

Uncovering the Relationship Between Patriarchy and Women's Empowerment in India

My research is an attempt to analyse the relationship between patriarchy and women's empowerment. Throughout the chapters I interrogated the possibility of achieving equality and empowerment of women through laws and policies. I critically analysed the position of women within the three major spheres of the public, the workplace and the domestic, where women commonly experience patriarchal subordination. I sought to identify the potentials and limitations of laws meant for women's empowerment in India. My research has been a humble attempt to understand the position of women in India after more than seventy years of Constitutional guarantee of equality and freedom.

India has granted equal civil, political, social and economic rights to both men and women since the framing of the Constitution in 1950. My research is an attempt to analyse the extent to which the rights guaranteed in the Constitution of India promote gender equality. Despite the presence of equal rights, women are subordinated to institutions and processes of patriarchy in their everyday life. Through my research I sought to understand if inequality was a result of the continuous influence of patriarchy on social, economic, and political structures. I analysed if these guarantees of equality have been successful in weakening the patriarchal structure. I also analysed if patriarchy and women's empowerment were complementary to each other or were mutually agnostic. I sought to identify the extent to which the government is successful in providing for an effective and transformative platform to ensure women's empowerment in India.

Through my research I can suggest as a conclusion that the government's attempts at women's empowerment is having a two fold effect; firstly it is colluding with patriarchy and, secondly, it is challenging patriarchy. Through my analysis I have been able to identify that some laws and policies for women continue to be influenced by patriarchy while other laws and policies attempt to weaken it. My research has been a modest exploration into uncovering the relationship between patriarchy and women's empowerment.

5.1 An Overview of the Study.

In the first chapter of my thesis, I introduced the concerns of my research. I analysed the relationship between equality and women's empowerment in India. I explored the manner in which equality is defined in India especially in terms of gender equality. I examined the Constitutional provisions for gender equality in India. I was able to identify that India mainly follows two types of equality, formal equality which consists of equality of sameness and equality of difference; and substantive equality¹. For the purpose of my research, I have used these types of equality to examine the relationship between women's empowerment and patriarchy.

By using critical theory and feminist approach, I continued to examine the notions of patriarchy and empowerment in India. I view patriarchy as a universally existing structure which subordinate's women but which is unique in practice. I assume that in India, patriarchy functions differently and this has impacted the effectiveness of the provisions for empowerment. I illustrated the continuing presence of patriarchy in India using cases where women were treated unjustly by the State, the society and the economy. I also examined the relevant literature regarding the concerns of my research. Through the review of literature, I was able to identify that lacuna of the on-going discourse of women's empowerment. I attempted to build my concerns around the gaps in the ongoing discourse. I presented the concerns and organizations of my study and examined the significance of my research.

In the second chapter of my research, I sought to analyse the extent to which patriarchy influences the presence or absence of women in politics. Since before Independence women have been prominent political participants. After independence, women in India have equal access to civil and political rights which would have helped in increasing their presence in political institutions. The contribution of women leaders and the women's movement motivated political leaders to create a free and equal sphere for both men and women. The members of the Constituent Assembly especially emphasized on the notion that by granting equality, freedom and justice, the inequalities which women experience will gradually fade away.² While the granting of equal rights was a major achievement for women's equality in India, it was not a completely satisfactory achievement.

In this chapter I attempted to understand if legal guarantees to equality were enough to increase the political presence of women in India. Here I analysed the political presence of women in

terms of both, the number of women and contribution of women in the political process. In this chapter my focus was on understanding till to what extent women's demands are fulfilled in the political sphere. I analysed if the current political environment can answer women's demand adequately or is there a need to include more women in the political process. I examined whether the political sphere in India was inclusive or exclusive towards women and their demands. I also interrogated the possibility that the position of women in the political sphere may be influenced through patriarchy. To analyse the position of women better, I distributed the chapter into three sections which aided in understanding the extent to which political empowerment of women is achieved.

In the first section of this chapter, I presented an argument as to why politics of presence is important for the political empowerment of women. Since democratic process is unable to give women the same position as men within the political sphere, we have no option but to rely on politics of presence. As Squires says, 'The project is to enable those currently excluded from politics to engage in political debate and decision making'.³ To imagine political empowerment of women without actually including them within representative institutions is not able to fulfill the purpose of empowerment. This is why perhaps politics of presence becomes such a relevant theory to interrogate women empowerment within the political sphere in India. Politics of presence in India is closely associated with ensuring that political equality is guaranteed to women in India.

Equality is an instrument through which we change the position of the marginalized or the oppressed. This can be done through legal interventions or by granting certain privileges to those who are marginalized. In India, equality is conceptualized in terms of class-based equality, where the government assumes that through economic policies the difference in classes can be eradicated. While addressing caste-based inequality, the government assumes that the banning of certain cultural practices like untouchability can delegitimize the caste discrimination. But when it comes to gender-based inequality neither of these methods can work efficiently. Women cannot be turned into men for the purpose of equality and also women do not experience discrimination uniformly so a standardized method cannot be used to eradicate inequality. Since there is difference in the experiences of oppression and discrimination it is difficult to ban a certain cultural practice for the sake of establishing equality. This is why, in order to guarantee political equality for women in India, the idea of

‘politics of presence’ was considered. I extensively examine the idea of ‘politics of presence’ in context to India

‘Politics of presence’ is an idea which assumes that by increasing the number women in the legislature, the political sphere will be more equal than before.⁴ The idea also assumes that through politics of presence, women’s interests and demands have a better chance of being articulated in a male dominated political system. Women will have a better chance in assuming leadership roles, and the barriers to women’s development will considerably reduce. Politics of presence also emphasizes on the need to develop political equality as equality of difference rather than equality of sameness⁵. In politics, women and men hold different positions, with more men in dominating positions within the political sphere. If we depend on the equality of sameness approach, women will always be at a disadvantage in comparison to men. It is important for political space to be sensitive towards the difference between men and women and include women accordingly. Most importantly, politics of presence challenges the notion that the policies demanded by the majority are only relevant in the political process. Women form a significant number of voters in the political process yet their issues and demands are side-lined to other political goals which are determined as more relevant. The identity of citizens which shape their political goals is equally relevant in democracies.

Politics of presence is a very popular notion for political empowerment of women in India. The structure of patriarchy is one the major reasons why gender gap exists within political institutions in the first place. The concept of politics of presence does not address the inherent patriarchy within the Indian political process. It just assumes that the distribution of seats in legislatures will aid in the empowerment of women automatically. The patriarchal barriers to women’s representation are barely acknowledged let alone challenged.

In the next section of this chapter I deliberated over what exactly constitutes women's representation in India. Tracing the historical development of women political participation and representation helped in understanding how the notion of women representation is understood in India. Initially, representation of women in India started as reservation through nomination. This meant that women were nominated in reserved seats and did not contest elections. This created the misconception that women were unwilling to compete in the political process. As time passed, the idea of reservation was completely rejected as it gave the impression that women were weaker than men. Even during the meetings of the constituent assembly, the proposal for reservation was rejected.⁶ For decades after independence it was

believed that the increasing democratic environment in the country will lead to equality between men and women. It was only in the decade of nineteen seventies that the demand for representation of women in political institutions was revived when the underrepresentation of women in the political process became an important political agenda.

Women were not only absent from representative institutions but their presence in formal politics was also greatly reduced. Women's interests and demands were barely articulated in the political process. Although men and women had equal political rights, representation was dominated by men. There are two main reasons why this took place.

Firstly, the Indian political process is dominated by demand to represent policies and ideas over experiences and identities. Political parties and representatives are focused on addressing those issues which the general public believes are important. The national objectives of growth and development are superior to any type of identity. Women's representation asks that women's specific identity be prioritized over broader national demands. This creates a tension in the political sphere which is constantly creating a competition between 'ideas' and 'identities.' I argue that it is time to stop looking at the question 'what' is being represented (ideas) and 'who' is being represented (identities) as agnostic terms. The false competition is what turns representation of women into a hollow idea. Instead of debating which is more important, it is necessary to recognize where the 'what' and the 'who' of representation intersect. Political process needs to find the link between ideas and identities instead of subordinating them.

The second major reason why women's representation is a challenge in the Indian political process, is due to fixing of identities. The Indian political process interprets 'politics of presence' in a very narrow-minded manner. The idea that women's representatives will be 'mirroring' women's interests is unheard of in the Indian political process. This is mainly because the identity of 'woman' which is created in India is not representative of the masses who come from different, class, caste, religion, ethnic and tribal backgrounds. The multiplicity of backgrounds of women make it difficult to identify one single common political goal which all women in the country relate to. Despite this, the government has relied heavily on reservations to ensure women's representation in legislative institutions.

The third section of this chapter critically analyses women's reservation as a site of patriarchy. I have assessed the bills proposed for reservations and the argument made to improve them. While critically analysing The Constitution (Eighty-First Amendment) Bill, 1996 and the

Constitution (One Hundred and Eighth Amendment) Bill, 2008, I was able to trace the limits of women's reservation. Reservation for women in India is designed to increase the number of women in legislatures rather than political inclusivity. Politics of presence is important as it allows more representation to women's issues and demands which would otherwise be ignored. It is also meant to encourage political leadership in otherwise marginalized sections of the society. Unfortunately, the Women's Reservation Bill as proposed failed on both counts.

Women are not a homogenous category who have the same set of demands like the reservation policy assumes. Women's experiences are affected by a spectrum of oppressive practices which shapes their political demands. It is essential to develop a system for representation which offers more than just mere tokenism. The homogeneity of the women's identities for the purpose of reservation has proven to be a huge set back to the demand for representation. The provision of rotation of seats for reservations also impedes the purpose of politics of presence. By rotation of seats women can represent a constituency only for five years or one term maximum. After that they may have to leave the constituency or contest in open seats. The assumption that one term is enough for women to overcome centuries of political exclusion displays the short sightedness of the policy of reservation.⁷

I have questioned the assumption that a numerical presence of women would transform the political process and grant women equal say. I argue that reservations for women is a site for patriarchal subversion. Reservations do not challenge the patriarchal nature of the public spheres. It actually ignores that women's oppression is a result of patriarchy. How can an instrument which refuses to recognize the source of oppression be useful for women? Through reservation, patriarchy is able to adapt itself within the democratic structure. Politics of presence and reservation may have theoretical benefits and may bring in some representation for women, but in the long run they do not weaken the patriarchal structure which continues marginalizing women from the political sphere.

I emphasize that the notion of empowerment for women is neither imagined nor defined in narrow terms of numerical presence. The political empowerment of women depends on the greater representation of women's interests and demands in the political sphere. My observations in this chapter led me believe that political presence of women is dependent on the way we define the citizenship. Though women and men are equal citizens, the notion of citizenship is created in a masculine manner. Citizenship was originally meant only for men and women were later on added to it. The inclusion of women did not modify the nature of

citizenship which was created to advantage men. I have argued the nature of citizenship itself is patriarchal and in order to empower women and create equality, there is a need to reassess the idea of citizenship in India.

I continue to explore the idea of exclusion and marginalization of women in the next chapter which focuses on the sphere of the workplace. In chapter three I analysed the extent to which laws can modify the disempowerment and inequality which women experience. I observed the legal interventions made in the sphere of the workplace to understand the potential of law for transforming the position of women. Here I analysed how the public and private divide impact the position of women in the workplace. I also critically observed the relationship between the workplace, women and the idea of empowerment. I also observed some provisions of The Factory Act and laws against sexual harassment to determine the efficiency of laws in improving the conditions of empowerment of women. The aim of this chapter was to identify if the workplace was an empowering or oppressive sphere for women.

In the first section of chapter three I linked the position of women in the workplace to the public private dichotomy which is experienced by women. The public private dichotomy has been an important concern for feminist critique. The discrimination and exclusion which women experience in the public and private sphere can be largely associated with the division of roles which men and women perform in both these spheres.⁸ This dichotomy rigidly fixes the roles which women and men perform in the public sphere, the economic sphere and the private sphere. Men's labour is mostly performed in the public sphere and so is paid labour. Women's labour is mostly performed within the household and relegated to being unpaid labour. Women work more in the household and domestic sphere where their labour is ignored.⁹ Due to this, men have more economic control and privileges than women which contributes to their position as heads of the families.

According to my analyses this unfair division also extends itself to the workplace also. To fulfil the labour demands, women are part of the workplace but unlike men, women are mostly relegated to low status, low paid, temporary occupations.¹⁰ The opportunities available to women are far less than available to men. Feminization of labour and double day duty is a routine experience in the workplace. Despite being declared as equal, women still experience substantive inequality within the workplace¹¹. The sexual division of labour is a major component of patriarchy as it creates a structure where men dominate over women. Through the sexual division of labour, men's domination over women continues. Economic development of women is a core principle for achieving the idea of empowerment of women.

But due to the sexual division of labour and the persistent inequality which women experience in the workplace, the goal of women's empowerment is underachieved. According to my observations, the workplace is constructed in a patriarchal manner which aids in further subordinating women.

I elaborate on this idea in the second section of my chapter, where I attempt to analyse the relationship between the workplace, patriarchy, and women's empowerment. I argue that the workplace is actually a site of oppression instead of equality and development. Workplaces are created for the specific purpose of fulfilling a particular function and earning profit and are hence inherently exploitative. I use Iris M. Young's idea on faces of oppression to examine the extent to which the workplace is oppressive to women¹². According to Young, exploitation, marginalization, powerlessness, cultural imperialism and violence are the faces of oppression. I associate these faces of oppression with the experiences of women in the workplace. According to my analyses, women's labour is constantly exploited in the workplace, they are marginalized as they are excluded from opportunities and benefits, they experience powerlessness as women are rarely in positions to have control over their choices. Due to the workplace being designed to accommodate men and male centric demands, they automatically dominate in the workplace and male experiences become the norm which leads to a form of cultural imperialism. Lastly, I identify the workplace as a site of violence. Women experience physical and psychological harassment at the workplace without much power to address it.

According to my observations, patriarchal oppression continues in the workplace through these five types of oppression. Exploitation, marginalization, powerlessness, cultural imperialism and violence are considered as normal experiences which women have to risk in order to be a part of a more masculine environment like a workplace. This space has become a convenient space to continue the subordination of women. This has not gone unnoticed by the State which has had to acknowledge the vast difference between benefits which men and women gain in the workplace. In a country which is committed to equality and justice, its absence in the workplace clearly stands out. In order to create a more equal and fairer workplace, the State relies on legal interventions. There are mainly three legal approaches which the State uses: protective approach, sameness approach and corrective approach.¹³

Protective approach assumes that women are dependent on the State for protection. They are vulnerable to discrimination and violence. Section 66(1) The Factories Act, 1948, bars women

to work in factories between the times 7: pm to 6: am.¹⁴ This is done to protect women from the unsafe work environment and to prevent potential exploitation within the workplace. Sameness approach assumes that men and women are not different and should be treated as exactly the same. The Equal Remuneration Acts, 1976 is an example of sameness approach as both men and women are given equal pay in public sector jobs. In both these approaches the State is creating laws by assuming that the workplace is inherently discriminatory. It also assumes that without the State's intervention women cannot be considered equal. Both protective approach and sameness approach fixes the discriminatory structure instead of criticizing them. It assumes that women are constantly vulnerable in a workplace and need to be protected. These provisions do not target or weaken the systematic oppression which women experience in the workplace. Rather the laws force us to accept the skewed power structure of the workplace. This is why the corrective approach which aims at modifying the skewed distribution of power becomes relevant.

In the third section of this chapter, I explore some provisions against violence in the workplace which use a corrective approach. I explore the provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 to understand the extent to which this law weakens patriarchal oppression within the workplace. After critically analysing of this law, I argue that the laws against sexual harassment in workplace have proven to be effective in weakening oppression within the workplace. This law uses a corrective approach which is made from the viewpoint of the oppressed rather than the oppressor. The laws against sexual harassment aim at creating a safe working environment which prevents and prohibits acts of sexual violence against women. This law is not just protecting women or treating women as equal to men.

The law recognises that the socio-economic structure is discriminatory towards women. Due to sexual division of labour and patriarchal influences, the workplace can become an arena where domination of men over women is normalized. It targets the root of the problem, which is to maintain patriarchal power over women. Acts of sexual harassment is a type of patriarchal violence which is perpetuated over women because the workplace creates conditions for harassment to continue. The law recognizes that the workplace is patriarchal and discriminatory towards women and provides many rational suggestions to overcome this. Unlike the protective approach or the sameness approach which do not target the unsafe and unequal work environment, the laws against sexual harassment do so. This law also sets a precedent that creating laws using the corrective approach is much more effective as an empowering provision

for women. This chapter highlighted the importance of laws in gaining empowerment and equality for women.

Through my analysis I argue that laws can contribute to weakening patriarchal structures, especially those within the workplace. The workplace may be patriarchal, but it is not impossible to overcome its domination. Patriarchal practices like the sexual division of labour are so entrenched in the economy that laws must focus on destabilizing these patriarchal beliefs. Protective approach of the law which continues to observe women as vulnerable and dependent appears to be an outdated approach which the State should use sparingly. Sameness approach is beneficial in some situations but rarely questions the structure which causes discrimination in the first place. Corrective approach which carefully considers the substantive inequality which women experience is an approach which can lead to more effective laws. The experience of discrimination, powerlessness and violence should be considered when framing a law for women.

The law against sexual harassment takes into account women's experience while attempting to correct the position of women in the workplace. The law is not made from a masculine point of view nor does it ignore the patriarchal influence on the workplace. It takes into cognisance both, the action of discrimination and the structure which supports this. This is why the corrective approach has the potential to transform the position of women in the workplace which at the same time also question the sexual division of labour.

To transform one sphere, it is imperative to transform all spheres which affect the lives of women. Legal recognition of 'lived experiences' is a very important step in the eradication of oppression. Through the corrective approach law makers can recognize all the faces of discrimination which combine together to form an oppressive structure which subordinate women. Patriarchal oppression cannot be weakened by isolating certain oppressive experiences and treating them in a clinical manner. It is necessary to find the root of the oppression irrespective of which sphere it exists in and address it accordingly. At the moment only laws have the potential to be this effective in weakening the patriarchal influence.

I continue to explore the potential of laws in empowering women and creating equality in chapter four. But in this chapter, I explore the position of women in the domestic sphere. After critically reviewing the position of women in the political sphere and the workplace, my research automatically looked into the sphere of the domestic too. Chapter three opened up the fact that the household and domestic sphere is a space of oppression for women. In chapter

four I explore this oppression which is perpetuated within the domestic sphere and the potential of law in preventing the continuation of subordination of women. In this chapter I analysed how laws shape the domestic sphere. Then I critically analyse the ability some provisions of violence against women. I further analysed the relationship between the domestic sphere and patriarchy.

In the first section of this chapter, I attempted to understand the ‘inevitability’ of law in shaping the domestic. One of the assumptions of politics is that politics only takes place in the public sphere and the private sphere is free from the intervention of the State. This means that the State cannot intervene in the private sphere at all. The domestic sphere is free from the purview of the law. But feminist theory will call this a myth and state at the personal sphere is as political as the public sphere. The idea that the personal sphere is free from laws is an illusion. The domestic sphere is a product of traditional codes and legal regulations. From its arrangement to the hierarchy within it, the domestic sphere is guided by rules and laws. The domestic sphere is not a sphere of equality and justice, nor is it beyond the scope of equality and justice. The injustice which women experience in all spheres stems from their unequal position in the domestic sphere. If the goal of empowerment is to be achieved, then it is important to set a critical gaze on the domestic sphere too.

I argue that the domestic sphere is also a space of violence. In the public sphere only, the state has the authority to use violence which we refer to as legitimate violence. Anyone except the state who uses violence is liable for punishment or penalty. But who has authority over violence within the domestic sphere. Social belief will state that the men have control over violence in the domestic sphere as they are the heads of the family. Patriarchal hierarchy will assert that men can use violence to maintain the hierarchy. Male violence is considered quite normal within patriarchal systems. But this access to violence within the domestic sphere has caused discomfort to the State. To relinquish violence within the domestic sphere is problematic as it allows for the desecration of the very ideals of equality and justice which the Indian State balances itself on. It is due to this that the State intervenes within the domestic sphere to address the violence in it.

When addressing the question of patriarchal violence within the family, law appears to be the only available recourse. But how effective are these laws? In order to understand this question I look into some provision against violence on women in the domestic sphere. I mainly analyse like Section 498A (cruelty against wives), Section 304 B (dowry deaths), The Protection from

Domestic Violence Act, 2005 and the Dowry Prohibition Act, 1961 which make violence against women a criminal offence. These legal provisions have played an important role in delegitimizing patriarchal violence within the domestic sphere. In this chapter analysed till what extent these provisions against violence in the domestic sphere are effective in also weakening patriarchy in this sphere.

When laws are created against violence within the domestic sphere, they not only prevent violence but also challenge the family structure and ideological system which influences this sphere.¹⁵ Just because some practices have social approval does not make them a necessity in the society. Practices of dowry, cruelty against wives and domestic violence are all delegitimized by laws in India. The social acceptance of violence within the domestic sphere is questioned by such provisions in India. Yet these provisions fall short of challenging the basis of these violent practices.

In this section, I observe that the laws against violence are riddled with flaws, the most prominent one being that they do not challenge the structure of patriarchy which motivates violence within the family. Laws like The Prevention of Domestic Violence Act, 2005 use the protectionist approach. The transformative potential of this law reduces greatly as it focuses on protecting women more than preventing the violence. So while they condemn violence they do not target the structure which continues the violence easily. Here the State is more focused on playing the role of benign protector to vulnerable women, so it is unable to challenge the system which allows violence in the family to continue. These laws almost do not address the presence of patriarchy and the unequal structure of the family. This has severely impacted the efficiency of laws which prevent violence against women.

In the third section I address the causes of this limited legal intervention on violence against women in the domestic sphere. I argue that the limits of the law emerge from the popular assumption that the domestic space is a site of safety and intimacy rather than violence. The idea that the subordination of women is brought through violent means, or even that the subordination of women is a form of violence against them is not considered as a serious problem. It is mostly assumed that since the family is the core of the social system, the family is a sacrosanct organization. The laws are made to prevent violence against women not to challenge the family structure. Here lies the crux of my argument, that the focus of laws is to protect women within the structure which depends on oppression and violence. Family is a site of violence because it is mostly arranged to subordinate women. While laws have the potential

to challenge oppressive structures, they need to be constructed in that manner. The laws against dowry and domestic violence fall short of this challenge. It is difficult if not impossible to maintain the family structure and protect women from violence.

If empowerment of women is a concern of the government, then it is obvious that the State needs to question all those agencies and structures which continue the oppression of women. Domestic sphere, and the family happen to be one such sphere where violence against women continues unchecked. The lawmakers' hesitance in challenging the patriarchal family can be clearly seen in its avoidance in addressing the issue of marital rape. Even though the need for laws against marital rape have been recommended, the government avoids framing this law as it fears this will disrupt the traditional family structure. Even provisions like Section 498A cruelty against wives and Dowry Prohibition Act are looked upon as suspiciously. In the *Rajesh Sharma & Ors vs State of UP* the Supreme Court stated that these laws are also supposed to protect the matrimonial home from being destroyed.¹⁶ This means that the aim of these laws cannot be interpreted as only to protect women but rather to protect the family structure. This is a very confusing stance of the court and the interpretation of laws against violence of home in the domestic sphere. This confusion has made laws less effective in curbing violence within the domestic sphere. Such an interpretation has also fixed the domestic sphere as a sphere for patriarchal violence.

In this chapter I admit that search for empowerment has fallen short in the domestic sphere. The patriarchal bias is too strong to be questioned by the laws as it is now. The protective approach needs to be replaced with the corrective approach. Yet there is no guarantee that the position of women will improve within the domestic sphere. The violence which women face on the domestic sphere is the evidence of their unequal position. To ensure empowerment means to ensure equality. If the State is not able to address the question of violence, the goal of empowerment remains unfulfilled. The idea of empowerment is accompanied by the desire to eradicate all forms of inequality.

Looking at the extremely vulnerable position of women in the domestic sphere makes empowering women very challenging. The State assumes that the inequality which women experience is not related to the patriarchal structure. So, the laws and policies which it makes in the domestic sphere do not need to address patriarchal oppression at all. But this is an incorrect assumption as the family is perhaps the most influenced by patriarchy. It is imperative for the laws to challenge this patriarchal structure within which violence against women in

normalized. I acknowledge the challenge in the domestic sphere is not just the structure but also the acceptance of violence as normal.

The domestic sphere is so dependent on traditions and customs that it has become desensitized to the damage which violence does to women and their lives. Even if we do create effective laws, there is no guarantee that these laws will be utilized. The current statistics on violence against women clearly indicate that there is an under-reporting of domestic violence. There is no definite means of calculating the effectiveness of laws as ultimately, they are dependent on social consciousness.

In all the four chapters I examined the various theories and legal provisions created for the sake of women's empowerment. To summarize, through my analysis, I state that in the Indian political process, women's empowerment is mere tokenism because this is convenient to the male dominated political structure. Within the sphere of the workplace, the laws are more active in creating an equal and safe environment for women by contesting the male domination in the economic sphere. While in the domestic sphere, the provisions against violence are able to recognize the subordination of women and condemn it. But beyond that the laws are ineffective.

Through the analysis of different spheres where women are being oppressed, I am able to identify some suggestions which can aid in the suppression of patriarchy structure through laws in order to gain empowerment.

5.2 Subverting the Continuing Relationship between Women's Empowerment and Patriarchy.

My research concludes that the relationship between women's empowerment and patriarchy can be described as complementary and antagonistic at the same time. It is known that women are subordinated and oppressed in all these spheres due to which they experience inequality and disempowerment. Women experience exclusion, exploitation, marginalization, powerlessness and violence in their day-to-day life. These experiences are so common that many of them continue without being questioned. It is only recently that a very prominent challenge was raised against these routine experiences of subordination.

This challenge started before Independence during the national struggle where the social reforms movement challenged oppressive practices of Sati, Purdah, child marriages, treatment of widows and lack of girl's education. Soon the demands for equal civil, political and

economic rights for women were also raised by women's organizations. The traditional idea that women are subordinated to men and absent from the political and economic spheres was challenged by prominent leaders of the Indian National Movement. It was this decades of challenge which influenced Indian Constituent Assembly Members to create a Constitution which focused on Equality, Freedom and Justice.

Through my research I have observed that the ideal of equality as enshrined in the Constitution has come through a long historical process. Equality was not the initial concern within the Indian political process, it was only when marginalized classes and oppressed groups massively participated in the political process that equality became the basis of free India. Due to this, the notion of equality in India is constantly evolving in scope and method. In a similar manner, the idea of gender equality in India also has seen a massive change in the past many years. In the initial phases after independence, it started as equal civil and political rights. But soon the demand for equal social and economic rights along with safety from violence in the public and private sphere also became important. Gender equality today has become a dynamic and multi-faceted concept which is constantly deliberated within State and Non-State institutions.

In chapter 1 I highlighted that India interprets equality in two ways, the first being equality of sameness and the second being equality of difference. All laws and provisions in India are constructed through one of these approaches only. The idea of equality of sameness can be seen in laws like The Equal Remuneration Act, 1976 where the government assumes that women are the same as men and there is no need to discriminate among them. This is the idea which influenced gender equality the most in the initial years. But the idea of gender equality evolved and it was accepted that all women are different from men and require a different treatment. The Maternity Benefits Act, 1971 and Reservations for Women in local self-governments, Section 66 (1) of Factories Act, 1948, Section 498 A (cruelty against wives) are examples of this are examples of this. The law acknowledges that women are different from men and this difference is caused due to an unequal structure of power in which women are subordinated. Therefore, the intention of the law is to give special privilege to women in order to overcome the inequality they experience.

Both these forms of equality are enshrined within the Indian Constitution and are used for the purpose of creating gender equality. These approaches fall within the framework of a formal approach which attempts to remove the inequality between men and women through formal change or institutional mechanisms. There is another manner through which India guarantees

equality, which is called substantive equality. The experiences of inequality are taken into consideration and then laws are made from the point of view of the oppressed. In chapter three I elaborate on this point by analysing the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This law is specifically made to prevent, prohibit and redress acts of sexual violence against women in a workplace. It is made from the point of view of the disadvantaged or oppressed. This law not only focuses on punishing and penalizing sexual harassment but also focuses on recommending provisions for a more equal workplace. Such laws aim in creating an equal system rather than just penalizing inequality.

In all my chapters I have analysed the manner in which equality is interpreted and applied in context to women's empowerment. According to my analysis, the Constitution clearly promotes gender equality. In India, gender equality is not just civil and political equality. Gender equality in India is framed in order to change the position of women in all spheres. Gender equality in India is a comprehensive idea which is constantly evolving to suit the demands of the people. The evidence of this lies in the fact that provisions for gender equality encompass political, social and economic spheres. From reservations in panchayats, to special privileges for working mothers, to safety of women within the private sphere, there are many provisions which prove that the Constitution is committed to empowering women and creating equality.

The extensive manner in which the Constitution continues to define equality is the testament to its commitment. The Constitution of India's vast interpretation of equality has made the State sensitive to its demands. As The Committee on Criminal Amendments, 2013 report states, 'A *fortiori*, the duty of the State, therefore, is to provide a safe environment, at all times, for women, who constitute half the nation's population; and failure in discharging this public duty renders it accountable for the lapse.'¹⁷ The Indian legal and political system is created to prioritize the eradication of inequality above all and the state is committed to do the same. The Constitution of India undoubtedly promotes gender equality.

Despite the many legal provisions, gender inequality continues in India. While there are many reasons contributing to the inequality which women experience, my research highlights that the influence of patriarchy happens to be the major cause of consistent inequality. The subordination of women is so rampant in India that even the guarantee of civil and political equality is sometimes reduced to mere tokenism. In chapter 2 I explain how patriarchy is evident in India within the political process. In Indian politics there is a huge gap between the

political presence of men and women in legislatures. While the numerical absence of women in the political process is quite visible, women are also absent in decision making. Despite the fact that women make nearly fifty percent of the total voters, their demands are rarely represented in the political sphere. It's not just the numerical absence of women from the political process, which is noticeable, but the absence of conditions to make women equal is particularly jarring. Granting women equal political rights only provided an opportunity for women to enter into politics. It did not lessen the hostility of the male dominated political system towards women. In all these decades, the only solution available to reduce this obvious difference is reservation for women in the legislatures.

According to my analysis, the notion of reservation is not effective in changing the position of women. While it will definitely increase the number of women in legislatures, it will not impact the unequal political process. To claim that reservations is the only way in which women can be considered as equal is a short-sighted solution to a bigger problem. The political sphere is created to be the domain of the patriarch and their demands. It appears that the entire political system is androcentric. It prefers and privileges men over women. Women can only accommodate some of their issues and demands within this sphere. It is impossible for men and women to be equal in a space which is constructed to address the demands of men. The inequality which women experience in the political sphere emerges from the fact that the political process is influenced by patriarchal beliefs. Despite being equal citizen's women are excluded from the decision-making positions. It is assumed that compared to men, women are not as capable leaders. While there are no qualms against women participating in the political process as voters or political party members, the idea of women representing them raises a lot of questions.

Women play a subservient role in the political process as compared to men. Even when reservations are proposed, it is done so that women do not disturb the male dominance in the political sphere. From thirty-three per cent reservation to rotation of seats, the Constitutional (Eighty-First Amendment) Bill, 1996 and the Constitutional (One Hundred and Eighth Amendment) Bill, 2008 are riddled with suggestions which limit women's role as representative. At a cosmetic level women's reservation will permit women to enter into the male bastion on politics. But this is the problem, that unless permitted by a male dominated system, women cannot enter into the political sphere. This requirement of reservation itself is an indicator of patriarchal influence on the political process. The system is skewed in favour of men and small changes like reservations do little to improve the condition of women. There

is inequality which women experience in the political sphere to a large extent is influenced by patriarchy.

The inequalities experienced within the workplace also seem to be related to patriarchy. The first evidence of this is the sexual division of labour and the relegation of women's labour into the private sphere. The very fact that women's work is unpaid because it takes place within the household indicates the influence of patriarchy. It is this division that has acted as a foundation to the name discriminations which women experience in the workplace. The sexual division of labour not only excludes women's labour but also generates the assumption that the only reason women work outside of the home is to temporarily occupy position for men. So, they ought to be given low pay and temporary jobs with barely any decision-making power. Therefore, even in countries like India where economic equality is ensured, women are treated unfairly in the workplace.

It's not just the types of jobs but also the access to benefits and privileges where the discrimination takes place. Women are paid less in comparison to men or given fewer promotions in comparison to men simply because it is believed that men need to earn for the family as they are the head of the household. This assumption itself indicates that the subordination of women in the private sphere extends to the workplace also. The public-private divide has become an excuse for the continuous exploitation of women. The State can correct the inequality only if it takes into consideration the patriarchal thought justifying the discriminatory treatment of women.

The household or the family is another very important place where women experience inequality, especially as victims of violence. The family structure subordinate's women to men as men are declared as the head of the household. Patriarchy demands that men dominate over women in the family. This domination is maintained by controlling the position of women in the family especially through division of labour and violence. In my research I have analysed how violence in the domestic sphere is a common technique to assert male domination. Violence can be in forms of female feticide, female infanticide, dowry, sati, domestic violence, and spousal rape. All forms of violence have one aim which is to continue the subordination of women. The unequal position which women hold within the family is sanctioned by patriarchal structure. If we take away the necessity of men dominating women, violence against women will be rare within the family.

My research highlights that patriarchy is the major reason as to why women experience inequality in India. Patriarchy is practiced so nonchalantly that it is assumed as normal. It is only when we start comparing the position of women with that of men do we see a pattern of discrimination in a supposedly equal system. The inequality and disempowerment which women experience is to a great level based on the blind acceptance of patriarchy. Even when the government strives to remove gender-based inequality, it needs to address the underlying causes of inequality. Any policy or law made to address this inequality will have to challenge the patriarchal structure. If empowerment of women is to strengthen their abilities and remove all the inequalities which they experience, then the government's efforts need to be more than aggressive. Therefore, all the strategies of empowerment need to focus on weakening the patriarchal structure.

At the moment, most of the current provisions of equality and empowerment do not challenge the structure of patriarchy. The provision for reservations for women in legislatures only inserts women in politics without contesting the structure which forces their exclusion from the political sphere. In a similar manner, laws which prevent women from working in factories at night do not question the lack of safety but rather focus on protecting women. Laws like domestic violence also fall short of questioning the violence within the family. The problem is the manner in which laws are constructed and interpreted. Most laws for women do not focus on the root of cause of discrimination and end up ignoring the influence of patriarchy completely.

I have highlighted in chapter four, that laws made to protect women from violence within the domestic sphere wilfully ignore the patriarchal influence on the family. It is assumed that violence against women is a social evil and through laws some measure of awareness could be development. But I emphasize that violence against women in the domestic sphere is to maintain the system of power within the family. The family is also a system which is based on hierarchy and power. This means that the violence perpetuated on women is related to maintaining their subordinated position within the family. Lawmakers are so focused on treating family as a pure and uncorrupted social unit that they avoid understanding the core reason of violence. This means that the violence continues but in a more covert manner than before.

The present guarantees of equality and empowerment are struggling to understand the extent to which patriarchy influences women's lives. I believe that there exists a wilful ignorance on

part of the State towards patriarchy. The Constitution forces the political and legal institutions to address the issue of gender inequality, but it cannot force the law makers to challenge the cause of inequality. Formal guarantees of equality function as a levelling process in which women experience more equality than before. In the past decades, women have become more equal to men than before which is considered as an achievement. Political parties take great care to announce this gaining equality. What they do not announce is that in many spheres the inequality has become more persistent.

To illustrate, India may have equal pay legislations for public employment but in the private sector the gender pay gap is continuously increasing. India may have a law against dowry and domestic violence, but majority incidents are never reported. Reservation in local governance may be increasing the number of women in political institutions but it rarely extends beyond thirty-three percent. There is a limit on the extent of equality which women can access. No matter how many laws are created for women, the aim should be to weaken the patriarchal influence which is the root cause of inequality in the first place.

Let us take a moment and imagine that a team of athletes are participating in a race. The athletes consist of both men and women. Men and women were given equal training and nutrition to prepare for the race. They were also equally placed at the starting line so as to ensure that they both have a fair start. But the tracks used by women are filled with obstacles while those used by men are free from obstacles. The obstacles on the women athlete's part were never removed as it was considered as unnecessary or too complicated. The organizers just assumed that since women and men were treated equally at the start line, the obstacles littered on the women athlete's track were of no consequence. It is also possible that the organizers only checked the tracks used by men and assumed all tracks are free from obstacles. They assumed that both men and women have a fair playing field, and the winner is someone who deserves it. In such a scenario male athletes would win as they have no obstacles to face in comparison to women. Even if women athletes win, the effort they have put in the race is much more than that of men. The so-called fairness of the race ended the moment athletes started to run on the track who's strategically placed obstacles the organizers conveniently ignored.

This is how formal equality works in India. It ensures that in certain situations men and women are equal, but it does not acknowledge the patriarchal barriers which mostly women experience. Equal right to vote and contest elections gives women an opportunity to participate in the political process but does not target the patriarchal belief that women are not political actors.

In a similar manner equal pay legislations distributes wages equally but does not target the sexual division of labour which renders most of women's work as invisible. Section 498 A punishes the family which perpetuates violence, but this does not challenge the suppression of women in the domestic sphere.

One can argue that the provisions of formal equality have been successful in delegitimizing unjust social practices and beliefs against women. They have also been successful in giving women a claim to equality. But my research has proven that formal equality is unable to recognize and undo the patriarchal obstacles which women experience in a system which is created to subordinate them.

The State turns blind eye to the patriarchal oppression which women experience despite guarantees for equality. The State is unable to look beyond the male centric vision of equality. Like the organisers who looked only at the tracks used by men to determine if there were obstacles or not, the State also understands equality and inequality from the male point of view. That is why it becomes blind towards the persistent inequality which women experience in all spheres of life. This myopia of the State in terms of gender inequality has proven to be fatalistic to provisions of equality in India.

Suggestions:

In my research I do emphasize that the State and laws are both very important instruments of equality. But I also acknowledge that the States idea of equality is falling short of being effective. The only law made in recent times which does attempt to deliver more than just formal equality is the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This law aims to create a safer and more just work environment where gender equality is the norm. It takes into consideration the experiences of inequality from those who have suffered from it. The law's clarity and intention help in constructing an equal workplace. Therefore, it is possible for the law to create conditions of empowerment and equality. At this moment most laws and policies struggle to go beyond the limits set by the provisions of formal equality.

Legal provisions play an important role in setting up the framework of equality. In chapter three I emphasized on the transformative potential of laws in bringing about equality. In chapter four also I re-emphasize that laws are the ultimate tool to weaken the patriarchal structure. Yet I need to acknowledge that laws can only be effective in a system which responds to them. At the moment, the Indian social system is heavily influenced by patriarchy. What appears as a

social custom can be a type of patriarchal domination asserted to subordinate women, like the practice of dowry. Even though dowry is illegal in India and dowry deaths are a punishable offence, the practice of dowry is quite rampant. After all these decades, dowry is rarely considered as a problem in India. It is just assumed that dowry is a practice which is a part of marriage customs and there is little social challenge to it. The acceptance of dowry as a custom outweighs the illegality of it. The same goes for the practice of sexual harassment at workplace. It is just assumed that women will have to compromise with their safety in order to work. The workplace is male dominated and women will have to adjust to it. The discrimination and sexual harassment are risks which women take in order to work as men.

This is a social belief system which cannot be undone by laws alone. There is a need for the social mind-set to modify itself. Laws are being created to function in a system which thinks that discrimination is natural. The effectiveness of laws is greatly compromised due to the system they function in. If the political, social and economic system do not wish to transform then the aim of empowerment becomes more difficult to achieve. Social awareness needs to go hand in hand with laws to empower women and create equality. There is a need to relook and reframe the political, social and economic sphere to let empowerment subvert patriarchy.

There is an immense need to remodel the institutions involved in the process of legal interventions. Police forces, lawyers and non-government organizations need to be more sensitive to oppression which women experience. As observed in chapter four, women who escape violence face disappointment in the way their case is dealt with. More time is spent counselling women about the importance of family than redressing their problems. Laws against violence are created so that those who act violently get punished. If the legal institutions are not interested in utilizing given laws properly, it also defeats the purpose of empowerment. Legal institutions should have professionals who are able to understand the laws and aid the victims accordingly. Their own bias and beliefs should not be a hindrance in the process of delivering justice.

While laws and legal institutions play an important role for women's empowerment, we need to bring deeper structural change. I propose for the sake of empowerment and equality there is a need to relook at the manner in which citizenship is constructed in India. As I have argued in chapter 2, that to create political equality we need to re-conceptualize citizenship in India. It appears that citizenship is constructed in a gendered manner. Men are considered as active participants and women are considered as passive participants.¹⁸ Men participate in politics and

decision making and women participate in politics as State beneficiaries. Women are those citizens who require State's protection as they are vulnerable and so their duty is only passive in nature. It is further assumed that women's participation in the political sphere is to aid men in achieving the objectives which are determined as important for the country. Women are not imagined as representatives or decision makers in active politics. Rather they are imagined as symbols of greater political development.

The progress of the State is determined by the position of women in the society. An empowered woman is equated to the progress of the State. Ultimately equality and empowerment for women in India is akin to a barometer for the State's progress and development. There is a need to re-conceptualise citizenship where women and men are equal participants, not just legal but also in practice. The understanding that the State is a benevolent protector of the passive and vulnerable women needs to be done away with. The State needs to move away from its role as a 'masculine protector'¹⁹ and rethink the manner in which it deliberates gender equality.

There is also a need to challenge the narrative which promotes the idea that empowering women is an act of open mindedness of a single government, or a political party. The discrimination which women experience stems from deep rooted patriarchal belief that men are the 'self' hold power in political sphere. Even when equal citizenship is granted, the position of 'self' is not shared with women. Women remain the 'othered' in the political process. Women are only understood as equal to the extent which men determine. Equality is a right guaranteed by the Constitution and not alms which some political party has bestowed upon women. As pointed out in chapter two, the inherent misogyny within political parties needs to be weakened before we trust representatives to make laws for women's empowerment. At the moment, legislatures are filled with representatives who do not shy away from misogynistic and patriarchal behaviour. There is almost no action taken against such representatives and if their behaviour is questioned, they get away with an apology. Political parties and legislative institutions need to construct a no tolerance policy for their members behaviour. If representatives want to create provisions for women's equality and empowerment, in order to change women's position from the 'othered' to the 'self', then it is imperative that they show zero tolerance towards comments and actions which promote the subordination of women. From sanctions to penalties, there are multiple methods through which representatives can be punished or reprimanded against their misogynistic behaviour within formal institutions. In its essence, women's empowerment is about change for the better.

This is why it is important that policies and laws are designed so that patriarchal influence on representatives and political-legal institutions are brought down.

This is evident from the manner in which the State is reliant on using the protection approach while making laws for women. Most of the laws made for women's empowerment or equality treat women as perpetually vulnerable who cannot be equal to men without State interference. The protective approach assumes that women are different from men as they are always potential victims of discrimination. Instead of blurring the lines of difference between men and women, it fixes the difference more rigidly. Women are subordinated and vulnerable to men and so the State needs to protect them. The State forgets to consider that the protective approach does not contest the source of discrimination at all. Provisions of protective approach are as efficient as a band aid on a festering wound. They are mostly carelessly put together provisions which do not address the underlying problems.

Reservations for example only included women in decision making bodies but did not challenge the structure which excluded women. Section 66 (1) of the Factories Act, 1948 bars women from working at night but does little to create a safe working environment for women. Laws against domestic violence will provide women safety from the violent spouse, but it will not question the normalization of patriarchal violence within the family. All of these legal provisions have the potential of weakening the patriarchal structure but falling short of it.

In chapter 3, I suggest that we need to rethink laws using the corrective approach as suggested by Ratna Kapur and Brenda Cossman²⁰ or Dominant Approach as suggested by MacKinnon²¹. These approaches consider the experiences of discrimination and oppression. The law is made from the point of view of those who are oppressed. By taking experience into account the possibility of challenging the structure of inequality increases. Both the corrective approach and dominant approach in framing laws, help in creating a more sensitive law which is able to respond to the issue. I do believe that laws are an important instrument in transforming the position of women, but they need to be designed in such a manner. Laws for equality for women ought to be more than just mere tokenism. Their effectiveness ought to depend on their ability to weaken the causes of inequality and disempowerment. To settle for ineffective laws which reflect patriarchal beliefs rather than challenge them is to victimize women to more discrimination than before. I also believe that lawmakers need to understand that patriarchy functions uniquely in India and so laws need to be designed knowing the impact they will have on patriarchal structure.

My last suggestion is that there is a need to reframe the hierarchy in the family. The family is a site for patriarchal oppression. From sexual division of labour to violence, oppression of women within the family is considered as normal. The family strives on the subordination of women, and this is the beginning of women's inequality and disempowerment. So far there is an unreasonable amount of dependence on laws to delegitimize the oppression within the family. While laws are playing an important role in giving a claim to equality, they are not sufficient to reframe the patriarchal family. There is a need for more activism to raise awareness regarding the oppressive family structure. The silence of the civil society in recent years regarding women's issues and the lack of awareness programmes have slowed down the social change which is also important in achieving equality.

To summarize, I suggest that the logic of citizenship is carefully re-analysed so that policies for women's empowerment can be applied as a more gender just political system. Secondly, there is a need to choose a more transformative approach towards law making for equality and empowerment. Since the corrective approach has proven to be more effective than the protective and sameness approach, it should be used while designing laws for women. The structure of the family also needs to modify itself. Protecting the family is to protect a site where patriarchy sustains itself. To imagine women's empowerment is to contest the patriarchal family. There is a need for society to reframe the patriarchal family structure.

I emphasize that my research points out that patriarchal structure has modified itself since independence. The patriarchal system which was accepted by the social system in India is disturbed due to the Constitutional guarantee of equality. The Constitutional guarantees combined with civil society protests against inequality destroyed the social acceptance of the patriarchal structure. The political interest and legal interventions made it impossible for patriarchy to function the way it did before. Through my research I can state that by interacting with the current political and legal provisions, patriarchy in India has morphed into a new type.

Uncovering the Continuity of 'Patriarchy' in India

Through my research, I conclude that in India the patriarchal structure has evolved to suit the changing political, social, and economic goals. The process of women's empowerment has played an important role in shaping this new strand of patriarchy. Since Independence, the social back to most patriarchal practice was challenged by the Constitution. The vociferous women's movement sensitized the civil society and the political sphere regarding the oppression and subordination of women. The women's movement challenged the State's ennu

towards the inequality which women experienced. After much hesitance the State responded to the calls of equality and designed laws and policies to change the position of women in India.

But there was a problem which the State encountered during its attempts to eradicate inequality. The first issue was that inequality of women was a deep-rooted problem which needed more critical analysis than what was given. Secondly, many laws and institutions themselves were created to subordinate women in the social, political, and economic sphere and continue patriarchy. In both cases, the State was challenged with the task to be self-critical and fix its own shortcomings before it changed the society.

The colonized India reflected the patriarchal bias very clearly, and as India gained independence, there was a need to step out of this patriarchal mentality. The spectre of the 'women's question' also haunted the leaders of new India who for long were challenged by the British colonizers on the position of women in the country. Before independence, little was done to change the position of women in the country, but after independence the commitment to equality made the State a major player in ensuring equality. But this equality was easier said than achieved.

Patriarchy is deeply rooted within the Indian social system. Whenever the State has attempted to bring in equality, the social response has been negative. The social system's acceptance of patriarchy stands in opposition to the State's challenge to patriarchy and so it creates a sense of disharmony between the political and social institutions. The policies for women's empowerment and equality is often perceived as a threat to traditional social systems and practices. This has caused a strong opposition to the efforts for women's empowerment. The protests in the parliament regarding The Constitution (Eighty-First Amendment) Bill, 1996 the hesitance towards criminalizing marital rape, changes in the family law in favour of women are all seen as a means to disrupt the peaceful social hierarchy. The State's efforts for gender equality have been thwarted to a large extent due to the interference of social institutions.

India is a democratic country and peoples support is what keeps the government in power. The multi-party feature of Indian democratic means that many parties compete with each other to gain enough popularity to stay in power. Challenging the traditional practices, no matter how altruistic the intention, is a risk to those in power. A single law which is not favouring the social system can lead to a regime change. This is why the State is hesitant in bringing in laws which

challenge social customs. Most of the time laws for women are made only when there is a clear demand for change in the civil society. Dowry prohibition, banning of female infanticide, changes in laws regarding sexual assault, changing laws pertaining to triple talak, all these laws for women emerged only after people demanded them by protesting or by using Public Interest Litigations. In some cases, the ruling of the Supreme Court and the High Courts have also spearheaded the creation of laws for women. The State on its own chooses to avoid initiating any action which could lead to disturbing the delicate political-social balance.

Does this mean that the State is patriarchal? Or does this mean that the State has not understood how to deal with patriarchy? I will refrain from claiming that the Indian State is patriarchal in nature. The very fact that the Indian State refuses to ignore practices like *Sati*, female infanticide, dowry, domestic violence is a testament to the fact that it seeks to change the position of women. The State is also constantly deliberating over newer ways to empower women. While many laws and policies are cosmetic in nature, many of them are also slowly weakening the foundations of patriarchy.

The laws against sexual harassment, highlights the patriarchal barriers which women experience within the workplace. It condemns the oppression of women within the workplace and also brings to light the fact that the entire economic sphere is created to discriminate against women. It highlights that the problem is the economic environment which is created to support patriarchal structure. Such laws emphasize the need to make changes to the position of women and become sensitized towards the type of oppression which women experience. It aids in undoing the oppression which was normalized before.

In a similar manner laws against domestic violence may not be challenging the patriarchal family structure. But by delegitimizing the practice, the social acceptance to violence has been challenged. This also is a challenge to the patriarchal violence which is normalized within families. Of course, this law is far from changing the patriarchal family, but it has set the basis of the idea that all practices within the family should not have social acceptance. The laws created by the State act as a tool which chips into the patriarchal structure.

If the State was patriarchal, then these laws would not have existed. In India equality for women is in all spheres, political, social and economic. The idea of gender equality is also constantly evolving. The amendment of Section 375, the calls for legislation against marital rape, the strong defence for laws against sexual harassment, the promotion of political representation of

women are attempts to challenge the patriarchal structure. If the State was patriarchal, then I believe the maximum it would have done is only guarantee formal equality within the public sphere. In chapter two, I have suggested that women's reservation ensures that the State's patriarchal arrangement continues. This does not mean that the State is completely patriarchal but only that the State is not free from patriarchal influence. If the State was patriarchal then only some provisions of political and economic equality would have been guaranteed. The State would have stayed away from legislations which address the violence and discrimination at the centre. Since this is not the case, my research can attest that the moment the State is not patriarchal.

I do believe that the State is at a loss as to how to deal with patriarchy in India. Most of its attempts end up being half hearted and cosmetic in nature. Through my research, I cannot help but notice that the State is negotiating sites where patriarchy ought to be maintained and where it ought to be challenged. There are multiple types of patriarchal practices which continue in all spheres. Women are victims to various types of oppressive practices on a daily basis. Through the past few decades, the last has been slowly identifying the practices it wants to maintain and the one it wants to remove. Let me illustrate this by reflecting on the past few decades of States engagement with patriarchy.

When India was newly independent, the State guaranteed political equality. Even though violence against women was rampant during the partition of India, the State chose to avoid problematizing it. Here the State chose to weaken patriarchy in the political sphere and avoid the violence in the private sphere completely. A decade later in the nineteen sixties the demands for equal economic rights and women's safety dominated civil society. The State protected women from violence in terms of dowry prohibition but ignored the demand for economic equality. In the nineteen seventies, the demands for economic rights were achieved through equal pay legislation, but during this time the legislations regarding violence against women were nonexistence.

In the nineteen eighties, the twin demands for women's development and safety became a priority. Legislations like Section 498 A and Section 304 B were made along with the policies for women's development. The nineteen nineties, were perhaps the most controversial decade for women's rights. Women's demand for equal representation was the most popular political agenda. While women's organizations were successful in raising awareness regarding women's dismissal presence in legislative institutions, they were unable to do anything impactful to

increase women's representation. The only solution which was presented was a very flawed bill for reservations for women. Along with this The *Vishakha* judgement in 1997 created a new way of targeting the patriarchal structure. So far actions for women's empowerment were taken after women's organizations struggled for years. But the *Vishakha* judgement proved that the courts played a major role in addressing issues which were not popularly regarded as women's issues. The role of judiciary expanded greatly in the nineteen nineties but the State's controlled action against inequality remained the same.

The first decade of the new millennium was a decade of deliberations, when all the existing laws were critically analysed. The greatest achievement was that of The Prevention of Domestic Violence Act, 2005. For decades the Indian State skirted around the issue of domestic violence as it was hesitant to address an issue so entrenched within the family that it was considered impossible for the State to enter this sphere. But in this decade for the first time, the State clearly indicated that it would not tolerate patriarchal violence within or outside the family. The subsequent decade also followed this stand. This decade was particularly troublesome as the civil society pointed out the state's disinterest and inefficiency in maintaining its promise of equality. For the first time, the Indian State has to regard the issue of inequality of women as a greater issue.

In all the previous decades, the State addressed one issue and turned blind to the other issue. The State picked issues it felt were either more necessary to address or more useful to address. The State focused on a particular issue and addressed it to the extent it was able to understand it. This way it was able to challenge some patriarchal practices rather than create a social conflict by targeting the entire patriarchal structure. The State assumed that small changes would have a greater impact on women's empowerment. Unfortunately, this backfired as patriarchy morphed into a new form which appears quite resistant to legal interventions. By interacting with the State, two new forms of patriarchy were created in India. I term them as 'Appropriate Patriarchy' and 'Inappropriate Patriarchy'.

Through a long process, the State has determined some oppressive practices faced by women as tolerable and others as intolerable. The State assumes that some practices are a part of the society and mostly harmless to the political process. While other practices are harmful and can have a negative impact on the political process. According to my analysis, patriarchal practices which align with the States objectives and assists in maintain the *status quo* in political, social and economic sphere can be termed as 'Appropriate Patriarchy' These practices are mostly

not challenged by the State. If the State acts against these practices, then it is superficial at the best. Lack of representation of women in the political process is an example of this. The exclusion and marginalization of women in politics is a form of oppression which women continue to experience even today. In Chapter two I have elaborated on how reservations maintain the patriarchal hierarchy within the legislative body. Instead of challenging the male dominated political system, reservations actually aid in maintaining it. Reservations also create a uniform identity for women. While this uniformity might be problematic to feminists, it is convenient to the State.

Women's experiences of subordination and oppression are so distinct that when addressing these issues, the State needs to consider the differences in women's identities. This makes policy making and law making extremely complicated, as both policy and laws depend on uniformity and generalizations. The State is constantly looking for means to construct women as a uniform and predictable 'category'. Reservations for women allows the State to address the lack of representation of women without disturbing the patriarchal arrangement which privileges men over women. As I have already elucidated, the political- legal system is male centred, therefore it focuses on maintaining this status quo. To disturb this arrangement is to change a significant part of the political structure and also modify the principle of citizenship. At the moment maintaining the patriarchal influence is more desirable for the State. The patriarchy which women experience within the political sphere is suitable as it neither challenges nor does it disrupt the objectives of the State, so it can continue without much challenge.

This is what I term as 'Appropriate Patriarchy', as it is a state sponsored patriarchy. Since Independence we have seen the State decide which patriarchal practice should continue as it supports the demands of the political process. The State deems it necessary for the peaceful continuation of the political process. Sometimes the State also determines a site where patriarchy can continue without any interference. As illustrated in Chapter 4, the sexual assault within the family is not a criminal offence. Even though it well known that marital rape is a form of patriarchal violence, the State assumes that patriarchy within marriage should be continued as it does not impact the political process at all. To echo the sentiments of the members of parliament discussing the marital rape exception, since there is no evidence that rape has taken place, a law cannot be made.²²

Evidence is another manner in which the State determines if patriarchy is appropriate or not. How evident is the inequality caused by patriarchy and how many people are affected by it? If there is no clear manner to determine if the action, practice, or institution is patriarchal then the state avoids intervening in it, like in the case of marital rape. If the population affected by patriarchy is few in number or the demand to address the inequality is not very high, then also the State avoids legislation. I give the example of amendment of Section 375 of the Indian Penal Code²³. Before the brutal gang rape of 2011, the demand to change the laws was only made by women's organizations. But after 2011, members of civil society held the government accountable and protested to change the laws. As soon as the demand for change increased, the government decided to amend Section 375. The Nirbhaya rape case, shifted the manner of thinking in the society. The State's disinterest for the safety of women was challenged. Sexual assault laws went from being a site of patriarchy to a site which challenged patriarchy. Being a democracy, the appropriateness of patriarchy can also be determined by the citizens.

This same thing does not take place when determining 'Inappropriate Patriarchy'. Patriarchal practices which do not align to the State's objectives or can threaten the State authority are deemed as 'Inappropriate Patriarchy'. The patriarchal violence which women experience is mostly determined as a site of 'Inappropriate Patriarchy'. The State can use legitimate violence, which means that patriarchal violence is seen as a threat to State authority. The violence which women experience in the public sphere, the workplace, and the domestic sphere is a means for patriarchy to assert itself. But for the State this acts as a challenge to its own authority over violence. No institution or person can use violence and escape punishment for it. It is the State's responsibility to ensure that violence of any kind is prevented. Patriarchal violence is hence identified as Inappropriate Patriarchy.

This is the type of patriarchy that the State would attempt to weaken. The idea that violence against women should be prevented as come very recently into the deliberations of the state. For the first time that India after independence took action to delegitimize a patriarchal practice was in 1961, when dowry was abolished in India. At this time, the State clearly chose to act against a patriarchal practice. In the following decades, the provisions against cruelty against wives, dowry death, sex determination, custodial rape, domestic violence, and sexual harassment have clearly indicated that's State's intolerance towards patriarchal violence.

This is also because the oppression perpetuated from such forms of violence is evident. The visibility of violence against women forces the State to stop being a mute spectator and address

the issue. The number of cases of sexual assault, sexual harassment, domestic violence, skewed gender birth rates, burning of brides, all of these are issues which can be enumerated. The State is able to measure the increase or decrease in cases of violence. As the cases of violence against women keeps increasing, the discrimination is more difficult to hide. The State is held accountable for its inability to protect its citizens against social violence. This is perhaps why as the Indian State developed it legislated more and more against violence. Preventing violence against women, became a measuring scale against which the government's capability was tested. Most forms of violence against women, whether done in the public sphere, or the workplace or the domestic sphere, became a tagged into 'Inappropriate Patriarchy'. After 2011, the State has especially been proactive in deliberating over violence against women.

Distinguishing between 'Appropriate Patriarchy' and 'Inappropriate Patriarchy' helps in understanding the States psyche while framing laws for women. The two types of patriarchy are constructed due to the State's engagement with the patriarchy structure. This is why we see the presence of laws which are superficial and laws which are transformative in nature. I believe that empowerment has ended up doing both, supporting and weakening patriarchy at the same time. We also can understand the constantly changing position of the Indian State in matters pertaining women's equality and empowerment. The India State, quite consciously, negotiates with patriarchy. It allows the continuation of 'limited patriarchy' as it suits its own political purpose. The State in its attempts to deliver equality and empowerment of women, aids in the continuation of the patriarchal structure.

In Conclusion:

In conclusion, I would like to say that the State's attempt for women's empowerment have helped in continuation of patriarchy more than challenging it. Women empowerment has not only colluded with patriarchy but also helped in creating new forms of patriarchy which are unique to India. Despite this, laws and policies of the State still happen to be the most important instrument in weakening the patriarchal structure. I would not say that all attempts at weakening patriarchy have failed but most of the time the laws have fallen short of achieving their purpose.

Through my research I have realised the limits of political and legal intervention in weakening patriarchy. Patriarchy emerges from society and to a large extent is sustained by it. We live in a society which is so entrenched in patriarchy that it assumes everything that does not privilege

male, or masculine is a problem. This is perhaps why laws for women are looked up so suspiciously and attempts made by the government are not fully successful. The State's provisions for empowerment cannot be successful if the society is bound to reject them to maintain the power structure.

I have also realized that both patriarchies are constantly evolving the structure of power. It is not stagnant or predictable. Patriarchy is a system which is constantly changing due to its interaction with the political-legal sphere. The Constitutional obligation for equality constantly attacks the patriarchal structure and forces it to modify itself. It is important for lawmakers to keep up with the changing structure of patriarchy otherwise the laws made will be outdated and ineffective. There is a need for constant debate and critical thinking to address the changing patterns of patriarchal practice.

My research is a humble attempt to contribute to the ongoing discourse on women's empowerment and patriarchy. Through my research I was able to uncover those patriarchal practices which are concealed under the cover of laws. Eradicating patriarchy may be a monumental task but weakening it is much more achievable. A single law or policy is not enough to reduce patriarchal oppression. This research has made me realize that the issues of equality and empowerment are mostly limited within the upper echelons of academic structure. The political and legal spheres are limited in both their thought and techniques, and there is a need to overcome these limitations.

I do believe that given enough time and if addressed properly, patriarchal oppression will weaken considerably. Indian women have achieved the ability to challenge patriarchy to a degree which was not imagined during Independence. I end this thesis with the hope that eventually the social acceptance towards patriarchy will wane and women will be able to be truly empowered.

ENDNOTES

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