

SECTION II:

UNDERSTANDING

POWER & CONTEXT

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2.1 Power, Patriarchy & Workplace Dynamics

Primary references - Understanding Patriarchy and Gendered Hierarchies

Leela Dube conceptualizes patriarchy as a multi-layered social system and removes it from the usual understanding of male dominance alone. Dube argues that patriarchal structures function in tandem with structures of household, workplace, kinship, community and governance. This helps us understand that patriarchy is closely embedded with cultural institutions and social norms. The resources made available below deal with patriarchal structures in different yet very similar workplace/cultural/social settings. Here we are attempting to understand how oppression employed by patriarchal settings tends to transform itself depending on the institutional dynamic.

Important Resources

- Bina Agarwal Structures of patriarchy state community and house hold in modernizing Asia: https://archive.org/details/structuresofpatr0000unse_g2i7/page/n9/mode/2up
- On Gender Justice and Sexual Harassment in the workplace:
 - Hema Committee Report (complete): <https://feministlawarchives.pldindia.org/wp-content/uploads/justice-hema-committee-report-on-various-issues-faced-by-women-in-cinema-2024.pdf>
 - Discussion at Centre for Development Studies (September, 2024) - <https://www.youtube.com/watch?v=pWexshi5pIQ>
 - Short analysis - <https://medium.com/unframed-thinking/hema-committee-report-women-in-malayalam-cinema-843a58643e9b>
 - Short papers of Workplace Hierarchy: <https://www.ijariit.com/manuscripts/v10i4/V10I4-1206.pdf>
<https://journals.sagepub.com/doi/epub/10.1177/00380261241310012>
- Indian Labour Movement and Oral History Documentation of Indian Labour Movement - Anil Rajimwale - This document was published by the V.V. Giri National Labour Institute is focused on oral history documentation of India's labour movement. It collects testimonies of labour leaders and workers involved in trade union activities.
https://www.indianlabourarchives.org/bitstream/20.500.14121/2646/1/Oral_History_Documentation_of_Indian_Labour_Movement.pdf

2.2 Consent, Boundaries & Bodily Autonomy

Here we try and understand **Consent** from a far more nuanced perspective rather than reducing it to functions of vocabulary and speech. There are several judgements and social movements that invoke this way of reading consent. Consent transforms in various forms in the personal, public and professional space. The conclusion to this discourse should be that bodily autonomy is the primary facet from which one needs to approach the concept of consent.

- **Consent: A Fearful Asymmetry Nilofer Kaul:** *“Nilofer Kaul critically examines the concept of consent, unpacking its underlying assumptions of equality, rationality, and clear communication. But how do we navigate consent in a world that is inherently and unequally structured, where power imbalances are persistent and deeply entrenched? While consent may seem like a simple, straightforward principle, Kaul argues that it is anything but. Through her analysis, she highlights how the dynamics between two individuals are rarely equal – social, emotional, and structural power imbalances inevitably shape their choices, whether consciously or unconsciously. By focusing solely on consent as an isolated act of agreement or refusal, we risk overlooking the deeper violence embedded within these asymmetrical relationships.”*

<https://scroll.in/article/1082516/consent-how-does-one-define-consent-when-systemic-inequalities-define-gendered-interactions>

- **Judgement on the Mahmood Farooqui Case:** *The Mahmood Farooqui case concerned the conviction of a well-known cultural figure for forcibly performing oral sex on a woman who had repeatedly said no, with the court relying on the survivor’s consistent testimony, corroborating digital evidence, and Farooqui’s own apologetic response. The judgement is important because it marks a decisive shift in Indian rape jurisprudence: it rejects older ideas of rape as primarily about honour, physical injury, or “real” penetration, and instead recognises sexual violence as the violation of a woman’s bodily autonomy and control over her sexuality, even when the assault is brief, non-penetrative, or committed by a trusted acquaintance. By affirming that consent is central and that freezing in fear does not imply consent, the judgement strengthens survivor-centred interpretations of the law and signals a broader ethical and political rethinking of sexual violence in Indian courtrooms.* <https://kafila.online/2016/08/14/the-mahmood-farooqui-rape-conviction-a-landmark-verdict-j-devika-nivedita-menon/>

- **Queer understanding:** How does consent function in the gay male space and what straight men can learn from the gays - <https://timesofindia.indiatimes.com/home/sunday-times/deep-focus/what-straight-men-can-learn-from-gays/articleshow/27054410.cms>
- **“Being in love doesn't imply sexual consent” - Kerala High Court:** The article reports on a Kerala High Court judgment clarifying that being in love or in a relationship with someone does not automatically mean they consent to sex. The court was hearing an appeal in a rape case where a man had taken his 17-year-old girlfriend to a hotel and forced sexual intercourse without her consent. The court upheld the conviction, emphasising that consent must be voluntary, informed, and real — not assumed just because two people are romantically involved. It also noted that someone’s passive submission under compulsion (like fear or threats) isn’t legal consent.
<https://www.theswaddle.com/being-in-love-doesnt-imply-sexual-consent-kerala-hc>
- **Feminist responses to sexual violence - Consolidating Feminist Collectives:** The article challenges the celebratory image of the Kerala model of development by highlighting the persistence of sexual violence and deep-rooted patriarchy in the state. It argues that despite high human development indicators, women in Kerala face systemic injustice sustained by an indifferent state, compromised institutions, and powerful perpetrators. Using high-profile cases such as the Malayalam actress assault, the nun rape case, the infant snatching case, the Women in Cinema Collective (WCC), and Haritha’s conflict with the IUML, the article traces a shift in feminist politics—from silence and victimhood to public resistance and survivor-led activism. It emphasises the emergence of new, youth-led feminist collectives, digital activism, and cross-group solidarities that challenge patriarchal authority while navigating internal differences and neoliberal constraints. <https://www.epw.in/engage/article/consolidating-feminist-collectives-gleaning>

2.3 Why Systems Fail

Survivors

Contrary to several landmark judicial pronouncements in the Indian context on rape and sexual assault, post Criminal Law (Amendment) Act, 2013, legal practitioners representing survivors have consistently argued that any act involving bodily invasion for the sexual gratification of the perpetrator must be recognised as rape. However, this interpretation has frequently been either rejected or diluted by Indian courts, often being treated as a matter of legal contention rather than a settled principle.

Two high-profile cases, the rape of a nun by Bishop Franco Mulakkal and the conspiracy involving the kidnapping and sexual assault of a prominent Indian actress, illustrate instances where the legal system has failed not only the survivors but also the broader jurisprudential understanding of sexual violence in the country. Such judicial outcomes risk establishing problematic precedents, potentially discouraging future survivors from seeking justice and undermining the progressive intent of sexual assault laws.

- **Understanding Consent from a Feminist Legal Standpoint**

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3968427

- **India: Investigating sexual abuse allegations in Kerala's film industry**

<https://youtu.be/8qkfK6EBsg8?si=VjKNxSTsNr-r6ui5>

- **Interview with Adv. Vrinda Grover on why Bishop Franco Judgement is flawed and constructs unethical ideals of an ideal victim**

<https://youtu.be/gCoMujaqZgA?si=25XOEu1LXJytyoij>

- **Interview with Adv. TB Mini(Malayalam) on the actress kidnap and rape case, and comparison with previous cases in Kerala**

<https://www.youtube.com/watch?v=doT-zdauRS0&t=1614s>

- **Article on Rape Culture in India, looking at the act of rape in India, its causes and discourse around it** <https://ijlmh.com/wp-content/uploads/Rape-Culture-in-India.pdf>
- **Human Rights Watch: The stigma and blame attached to rape survivors in India** <https://www.hrw.org/news/2013/01/08/stigma-and-blame-attached-rape-survivors-india>
- **Pushing feminism's frontiers in Kerala - On the Me Too wave in Kerala and how it is more than just an elite reactionary movement.** Author argues that we need to look at the 'non-feminist' space where women react in both social and digital spaces against male violence and patriarchal oppression. <https://frontline.thehindu.com/social-issues/gender/kerala-women-revolution-feminism-cinema-collective-state-feminism-patriarchy-social-change/article68625024.ece>
- **Interview with parents of Suryanelli Rape Survivor** <https://www.youtube.com/watch?v=aDs9VB3wj04>
- **Interview with Suryanelli Rape Survivor** on PJ Kurien a prominent Congress leader and former Rajya Sabha MP being named as one of the perpetrators. Kurien was added as a defendant in the case, nor did this affect his political career. <https://www.youtube.com/watch?v=wl8pa8BtMwg>
- **Interview with Adv. Subhalekshmi on Vithura Rape Survivor and denial of Justice** https://www.youtube.com/watch?v=Qj_XbQ3SyJM