

- On September 29, 2021, the private sector AU Small Finance Bank (SFB) and the National Bank for Rural and Development (NABARD) struck an agreement to support continuing rural development activities in Rajasthan.
- After its financial and credit profile improved, the Reserve Bank of India (RBI) removed the public sector lender Indian Overseas Bank (IOB) from the Prompt Corrective Action (PCA) framework.
- The United States' National Aeronautics and Space Administration (NASA) is planning to launch its first mission to examine Jupiter's Trojan asteroids. Points to Remember On October 16, 2021, spacecraft will be launched from "Cape Canaveral Space Force Station, Florida."
- The Indian Institute of Technology, Hyderabad (IIT-H) has discovered a hydrogel made from discarded corneas that can be used instead of cornea transplantation.
- On September 29, 2021, Najla Bouden Romdhane became Tunisia's first female prime minister. Highlights Two months after President Kais Saied seized office, shewas named Prime Minister.
- Under the "vehicle scrapping policy," the Ministry of Road Transport and High ways released the complete method for establishing a "Registered Vehicle Scrapping Facility (RVSF)."
- Amazon India has announced the debut of "Amazon Future Engineer" in India on September 27, 2021. Amazon Future is the company's worldwide computer science education initiative.
- On September 27, 2021, France and Greece inked a multibillion-euro defence contract to improve defence capabilities. Highlights The defence agreement involves Athens' intention to purchase three French warships as part of a drive to strengthen the country's defence capabilities.
- According to Union Minister for Ports, Shipping, and Waterways, Sarbananda Sonwal, the government aims to expand India's renewable energy share in major ports to 60% by using solar and wind energy.
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## INDORE INSTITUTE OF LAW

(Affiliated to DAVV & BCI)  
Legal Aid Society & Sports Society Activity

### Orientation Ceremony

Indore Institute of Law organized an online Orientation Ceremony for the students of B. A. LL. B. (Hons.), B. B. A. LL. B. (Hons.), B. B. A. LL. B. (Hons.) (Global and Transnational Studies), LL. B. (Hons.), LL. M. (Hons.) and B. B. A. (Global) from October 4 – 6, 2021. The Orientation Ceremony was conducted offline.

After the welcome Dr. Manpreet Kaur Rajpal, Director and Dean, Academics, Indore Institute of Law addressed the students and introduced them to the rich and vibrant academic activities at Indore Institute of Law. Dr. Rajpal encouraged the students to give their best in the time of pandemic and equip themselves with available applications and tools to enhance their knowledge.



**Dr. Manpreet Kaur Rajpal, Director & Dean, Academics**  
**Addressing the Students & Parents at Orientation**  
**Ceremony Batch B.A.LL.B. (Hons.) & B.B.A.LL.B. (Hons.)**  
**with Global & Transnational Studies - 2021-26**

### Convocation Ceremony

It was on 4th September, 2021 the Ceremony began with Saraswati Vandana and Lamp lighting. The Chairman of Indore Institute of Law Mr. Akshay Kanti Bam felicitated the guest with bouquet and memento and were introduced to the gathering.

The ceremony was held for the students of B. A. LL. B. (Hons) and B.B.A. LL.B. (Hons) graduates who passed out during the academic year 2016-21 and BBA global batch 2017-20 and 2018-21 received graduation certificates from the chief guest of the day Adv. Pushyamitra Bhargava, Additional



**Lamp Lighting at Convocation**  
**Ceremony by Chief Guest**  
**Advocate Pushyamitra Bhargava**  
**(Additional Advocate General Indore Bench, M.P. Govt.)**



**Chief Guest Advocate Pushyamitra Bhargava**  
**(Additional Advocate General Indore Bench, M.P. Govt.)**



**Batch Topper B.A.LL.B. (Hons.)**  
**& B.B.A.LL.B. (Hons.)**  
**2015-20 With Chief Guest**  
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# PATRIARCHY IS THE LEAST NOTICED YET THE MOST SIGNIFICANT STRUCTURE OF SOCIAL INEQUALITY



In every society, some of the people have a greater share of valued resources – money, property, education, health, and power – than others. These social resources can be divided into three forms of capital – economic capital in the form of material assets and income; cultural capital such as educational qualifications and status; and social capital in the form of networks of contacts and social associations. Often, these three forms of capital overlap and one can be converted into the other. Patterns of unequal access to social resources/ the exclusion of people from participating in social events are commonly called social inequality. Social inequality is a universal phenomenon in all societies.

Social inequality arises from unequal distribution of resources, privileges, power and access to opportunities. Patriarchy is a social system in which men hold primary power, predominate in the roles of political leadership, moral authority, special privilege and control of the property. Men are also centre and authoritative figure in the domain of the family. Patriarchy has been one of the dominant features of the world particularly of Indian society and specially for females. Which is why patriarchy is one of the significant yet the least noticed component of social inequality that has been persistent in the society. Least noticed because It is often taken into its natural and non-amendable form. However, in certain societies such as of Assam, Bengal, Arunachal Pradesh the values of society is based on matriarchal form, where women not men plays significant roles in family.

The origins of patriarchy were first advanced in the nineteenth century, particularly by German social theorists and scholar J. J. Bachofen asserted that human society had originally been a matriarchy in which mothers were all-powerful. Once men had private property, they became very concerned about passing it on to their own heirs and attempted to control women's sexual lives to assure that offspring were legitimate. This led to the development of the nuclear family, which was followed by the development of

the state, in which men's rights over women were legitimized through a variety of means, a process Engels describes as the "world historical defeat of the female gender." Patriarchy disempowered women. Right from birth women face inequality. Most of the parents don't even want their girl child to be born. This was evidenced in 2018-19 Economic Survey's "Son meta preference". After birth, boy child gets better education, nutrition, clothing compared to girl child. Elder girls had to quit their education to take care of younger siblings. Even if they manage to continue their education, their performance is affected as they need to help their mothers in household. In such a circumstances, the household work which is generally performed by women lost its significant, and thus their respect in the family. This manifests into a boy becoming a better individual than a girl in terms of possessing knowledge, wealth etc.

Despite bringing legislation such as Hindu Succession Act etc, property transfer to girl child is minuscule. Data on Land records shows us that – in India, only 28% of women own land (both individually and jointly) despite having 50% share in overall population and 2.3% jointly by one or both genders. Employers show discrimination against women candidates fearing their performance might reduce during pregnancy/ due to household responsibilities. Increasing crime against women makes parents of girl child sceptical in sending her to a better educational institution/better employment opportunity far off from their native place. Even if women manage to cross all the barriers and secure a good employment, their financial autonomy is still almost negligible.

So, when the great potential is side-lined and excluded from decision-making, the family can't be upgraded from its existing social status, class, and circle. When a woman doesn't evolve, it puts a direct and severe impact on the upbringing of children. They do not become focused individuals. They receive a poor education, undergo substance abuse, identity crisis, worthlessness and

marginalisation. Such circumstances leads to social inequality.

The patriarchal system is justified in a manner that the preference for submissive wives as a tactic to control women is celebrated. Young energetic women with progressive thinking are discouraged. They are often subjected to taunts and harassment in their family. The idea that the best women submit to men is a strategic tool to strengthen traditional masculinity, aimed at maintaining male dominance over women.

Such a dominance of one gender over other has encouraged subjugation of women, harassment, discrimination, torture, rape, honour killings, and what not. It is therefore important to make up policies for their social upliftment.

The constitution of India guarantees several rights such as the right to equality in Article 14 and 15, right to property- Art. 300-A, right to life and personal liberty and right to Privacy under Article 21 of Constitution to all its citizens irrespective of gender. A lot has been changed since then, instead of earmarking patriarchy, the focus of responsible and sensible families is on respecting varied women's involvements, individualities, acquaintance and influence, and facilitating women empowerment so that they can grow to realise their full rights, and consequently reduce social inequalities.

And to raise women's position, government come up with numbers of schemes and policies such as Beti Bachao Beti Padhao to save girl child and encourage literacy in girls, Manila E-Haat for promoting women empowerment and self-help groups, women helpline scheme, SWADHAR Greh to as to rehabilitate women in difficult circumstances, The Support to Training and Employment Programmes for Women (STEP) to provide skills that give employment to women, NARI SHAKTI PURASKAR to recognise efforts made by women, especially vulnerable and marginalised women and many more as it is urgent to protect women from patriarchal subordination. It is that stereotype ideology that discriminates feminine and masculine, assigns different roles, rights and responsibilities to women and men. But those so-called 'masculine' and 'feminine' qualities are human qualities and not specific to either men or women. Since all works are done by both men and women, there is no reason to differentiate works based on sex. Which is why the principle of equal pay for equal work was enumerated in our Indian Constitution under Article 39 (d).

To conclude, we can say that women comprises of 50% of the population. Those 50% of population are not in service to other 50% of population. They have their individuality, their right, their self respect and most importantly they are master of their soul. Patriarchy is limitations on all those rights and privileges that they would enjoy otherwise. It is a form of social inequality that goes unnoticed because somehow and in some form we have all accepted it. And, justified it. Thus, patriarchy is the least noticed yet most significant structure of social inequality elimination of which could be unburdening the burden placed by patriarchy upon 50% of world's population which is of women.



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## ANALYSING THE ARCHAIC SECTION 497 IPC



By reconsidering constitutional validity of section 497 IPC generally read with section 198 CrPC, the Supreme Court has proffer yet another example that laws must go harmoniously with the current moment. Codes and law formulated in the nineteenth century have to be amended with the present age. While section 497 IPC provides for prosecution of the man in an adulterous relationship with a married woman and lets off the woman who is otherwise an equal participant in the extra-marital relationship, section 198 of CrPC allows the aggrieved husband of the married woman in adulterous relationship to file a complaint and not to the aggrieved wife of the man in adulterous relationship.

The Supreme Court in the recent petition by Mr. Joseph Shine said that "A time has come when the society must realise that a woman is equal to a man in every field. This provision, prima facie, appears to be quite archaic. When the society

progresses and the rights are conferred, the new generation of thoughts spring." Why only men are culprit when there is equal participation of woman in the case of adultery, is a question to think upon. The point that man is being considered the offender while the equally guilty woman is surmised to be the victim for the reason that she is a woman seems purport less and obsolete.

Article 15(3) of Constitution of India is often proposed as a rebuttal, according to which the state shall not be prevented from making any kind of special provision for women; a deeper analysis serves us with the objective of the framers. The reference was to those provisions which shall uplift the status of the women in the society and improve her condition or promote reservation to strengthen her in male dominating society. It could definitely not mean to formulate a device for getting away from being punished when the guilt is of same amount as that of a man.

Empowering women? Howsoever tricky it may sound, but the fact of the matter is that section 497 IPC read with Section 198 CrPC provides only the husbands the right to initiate a case against the adulterer of her wife. The wife has no such right as remedy if her husband commits adultery with either a married adultery woman or an unmarried girl. Empowering women seems illusionary.

Another point to ponder is the gender discriminatory nature not facilitating women empowerment. Further, not punishing wife cannot be expected to result into peace and harmony between her and her husband. So, section 497 IPC neither provides with a remedy to the aggrieved wives not does it empowers them by creating gender biasness against men.



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## ARREST OF POLICE OFFICER IN UNLAWFUL DETENTION UNDER S 498A

Due to phenomenal increase in matrimonial dispute the Supreme Court in Arnesh Kumar vs State of Bihar & Anr 2014 have passed an order sentencing arrest of police officer for every unlawful detention under section 498A of Indian Penal Code (IPC). The prime objective of s 498A IPC was to combat the menace of the harassment of wife at the hand of her husband or her relative. S 498A was a means to an end of inhumane treatment against woman and therefore sensing the gravity of the offence s 498A constructed cognizable and non-bailable but unfortunately the cause in the course of time has lost its purpose and it has been used more as a weapon than as a shield by disgruntle wives and constantly for one purpose or another husband and his relatives were harassed under this provision. In a report published by National Crime Record Bureau 'Crimes in India 2012 statistics' in year 2012, 1,97,762 person all over the India have been arrested u/s 498A of which more than quarter of them were women. It accounts for more than 4.5% of the total crime committed under different sections of Indian Penal Code.

The offence u/s 498A provides for a maximum imprisonment for a term which may be extended up to seven years, with or without fine. However, from the plain reading of s 41(1)(b) CrPC it may be incurred that the person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by police officer only on its

### ARREST OF POLICE OFFICER



satisfaction that such person had committed the offence punishable as mentioned in the code. The police officer before arrest of the accused must satisfy that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from altering the evidence; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the court or the police officer; or unless such police officer is arrested his presence in the court cannot be produced. The main purpose such a restriction on the power of arrest of police officer

is that, the police officer before making the arrest must put the question to himself, why arrest? Is it really required? What purpose will it serve? What object will it achieve? Only after satisfaction of such a question the police officer shall exercise its power of arrest.

In Anwar Kumar vs State of Bihar 2014 the apex court ensured that police officer do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically and thus directed the state govt to instruct its police officer not to automatically arrest when a case u/s 498A IPC is registered but to satisfy themselves about the necessarily for arrest under the parameters laid down in s 41 CrPC. Notice of appearance shall be served within two week from the date of registration of the case and only after failure of such terms the accused shall be arrested.

The Supreme Court ordered of departmental action against the police officer on the failure to comply with the provision directed in Anwar Kumar case. The police officer may also be arrested for constant disobeying the order of the hon'ble court. It was also stated that authorising unnecessary detention without recording the reason by Magistrate may welcome adverse consequences for the Magistrate.



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## ART OF CROSS EXAMINATION

In the landmark judgment D.K. Basu v. State of West Bengal, the Supreme Court held that custodial torture is a naked violation of human rights, dignity and degradation, which destroys, to a very large extent the individual personality.

It is a calculated assault on human dignity and whenever human dignity is wounded, civilization takes a step backward-flag of humility much must on such occasions fly half-mast. In this respect, the Supreme Court further observed that the police with their wide powers are apt to use strong arm against those who happen to fall under their secluded jurisdiction.

That tendency and the temptation must in the larger interest of justice be nipped in the bud. Human dignity is a clear value of our constitution not to be bartered away for mere apprehension entertained by jail officials, declared Justice Krishna Iyer.

Similarly, torture and ill treatment of women suspects in police lock ups has been held to be violative of Article 21 of the Constitution. The court gave detailed instruction to the concerned authorities for providing security and safety in police lock up and particularly to

women suspects. Female suspects should be kept in separate police lock ups and not in the same in which male accused are detained and should be guarded by female constables. The Court directed the Inspector General of Prisons and State Board of Legal Aid Advice Committee to provide legal assistance to the poor and indigent accused (male and female) whether they are under trial or convicted prisoners.

The courts have recently viewed third degree methods and custodial deaths in police custody as a serious violation of human rights and constitutional provisions of right to life and liberty.

In the case of Smt. Nilabati Behara v. State of Orissa, AIR 1993 SC 1960 the Supreme Court held the liability of custodial deaths and held that compensations for contravention of human rights and fundamental rights guaranteed in the constitution, is an acknowledged remedy for protection of such rights, and directed the State to pay Rs. 1.5 lakh compensation to the petitioner for custodial death of his son aged 22 years. The right to protection against torture, which is enunciated in Article 5 of the Universal Declaration<sup>9</sup> and guaranteed by Article 7 of the International Covenant on Civil and



Political Rights<sup>10</sup> (1976), has been read into the Constitution by the Supreme Court and various High courts.

The Government of India has signed the UN Convention against torture and other cruel, inhuman or degrading punishment<sup>11</sup> (1987) on the recommendation of the National Human Rights Commission.

The Indian legislation has also prohibited the use of custodial violence in unmistakable terms. Under sections 330 and 331 of the Indian Penal Code (IPC), 1860, it is an offence to voluntarily cause hurt or grievous hurt to extort confession or to compel restoration of property. The punishment is also very severe.

In case an offence committed under section 330, IPC. It is either description for a term which may extend to seven years and also fine.



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## CERTAIN ISSUES WITH EVALUATION OF EVIDENCE



- Decided cases are not of much use in evaluating evidence. Each case depends on its own facts. A close similarity between one case and another is not enough to warrant like treatment because a significant detail may alter the entire picture. One should avoid the temptation to decide cases by matching the colour of one case against the colour of another. The board resemblance between two cases is not at all decisive. A judgment is not to be read as a statute. It must be read reasonably in its entirety. The effect of the judgment must be found out from the language used and the attendant circumstances in which they had been used.
- Observation of courts are to be read neither as Euclid's Theorems nor as provisions of statutes and that too taken out of their context. They must be read in the context in which they appear to have been made. Disposal of cases by blindly relying on a decision is not proper because an additional fact or a different fact may make a world of difference between conclusion in two cases. Courts should not place reliance on decisions without discussion fact situation of the case on which reliance is placed.
- There is no hard and fast rule regarding evaluation of evidence. A witness can be disbelieved regarding some accused and believed regarding the other accused. Where there are large number of accused and injured, witness can get confused and evidence cannot be rejected on the mere basis of contradiction. In such case, conviction of any one could be sustained only if two or more witness support the case against that person; else, benefit of doubt must go to the particular accused.

- Victims may act differently. Reaction and resistance would depend upon a variety of circumstances. If eyewitness is not courageous enough to inform police or to go to the help of the injured, who was not a relative, it cannot be inferred that they had not witnessed the occurrence or that they are giving false evidence.
- In a given case, instinct of self-preservation can be the dominant instinct.
- No evidence should be adjudged adversely, making any other evidence including medical evidence as the sole touchstone for the test of credibility. Evidence must be tested for its own inherent consistency and inherent probability of that version, consistency with version of other witness held to be creditworthy, consistency with undisputed facts, credit-worthiness, their performance in the witness box, their power of observation, etc. then probative value of such evidence becomes eligible to be put into scale.
- Culpability of each accused (in case and counter case) must be determined with reference to their individual overt acts.
- When witnesses are rustic persons, their behavioural patterns, perceptions and habits must be taken into consideration and appreciated. Approaches that are too sophisticated, based on assumptions about human conduct cannot be applied to people accustomed to ways of village, as they may not have keen sense of time.
- Fringe variations, discrepancies in details, contradictions in narration, and embellishments in non-essential part cannot militate against veracity of the core of testimony, if there is an impress of truth and conformity to probability in substantial fabric of prosecution story.
- Exaggeration in the prosecution's case about the commencement of the incident may not detract from the incident that was proved by eyewitness.



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