

FEMINIST JURISPRUDENCE AND THE RIGHT TO PRIVACY: A STUDY OF JOSEPH SHINE CASE

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ABSTRACT

This paper applies feminist jurisprudence in light of the historic judgment delivered by the Supreme Court in the case of Joseph Shine v. Union of India, 2018, as it focuses on how the case treated women's privacy rights. Through the unanimous order of the Supreme Court of India holding Section 497 of the Indian Penal Code to be unconstitutional, criminalizing adultery, there was a significant shift introduced into the legal construction of women's volition. By analysing how the colonial-era law treated women as their husbands' property, punishing men for engaging in adultery with married women "without the consent of her husband", this paper demonstrates how feminist legal theory challenged patriarchal notions embedded in the legal system. This paper examines how the reasoning of the Court dismantled the adultery provision which was marred by discriminatory stereotypes against women, that was simply maintaining gender hierarchies but in the guise of protection and morality. This paper illustrates how Indian constitutional law evolved its jurisprudential understanding of equality, privacy, and autonomy of the body..

Keywords: Feminist jurisprudence, right to privacy, adultery, gender discrimination, constitutional law, marriage, patriarchy

1. INTRODUCTION:

In a landmark judgment in Joseph Shine v. Union of India¹, delivered in September 2018, the Supreme Court of India held unanimously that Section 497 of the Indian Penal Code (IPC), which criminalized adultery, was unconstitutional. This 158-year-old colonial legislation punished men who had sex with another man's wife "without the consent of her husband," but provided complete immunity to the women involved. The Court ruled that this provision violated Articles 14, 15, and 21 of the Indian Constitution by depriving women of their equality and dignity.

A major ruling in Indian law, the Joseph Shine case, involved constitutional interpretation influenced by feminist jurisprudence. The Court's decision overruled the state's ability to criminalize consenting adult sexual relationships and thwarted the very basic notion that women can be considered their husbands' property. The then Chief Justice Dipak Misra in his unanimous verdict stated that Section 497 IPC created "dented paradigms of gender discrimination" and considered women as "chattel of husbands". The current paper analyzes how feminist jurisprudence was applied in the Joseph Shine judgment to acknowledge women's autonomy and privacy rights.

This paper seeks to show the manner in which

¹ Joseph Shine v. Union of India, (2019) 3 SCC 39.

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feminist jurisprudence has disturbed the customary notions under law that put women in a subservient role within the institution of marriage, in the pretence of protection and morality. Analysing the Court's decision on decriminalizing adultery, this paper also explores the effect of this judgment in developing jurisprudence relating to sexual autonomy and privacy.

2. HISTORICAL AND LEGAL CONTEXT

2.1 Colonial Origins of Section 497

During British colonial authority, Section 497 of the Indian Penal Code was drafted in 1860. Since adultery is a private concern, Lord Macaulay, the head of the first Law Commission of India, initially left it out of the draft Penal Code. However, it was revived by the second Law Commission on the grounds that, in light of the practice of underage marriages and the alleged necessity to regulate female sexuality, Indian men needed legal protection for their marital rights².

According to the section, "Anyone who engages in sexual activity with a person who is or whom he has reason to believe to be the wife of another man without that man's consent or connivance is guilty of the offence of adultery, which does not amount to the offence of rape. Such behaviour will be punished with either type of imprisonment for a maximum of five years, a fine, or both."³ Therefore, the wife will not be held accountable for aiding and abetting in such a situation.

This law's framework displays a number of dubious presumptions. First, women were not criminally liable for adultery; only men could face criminal charges. Second, the husband was the target of the offence rather than the wife or the marriage. Third, by regarding the wife's sexuality as his property to manage or forego as he saw fit, the husband's "consent or connivance" may justify actions that would otherwise be illegal.

2.2 Previous Legal Challenges

There had also been earlier constitutional challenges to Section 497. The Supreme Court

2 Supreme Court Verdict on Adultery, Supreme Court Verdict on Adultery, SHANKAR IAS PARLIAMENT (Sept. 28, 2018), <http://shankariasparliament.com/current-affairs/gs-ii/judiciary/supreme-court-verdict-on-adultery>.

3 The Indian Penal Code, 1860 (Act No. 45 of 1860), § 497

upheld the constitutional validity of the provision in *Yusuf Abdul Aziz v. State of Bombay*⁴, and held that the immunity granted to women was a "special provision" permissible under Article 15(3) of the Constitution. The Court subsequently dismissed arguments that the provision discriminated against women by depriving them of the right to institute legal proceedings against their adulterous husbands in *Sowmithri Vishnu v. Union of India*⁵. The Court's ratio was that "it is generally accepted that it is the man who is the seducer and not the woman."

Similarly, in *V. Revathi v. Union of India*⁶, the Court upheld the provision as valid on the grounds that it served the "social good" and that the whole statute was not discriminatory against women but was actually protecting the purity of marriage. The patriarchal notion that women needed protection, not equality, and that the sexuality of women needed to be controlled and regulated by law was evident in these decisions.

2.3 Comparative Legal Perspectives

Most countries had decriminalised adultery before Joseph Shine reached the Supreme Court. Decriminalisation had been a trend that mirrored shifts in how society views gender equality, marriage, and the rightful reach of the criminal justice system. Adultery laws should be repealed, said the United Nations Working Group on the issue of discrimination against women in 2018.⁷ The organization added, the laws have often been read and applied with discriminatory meanings against women.

For a number of reasons, ranging from equality and privacy to practical considerations, countries like South Korea (2015), Guatemala (2005), and Uganda (2007) have abolished their anti-adultery laws. As society came increasingly to regard consensual adult sexual activity as beyond the proper reach of the criminal law, the enforcement of the law had become rare, even in countries where adultery remained technically criminalized.

4 *Yusuf Abdul Aziz v. State of Bombay*, (1954) 1 SCC 341.

5 *Sowmithri Vishnu v. Union of India*, 1985 Supp SCC 137.

6 *V. Revathi v. Union of India*, (1988) 2 SCC 72.

7 Working Group on discrimination against women and girls, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/en/special-procedures/wg-women-and-girls>.

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3. THEORETICAL FRAMEWORK: FEMINIST JURISPRUDENCE

3.1 Overview of Feminist Legal Theory

The feminist jurisprudence examines how gender has shaped the development and application of the law. In the view of Bartlett and Kennedy, it critiques traditional legal theories that depict the law as objective and neutral and overlook its role in maintaining gender hierarchies⁸. There have been several schools of feminist jurisprudence, each with their view on how the law can be used to oppose gender injustice.

For example, liberal feminism talks about equality before the law and aims for equal rights and opportunities for women through legislation. In contrast, radical feminism argues that the law as an institution remains patriarchal in nature and argues that equal treatment in pre-established contexts cannot give rise to substantial equality.⁹ Cultural feminism supports the injection of women's values and perspectives into legal decision-making. Postmodern feminist thought rejects general claims regarding women's experiences and dual gender categorizations.

3.2 Dominance Theory and Patriarchal Legal Structures

The dominance theory by Catharine MacKinnon is relevant to explaining adultery legislation. For MacKinnon, male-centered judicial systems institutionalize women's dominance, and the law often masquerades male dominance as neutrality.¹⁰ For this line of thought, Section 497's architecture, punishing men for adultery and excluding women, is not a measure of protection but an exercise of infantilization and objectification of women.

The language of the law, especially the section which stated "without the consent of her husband," portrayed married women as property to their husbands, to whom their sexuality was entitled to. The enforcement of the law on punishing the male

"seducer" rather than combating infidelity in the marriage reinforced stereotypes of passive female sexuality as opposed to independent moral agents with agency.¹¹

3.3 Privacy Rights in Feminist Legal Theory

Feminist scholars have been ambivalent about privacy rights. Feminists have recognized their importance to reproductive liberty and bodily autonomy but have also condemned the manner in which privacy rhetoric has traditionally shielded domestic violence and reinforced the public/private dichotomy that excluded women's issues from legal protection.¹² But privacy has been reasserted by feminist jurisprudence in the past few decades as essential to women's freedom and equality. This new concept of privacy entails the positive liberty to make autonomous choices about one's body, sexuality, and intimate relationships along with freedom from state intrusion. Thus, instead of entrenching patriarchal domination, the right to privacy becomes a means of resisting it.

3.4 Intersectionality in Feminist Analysis

Intersectional feminist theory offered by Kimberle Crenshaw, discusses the way different forms of oppression intersect with each other.¹³ According to it, any analysis of India's adultery statutes will have to consider how these statutes worked differently in respect to socio-economic factors like, caste, religion, class, etc. For instance, the unequal obligations created through India's different personal laws impact the manner in which regulation of adultery is enforced.

The colonial origins of Section 497 also reveal how gender regulation was enmeshed with the construction of "Indian tradition" and imperial relations of power. An intersectional feminist perspective argues that anti-adultery laws reinforced gender hierarchies and colonial rule over native populations

8 Linda R. Hirshman, Reviewed Work: Feminist Legal Theory: Essays in Law and Gender. by Katharine Bartlett, Rosanne Kennedy 104 ETHICS 639-641 3 (1994).

9 CATHARINE A. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE (1991).

10 Ibid

11 Express Web Desk, SC verdict on adultery law HIGH-LIGHTS: It's an anti-women decision, says DCW Chairperson Swati Maliwal, I.E., (Sept. 27, 2018, 09:30 PM), <https://indianexpress.com/article/india/supreme-court-verdict-adultery-law-live-updates-section-497-5376498/>.

12 ANITA L. ALLEN, UNEASY ACCESS: PRIVACY FOR WOMEN IN A FREE SOCIETY (1988).

13 Kimberle Crenshaw, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics 1989 U. Chi. Legal F. 139-167 1 (1989).

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simultaneously.

4. ANALYSIS OF JOSEPH SHINE V. UNION OF INDIA

4.1 Background of the Petition

A non-resident Indian businessman named Joseph Shine filed a Public Interest Litigation in December 2017 to challenge Section 497's constitutionality. Shine argued that the law did not treat men and women equally in marriage, violated the right to privacy by criminalizing consenting adult sexual conduct, and violated the right to equality by denying criminal culpability to women while penalizing males.

The petition contested the constitutionality of Section 198(2) of the Code of Criminal Procedure and Section 497 IPC, which stipulated that only the spouse of the woman with whom adultery was committed could submit a complaint. These clauses combined to create a system where only the "aggrieved husband" had standing and neither men nor women could accuse their unfaithful spouses.

4.2 Issues Raised

The five-judge Constitution Bench, headed by then Chief Justice Dipak Misra dealt with the following pertinent issues in this case:

Whether the arbitrary distinction between men and women under Section 497 IPC infringed the right to equality under Article 14?

Whether the clause offended Article 15 by being discriminatory on the basis of sex?

Whether banning consenting adult sexual intercourse was infringing on the Article 21 right of privacy and personal liberty?

If the government ever had the right to regulate adult private sexual lives?

Should the Court overrule its earlier rulings upholding the validity of Section 497?

4.3 The Supreme Court's Reasoning

All five judges wrote distinct but concurring opinions, each taking a different approach to the case but coming to the same conclusion: the Court unanimously declared Section 497 unconstitutional.

In a letter to himself and Justice A.M. Khanwilkar,

Chief Justice Dipak Misra highlighted how the clause violated Articles 14, 15, and 21. It was against women's dignity and constitutional decency to treat them like men's property, according to him. The court held that "Section 497 is a denial of substantive equality in that it reinforces the idea that women are unequal players in a marriage; that they cannot give free consent to a sexual act within a legal order which treats them as the sexual property of their husband."

In accordance with Article 14, Justice R.F. Nariman focused on how the law generated illogical classes that were contrary to the constitution. He noted that the historical defense of women's exemption, that women were victims, not offenders, revealed outmoded prejudices incompatible with the provisions of the constitution.

A somewhat overtly feminist explanation was offered by Justice D.Y. Chandrachud, who linked the rule against adultery to more general trends of gender discrimination. According to this case, he noted that Section 497 was "founded on the notion that a woman by entering upon marriage loses, so to speak, her voice, her agency, and her autonomy." His decision emphasized how the section objectified women instead of considering them as individuals with equal moral standing, encroaching on their liberty, privacy, and dignity.

The only woman judge, Justice Indu Malhotra, noted that Section 497 was based on gender biases in contravention of Article 15. In her view, "the days when wives lived in their husbands' shadows and were invisible to the law are long gone" (Joseph Shine v. Union of India, 2018). Her verdict clearly established the fact that women need to be recognized by law as equal citizens with distinct identities and dignity.

4.4 Feminist Elements in the Judgment

Drawing from various feminist perspectives, the Apex Court's judgment highlighted several fundamental ideas. **Firstly**, it acknowledged women's agency, explicitly rejecting the paternalistic notion that women needed protection rather than equality, as Justice Chandrachud pointed out the law's denial of their ability to make independent sexual decisions by portraying them as incapable victims.

Second, every judge agreed that the words "without the consent of her husband" uncovered an archaic legal presumption of wives as property

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of their husbands, which Justice Malhotra found inconsistent with constitutional values.

Thirdly, the decision incorporated feminist reinterpretations of privacy, including positive liberty and individual autonomy, stating that Article 21 privacy guarantees cover sexual choices and other personal choices.

Fourth, the Court refuted negative gender stereotypes by finding intolerable generalisations that are sources of injustice and deprive a person of his or her dignity, rejecting hackneyed representations of seducing men and violated women.

Fifth, answering the feminist argument concerning the imposition of morality through the criminal law, the Court separated legal from moral regulation and put forward the hypothesis that adultery can continue to be a civil offense warranting divorce but not being a crime.

5. CRITICAL ANALYSIS: FEMINIST JURISPRUDENTIAL INSIGHTS

5.1 Deconstruction of Women as Property

The Joseph Shine judgment represents a significant advancement in deconstructing the legal conception of women as property. The phrase "without the consent of her husband" in Section 497 explicitly positioned women's sexuality as belonging to their husbands. This proprietary understanding of marriage has deep historical roots in patriarchal systems where women were transferred from father to husband, with their sexuality carefully controlled to ensure legitimate patrilineal succession.¹⁴

Feminist jurisprudence has long criticized how property concepts permeate legal understandings of marriage and women's bodies. Carole Pateman's "sexual contract" theory argues that the original social contract included men's domination over women, particularly through marriage, which granted men sexual access to and authority over their wives. Section 497's structure perfectly exemplified this dynamic by treating adultery as a violation of a husband's property rights rather than a breach of marital fidelity by either spouse.

By rejecting this framework, the Supreme Court

aligned Indian jurisprudence with feminist critiques of marriage as ownership. Justice Chandrachud explicitly acknowledged this shift: "A woman cannot be treated as a commodity having no autonomy or agency. Sexual autonomy is a pillar of individual liberty and an individual constitutional right. It is intrinsic to dignity, liberty and privacy".

5.2 Analysis of Sexual Double Standards

The Joseph Shine judgment confronted the sexual double standards embedded in adultery law. Section 497 reflected and reinforced the differential treatment of male and female sexuality that persists across legal systems globally. Men were punished for sexual transgressions while women were presumed to lack sexual agency altogether, either as victims of seduction or as property incapable of consent.

Feminist scholars have identified how sexual double standards operate to control women while granting men greater sexual freedom¹⁵. These standards manifest legally through differential regulation of sexual behaviour based on gender. Section 497 exemplified this differential treatment, where men could be jailed for adultery, while women faced no criminal consequences but also had no legal standing to complain about their husbands' infidelity.

The Court recognized these contradictions, with Justice Nariman pointing out that "the legislature is presumed to have acted with awareness of constitutional values... The enactment of Section 497 of the Indian Penal Code was a pre-constitution law which was enacted in 1860. There is no saving grace for this provision to continue on the statute book."

5.3 Privacy as a Feminist Issue

The Joseph Shine case serves as an example of how privacy has changed from being a possible barrier against domestic violence to becoming a means of promoting gender equality. Early feminist criticisms were concerned that by protecting the "private sphere" from judicial scrutiny, privacy rights would largely benefit men.¹⁶ But the feminist recovery of private as crucial to women's autonomy is reflected in the Court's interpretation of privacy in Joseph Shine.

Building on its previous ruling in Justice K.S.

¹⁴ CAROLE PATEMAN, THE SEXUAL CONTRACT (1988).

¹⁵ CAROL SMART, FEMINISM AND THE POWER OF LAW (1989).

¹⁶ Supra note 8

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Puttaswamy v. Union of India¹⁷, which acknowledged privacy as a fundamental right, the Supreme Court interpreted privacy as positive autonomy, the ability to make important decisions regarding one's life and relationships, rather than just negative liberty, or freedom from interference. This broad definition of privacy does not support male dominance; rather, it safeguards women's decision-making power.

Justice Chandrachud made a clear connection between gender equality and privacy, saying that "individuals' exercise of autonomy and agency is essential to the right to privacy." Courts must intervene when persons are unable to exercise these fundamental rights in order to guarantee that dignity is fully realised.

5.4 Patriarchal Protectionism Critique

Patriarchal protectionism that had earlier upheld the gender-based categorization of Section 497 was turned on its head by the Court's verdict. Assuming women's intrinsic frailty and unfree will, earlier decisions had upholding women's immunity to criminal culpability as protective. This paternalistic approach was repudiated by the Joseph Shine decision that recognized that "protection" is all too often a euphemism for control.

Protectionist discourse hides restraint on women's autonomy, as feminist scholars have already pointed out. Section 497's actual purpose was restraint of female sexuality within patriarchal marriage systems, rather than protection, since it excluded women from criminal liability while depriving them of legal recourse to complain about their husbands' adultery.

This criticism was addressed by Chief Justice Misra, who said, "We must remember that we cannot start over. We follow the precedents. Chief Justice Dipak Misra, has properly noted that earlier rulings supporting Section 497 on the grounds that it is an affirmative provision in favour of women cannot be accepted, citing Puttaswamy's case.

5.5 Morality as a Control Mechanism

The Joseph Shine case addressed feminist dissent to the previous use, or rather misuse, of morality as a tool to limit women's independence.

17 K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1

Earlier, Section 497 was defended by arguing that it meant to uphold public morals and the integrity and sanctity of the institution of marriage. But in this instance, the Court accepted that this morality was neither universal nor neutral but rather specific to patriarchal interests.

Feminist theory of law has pointed out the way seemingly impartial moral principles often express masculine perspectives and interests.¹⁸ Section 497, criminalising only male adulterers, extended the double standard under which men had to guard other men's marital "property" and women were protected or penalised according to their status in relation to men, not their own choice.

This matter was specifically addressed by Justice Chandrachud: "The law on adultery sees marriages and a woman's connection with the 'outsider' through the prism of a patriarchal, hetero-normative system... Without taking into account a woman's voice, Section 497 has attempted to balance the bargaining strength of two men."¹⁹

6. EFFECT ON GENDER EQUALITY IN FAMILY LAW

6.1 Effect in Family Law

The Joseph Shine judgment represents a landmark change in Indian family law as it dismantles the patriarchal foundations of Section 497 of the Indian Penal Code, criminalizing adultery in a way that viewed women as the property of men. By invalidating this provision, the Supreme Court overcame the historical narrative of the marriage being a relationship that makes women subservient and instead emphasized that marital relations need to be based on mutual respect and equality. The judgment therefore redefines adultery as a private rather than a criminal issue, bringing family law into harmony with constitutional principles of equality (Article 14), non-discrimination (Article 15), and personal liberty (Article 21).

This has wider implications for family law statutes, such as laws of divorce, maintenance, and

18 Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1 (1988).

19 Not a crime: on Supreme Court's adultery ruling, T.H. (Nov. 28, 2021 09:04 AM), <https://www.thehindu.com/opinion/editorial/not-a-crime/article59780429.ece>.

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custody, which are gendered in their assumptions. The judgment asks for a re-evaluation of provisions such as Section 125 CrPC (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita), which spoke of providing for wives' maintenance so as to make them gender-neutral benchmarks of justice. The Court ruling promotes legislative and judicial reform to excise provisions which insidiously undermine the autonomy of women or perpetuate patriarchal gender assumptions, by characterizing marriage as an equal partnership.

Justice Malhotra's remark that "Adultery is a question of personal choice, and cannot be regarded as an offense" reflects the Court's abhorrence of moral policing in marital relationships. This view defies legal structures as well as societal expectations stigmatizing women's freedom in sexual relationships. But the fact that adultery remains a ground for divorce reaffirms the necessity for courts to apply gender-neutral interpretations in divorce cases to prevent women from being perpetually demonized.

6.2 Relationship to Other Privacy Judgments

The Joseph Shine ruling is one of a trilogy of revolutionary Supreme Court decisions, followed by *Navtej Singh Johar v. Union of India*²⁰ and *Justice K.S. Puttaswamy v. Union of India*, that collectively fortify the constitutional framework for privacy and personal autonomy. These milestone judgments create an integrated jurisprudence to protect individual autonomy from state interference in personal spaces. *Joseph Shine v. Union of India* carries forward Puttaswamy's recognition of privacy as a fundamental right to apply it to personal decisions within matrimony, and following *Navtej Johar*'s emphasis on legalizing consenting adult relationships.

Justice Chandrachud linked these cases highlighting a coherent judicial lineage, saying that there is a common thread of autonomy which runs through Puttaswamy, *Shafin Jahan*, *Navtej Johar*, and now *Joseph Shine*, which recognizes the significance of choice as an unalienable part of constitutional freedom, free from state intervention." This new privacy jurisprudence has a clearly feminist bite because it resists patriarchal control of women's

bodies and relationships. By the recognition of women's autonomy in marital and sexual choices, *Joseph Shine* reframes privacy as a positive right rather than protection for traditional family structures.

This corpus of law also created a precedent for the reinterpretation of other personal laws, for instance, under the Hindu Marriage Act or Muslim Personal Law, to bring them in line with constitutional requirements of equality. For instance, the ruling may impact on challenges to provisions that deny women rights of divorce or inheritance on the basis of gendered concepts of family roles.

6.3 Unresolved Tensions

Although *Joseph Shine* advocates for gender equality, it does not respond to numerous practical and theoretical issues. While it does not necessarily encompass its implications in civil law comprehensively although it is as progressive as possible, adultery remains a reason for divorce under some laws like Section 13 of the Hindu Marriage Act, 1955. Although it does not provide clear regulation of how it should be utilized, it may result in diverse judicial interpretation. The courts may even go so far as to utilize gender stereotyping, for example, punishing women harsher for adultery due to double standards in society.

Secondly, the judgment fails to take into account the socio-economic contexts in which the choice of women is exercised. In India, where women are economically dependent on their husbands to a significant extent, making adultery a non-cognizable offence can result in putting them in jeopardy if there is no adequate legal or social protection. For instance, a woman who files for divorce on grounds of adultery by her husband can be economically put at a disadvantage if maintenance laws are not strictly enforced. The focus by the Court on choice does not appreciate structural constraints on women's choice.

The second unresolved conflict is between the state's interest in keeping marriage as an institution and individual rights. Justice Chandrachud acknowledged the conflict: "Where sexual privacy is a right that is protected, the state still has a legitimate interest in controlling the fallout of marital dissolution, such as alimony or custody over children." The reluctance of the judgment to clearly articulate how these competing interests are to be weighed opens up the possibilities for future cases to articulate the

²⁰ *Navtej Singh Johar v. Union of India*, (2018) 1 SCC 791

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role of the state in family law.

6.4 Broader Impact and Possible Reforms

The Joseph Shine judgment making adultery legal is not only a watershed moment in Indian law, but in society. It is in opposition to conventional patriarchal doctrine that equates a woman's sexuality with family or male honour. In pushing criminal liability for adultery out, the judgment asserts the sovereignty of the self and identifies with international feminist struggles that combat for individual freedom and bodily autonomy, and calls individuals to view marriage less as a site of control and more as a relation of respect and equality.

While progressive in spirit, the judgement had come in for a polarized reaction. Popular feeling, particularly on social media like X (formerly Twitter), in Indian society, where prevailing social norms remain preponderant, is polarized. While one segment of society had welcomed the judgement as a triumph of individual freedoms, a segment of society had argued that the judgement undermines the moral foundations of marriage. It is a reflection of how challenging it is to achieve progressive legal reform in the face of a socially conservative society. For the judgment to be realized as actual change, it will have to be accompanied by attempts by the wider society in the form of education drives and initiatives empowering women economically and socially.

The Joseph Shine judgment is an example of the Indian judiciary's assertive role in shaping societal norms through constitutional interpretation, as through its alignment of family law with the ideals of equality and dignity, the Supreme Court has laid the groundwork for the re-examination of associated practices such as dowry, marital consent, and the fair sharing of domestic duties. This judicial step paves the way towards an even more equal and egalitarian pattern of intimate relationships. For the case to reach its full potential, the judiciary has to go further. Divorce law needs to be revised to protect gender neutrality, and a careful vigil must be kept against disproportionately penalizing women in case of a breakdown of marriage. Financial protection such as maintenance and alimony needs to become stronger to protect spouses, particularly women, who might be economically vulnerable after a separation. Judges need to be trained to read family law with a gender lens, minimizing unconscious bias in courtrooms.

Public awareness campaigns need to be undertaken to clarify the implications of the ruling and counter entrenched social stigma against women's autonomy. Last but not least, proper legislative analysis needs to be carried out to locate and improve upon provisions in personal and criminal law that continue to resonate with gender stereotypes of the past.

7. CONCLUSION

The Joseph Shine judgment is a giant leap, when it comes to the application of feminist understanding to the constitutional law. By denouncing Section 497 of the IPC, the Supreme Court wiped out the old concept of marriage in which men's ownership of women's sexual freedom and lives was thought to be held. The ruling acknowledged how laws enacted in the name of protecting women ultimately support negative patriarchy.

Feminist principles were reflected in the Court's ruling, for example, the importance of the link between women's independence, the acknowledgment that gender classifications appearing to be protective might actually perpetuate subordination, and the recognition that state regulation of sexuality has historically been used to manage women and not equality.

Decriminalizing adultery marks a move away from the perception of marriage as a patriarchal institution where husbands dominate the sexuality of their wives and towards perceiving it as an equal partnership. This basic change can thus, have a far-reaching implication on family law and other areas of law where gender-based categorization may still persist.

But because of the deeply embedded social and economic inequalities between the sexes, the ruling also left some questions hanging, particularly on how civil law will continue to address marital fidelity and whether official legal parity will in fact become substantive parity. These unanswered questions capture the broader challenges of applying feminist legal theory to actually better women's lives.

Sexuality is an essential part of a woman's inviolable core, as Justice Chandrachud so eloquently framed. Marriage cannot be demeaned by the government or the institution of marriage. This recognition of women's inherent persona, over and

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above their status as wives or sexual objects, paves the way for future calls for gender equality in the Indian legal system.

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