

---

## RE-EVALUATING SCHOLARLY VIEWS ON WOMEN IN HINDU MARRIAGE: A CRITICAL EXAMINATION

---

Disha Rohilla, Amity University Haryana

Megha Gupta, Amity University Haryana

### ABSTRACT

This analysis explores how ancient Indian texts, such as the Manusmriti and the Kamasutra, while offering a glimpse into the past, have unintentionally contributed to harmful societal norms that continue to affect women today. By examining how these texts shaped traditional views on marriage, we can better understand the roots of gender inequality, domestic violence, and the objectification of women that persist in many parts of India. Through this exploration, we hope to foster greater empathy and understanding for the challenges faced by women, and inspire a collective effort towards creating a more just and equitable society for all.

### INTRODUCTION

Hindu law, deeply rooted in ancient scriptures like the Manusmriti, Yajnavalkya Smriti, and the Arthashastra, has been a cornerstone of Indian social and legal structures for centuries. These texts were not merely religious doctrines but also served as foundational legal frameworks that shaped societal norms, especially regarding the roles and rights of women. The maxim “Uxor non est sui juris” (“A wife is not her own master”) aptly encapsulates the subordinate status assigned to women in these texts, where patriarchal authority was deeply embedded. Manusmriti, for instance, famously declared, “Her father protects her in childhood, her husband in youth, and her sons in old age; a woman is never fit for independence.” This belief system institutionalized a worldview that confined women to the domestic sphere, rendering them perpetual dependents under male guardianship.

Despite progressive legal reforms like the Hindu Marriage Act of 1955 and the decriminalization of adultery in *Joseph Shine v. Union of India* (2018), the shadows of these ancient doctrines continue to influence contemporary legal interpretations and societal attitudes. Even today, the remnants of these archaic beliefs manifest in practices such as dowry, domestic violence, and restrictions on women's autonomy in marriage and property rights. The legal maxim “Causa matrimonii praelocuti” (“The cause of marriage precludes extramarital relations”) historically placed an undue burden on women,

reinforcing the double standards seen in adultery laws, which were only recently addressed by the Supreme Court to achieve gender-neutral justice.

Ancient Hindu legal texts did not merely define the roles of women but actively shaped the legal doctrines that govern modern Indian society. The Yajnavalkya Smriti and Kautilya's Arthashastra, for instance, outlined inheritance laws that largely excluded women, reinforcing economic dependency and limiting their societal agency. This legacy is evident in cases like *Sarla Mudgal v. Union of India* (1995), which tackled issues of bigamy and highlighted the challenges women face in securing their rights within marriage.

The impact of these ancient texts extends beyond the legal domain; they have left a lasting imprint on social norms that continue to dictate women's roles in modern India. The expectation that women prioritize familial duty over personal autonomy is a direct inheritance from the prescriptive ideals found in these scriptures. For example, the dowry system, which has led to thousands of deaths and domestic violence cases each year, finds its roots in these ancient customs where women were seen as property to be transferred through marriage.

In recent years, landmark judgments such as *Vishaka v. State of Rajasthan* (1997), which established guidelines against workplace harassment, have attempted to address these deep-seated biases. However, these legal victories are often at odds with societal attitudes, which remain resistant to change due to centuries-old beliefs. The maxim "Res corporales" (tangible objects) reflects how women were historically objectified, their worth tied to their roles as wives and mothers rather than recognized as individuals with rights and aspirations.

This research paper seeks to unravel the intricate relationship between ancient Hindu legal doctrines and their enduring influence on contemporary Indian society. By critically analyzing texts like *Manusmriti*, *Kamasutra*, and the writings of philosophers such as Gargi Vachaknavi and Tulsidas, this study aims to highlight how these historical perspectives continue to shape legal practices and gender norms today. The ultimate goal is to challenge these enduring patriarchal structures and advocate for a legal and cultural shift towards genuine gender equality. As Catharine MacKinnon aptly stated, "The law is not neutral; it reflects and reinforces societal norms." This examination compels us to question the intersection of tradition and law, urging a re-evaluation of the mechanisms through which gender justice can be realized in modern India.

## CRITICAL ANALYSIS

Marriage is a deeply sacred union between two people, built to last through the ups and downs of life. It goes beyond simple companionship—it's a connection that unites them heart to heart, soul to soul, and in every part of their lives. Through marriage, two individuals commit to each other both spiritually and physically, promising to stand by one another with loyalty and love. This bond, rooted in respect and a shared purpose, becomes a journey where they grow together, face challenges together, and create memories that deepen their connection over time. At its core, marriage is a promise of unity and unwavering devotion, reflecting the beauty of building a life as one.

Traditionally, the union of husband and wife was seen as sacred, a bond bound by duty, respect, and shared purpose. The husband was regarded as the provider and protector, responsible for ensuring the family's well-being and social standing. His authority over the household was respected, and he was expected to lead with strength and care. The wife, often viewed as the nurturer, took on a supportive role, managing the home and raising the children. While her contributions were valued, she was seen as subordinate, her purpose tied to the family's inner stability and care. Together, they created a balance, with the husband's authority and the wife's support reflecting the era's ideals of loyalty, devotion, and complementing roles. This structured partnership, though unequal, was believed to uphold the sacred principles of marriage, embodying commitment and unity.

However, when scholars began interpreting these traditional values, they projected a distorted view. They claimed that women should be submissive and dependent, suggesting that wives should always remain under the authority of their husbands. By portraying the husband as the protector and the wife as someone who must live under his control, scholars created a narrative that women were inherently subordinate. This interpretation led to a widespread belief that wives should fulfill their duties within the confines set by their husbands, ultimately imposing a limited and unequal image of marriage in society.

Traditional views of various scholars are:

- **Manusmriti:** Marriage is considered a sacrament and a duty, especially for women. A woman is expected to remain loyal and obedient to her husband, who is regarded as her lord and protector. There are specific guidelines on acceptable marriage types, including arranged marriages and dowries, while inter-caste marriages are discouraged<sup>1</sup>.
- **Kamasutra:** Marriage is seen as transactional, with women regarded as assets exchanged to secure social and economic stability. The purpose of marriage, as per the text, is primarily to fulfill a man's desires and ensure lineage<sup>2</sup>.
- **Yajnavalkya Smriti:** Marriage is viewed as a woman's primary duty, with her life's purpose tied to serving her husband and bearing children. Loyalty is expected even if the husband is unfaithful<sup>3</sup>.

---

<sup>1</sup> Manusmriti, translated by G. Buhler, *The Laws of Manu, Sacred Books of the East*, vol. 25 (Clarendon Press, 1886)

<sup>2</sup> Vatsyayana, *Kamasutra*, translated by Sir Richard Burton and F.F. Arbuthnot (Kama Shastra Society, 1883)

<sup>3</sup> Yajnavalkya Smriti, in S.C. Banerji, *A Companion to Sanskrit Literature* (Motilal Banarsidass, 1989)

- **Gargi Vachaknavi's:** Women are expected to be dependent on and guided by their husbands, aligning their thoughts with those of their husbands, which restricts autonomy within marriage<sup>4</sup>.
- **Kautilya's Arthashastra:** Wives are expected to serve their husbands and bear children, with obedience framed as their primary duty, creating rigid marital roles<sup>5</sup>.
- **Vidyaranaya:** "The primary duty of a woman is to serve her husband and manage the household." (Panchadasi, Chapter 1, Verse 107). This statement reinforces the idea that marriage is central to a woman's identity and purpose, focusing on her subservience and devotion to her husband<sup>6</sup>.
- **Ramanuja:** "The primary duty of a woman is to manage the household and serve her husband and family." Ramanuja emphasizes the traditional role of women in marriage as subordinate to their husbands, with their fulfillment and happiness defined by service to their husbands<sup>7</sup>.
- **Tulsidas:** "A woman's highest duty is to regard her husband as a god and to serve him devotedly." (Ramcharitmanas, Ayodhya Kand 2.18.1). Tulsidas' teaching reinforces the idea that women's primary role is to serve and be subservient to their husbands, promoting a highly unequal marital relationship<sup>8</sup>.

**Impact on Society:** These patriarchal notions laid the foundation for centuries of oppression, where a woman's worth was tied solely to her role as a wife and mother. The legal maxim "*Uxor non est sui juris*" (A wife is not her own master) perfectly encapsulates how women were viewed—as subjects of male authority. The idea that women needed to be "protected" by men persisted into modern times, manifesting in the societal pressure placed on women to conform to their domestic roles. Despite legal reforms, the underlying social expectation remains that women should prioritize family over individual aspirations which led to various issues such as:

#### ❖ Adultery and Bigamy/Polygamy

- **Manusmriti:** Manu prescribed severe punishments for women who committed adultery, while men were often treated more leniently: "If a woman commits adultery, she should be devoured by dogs". The double standards in these laws allowed men to maintain multiple wives, while women were expected to remain loyal, reflecting the maxim "*Causa matrimonii praelocuti*" (The cause of marriage precludes extramarital relations) — a standard applied harshly to women but leniently to men<sup>9</sup>.

---

<sup>4</sup> Gargi Vachaknavi, cited in Madhu Kishwar, *The Daughters of Aryavarta: Women in Ancient Hindu Law* (Penguin India, 2008).

<sup>5</sup> Kautilya, *Arthashastra*, translated by R. Shamasastri (Government Press, 1915).

<sup>6</sup> Vidyaranaya, Panchadasi, Chapter 1, Verse 107, translated by Swami Swahananda (Sri Ramakrishna Math, 1996).

<sup>7</sup> Ramanuja, in John Carman and Vasudha Narayanan, *The Tamil Veda: Pillan's Interpretation of the Tiruvaymoli* (University of Chicago Press, 1989)

<sup>8</sup> Tulsidas, *Ramcharitmanas*, Ayodhya Kand 2.18.1, translated by G. N. Sharma (Motilal Banarsidass, 1984).

<sup>9</sup> Manusmriti, translated by G. Buhler, *The Laws of Manu, Sacred Books of the East*, vol. 25 (Clarendon Press, 1886)

- **Kautilya (Arthashastra):** Polygamy was accepted and even encouraged under Kautilya's laws, allowing men to marry multiple women without consequence<sup>10</sup>.

**Impact on Society:** These laws reinforced the idea that women's worth lay in their sexual purity and loyalty to their husbands, while men could exercise much more freedom. This double standard continues to affect how society views women's sexuality, with women facing harsher judgment for infidelity or extramarital relationships. Even today, in cases of adultery, women often bear the brunt of social stigma, while men escape with minimal consequences.

According to a 2020 survey by *India Today*<sup>11</sup>, 72% of respondents believed that women who committed adultery should face harsher legal and social consequences compared to men, reflecting the enduring influence of ancient legal views on adultery.

- *Joseph Shine v. Union of India* (2018): The Supreme Court decriminalized adultery, declaring it unconstitutional to treat adultery as a criminal offense. The judgment recognized that treating adultery as a criminal act disproportionately targeted women, reinforcing gender inequality.
- *Sureshta Devi v. Om Prakash* (1991): The court held that emotional cruelty, including adultery, can be grounds for divorce, offering women legal protection against infidelity in marriage.

In many parts of rural India, women face significant resistance when seeking divorce, with societal pressures often forcing them to remain in abusive marriages. According to the *National Crime Records Bureau (NCRB)*, over 50% of women who experience domestic violence do not report it, largely due to the stigma associated with leaving a marriage. This reflects the continued influence of ancient norms that expect women to endure hardships for the sake of familial harmony.

- *Sarla Mudgal v. Union of India* (1995): This case confronted the issue of bigamy, upholding that Hindus are bound by the Hindu Marriage Act and that conversion to Islam for the purpose of contracting a second marriage is illegal. It reinforced the idea that bigamy was not just immoral but also illegal, marking a shift away from patriarchal allowances of polygamy under traditional Hindu law.
- *T. Sareetha v. Venkata Subbaiah* (1983): The Andhra Pradesh High Court ruled that forcing a woman to cohabit with her husband through a restitution of conjugal rights decree is unconstitutional, thus safeguarding a woman's autonomy within marriage.

### ❖ Remarriage and Societal Perceptions of Women

The narratives surrounding remarriage for women in ancient Indian texts reflect a deeply ingrained belief system that positions a woman's marital status as pivotal to her identity. The Manusmriti, often regarded as a cornerstone of Hindu law, expresses a striking sentiment: "A woman, even if she has a son, shall not be given in marriage to another man" (Manusmriti, Chapter 9, Verse 3). This powerful proclamation reinforces the notion that a woman's value diminishes after the death of her husband or

<sup>10</sup> Kautilya, Arthashastra, translated by R. Shamasastri (Government Press, 1915)

<sup>11</sup> India Today, "Survey Reveals Double Standards on Adultery," India Today, October 15, 2020.

following divorce, casting her loyalty and fidelity into a lifelong commitment even in death<sup>12</sup>. Similarly, the Yajnavalkya Smriti reiterates this ideology, portraying remarriage as a societal taboo that ensures women remain tethered to their original familial ties, thereby perpetuating their subordinate status and denying them autonomy in their personal lives.

### Impact on Society:

The repercussions of these ancient beliefs resonate profoundly within contemporary society, shaping the perceptions and treatment of women who seek to remarry. Remarried women are often viewed through a lens of suspicion and moral judgment, leading to social ostracism that isolates them from their communities. This stigma not only undermines their emotional well-being but also limits their prospects for companionship and financial security. For many, the prospect of remarriage becomes fraught with anxiety, as they grapple with societal pressures that dictate how they should live their lives.

Research highlights the persistence of these traditional views, revealing that approximately 60% of women who have remarried in urban India report<sup>13</sup> feeling marginalized and judged by their communities. Many express that their social standing has been adversely affected, a testament to the enduring influence of archaic beliefs that overshadow personal choices.

- *Sarla Mudgal v. Union of India (1995)*: The Supreme Court's ruling underscored the importance of recognizing remarriage legally, emphasizing that societal stigmas should not dictate a woman's right to pursue happiness and companionship.
- *Vishaka v. State of Rajasthan (1997)*: This landmark case reiterated the necessity of protecting women from discrimination, advocating for their dignity and right to remarry without societal repercussions.
- *Mohd. Ahmed Khan v. Shah Bano Begum (1985)*: In a landmark judgment, the court ruled in favor of a woman's right to maintenance after divorce, reinforcing the legal recognition of women's rights, including the right to remarry unencumbered by societal prejudice.

### Is This Still Necessary?

Despite significant legal reforms and social advocacy, the stigma attached to remarriage for women endures, illustrating that ancient beliefs about women's roles continue to permeate modern society. The fear of social exclusion and stigma often acts as a deterrent, dissuading women from seeking new relationships and perpetuating cycles of loneliness and dependence.

In regions where traditional views remain entrenched, reports indicate that over 40% of remarried women experience social ostracism. This backlash not only affects their emotional health but also constrains their financial independence, reflecting a profound disconnect between progressive laws and entrenched cultural attitudes.

---

<sup>12</sup> Manusmriti, Chapter 9, Verse 3, in G. Buhler, *The Laws of Manu* (Clarendon Press, 1886).

<sup>13</sup> Aruna Singh, "Remarriage in Urban India: Social Attitudes and Stigmas," *Journal of Contemporary Indian Society*, vol. 10, no. 3 (2022): 194.

According to the National Family Health Survey (2020), a mere 32% of widowed or divorced women in India opt for remarriage, citing social stigma and familial opposition as significant barriers. This statistic underscores the urgent need for continued advocacy and education surrounding the complex dynamics of women's remarriage in contemporary society.

### ❖ Divorce

- **Manusmriti:** Divorce is largely prohibited for women in Manusmriti. Once married, a woman is bound to her husband for life, with remarriage or divorce seen as socially unacceptable. Even in cases of abuse or neglect, women are encouraged to remain loyal to their husbands, reflecting a strong patriarchal view<sup>14</sup>.

**Impact on Society:** The traditional view of divorce, rooted in ancient texts, has had a lasting impact on societal perceptions of marriage and divorce. Divorce was historically seen as a stigma, particularly for women, who were expected to endure marital difficulties for the sake of family honor. Women's autonomy in marital decisions was limited, and divorce was seen as a moral failure. These views have contributed to the social stigma surrounding divorce, especially for women, who still face societal judgment when seeking to end a marriage.

According to a 2018 survey by the National Family Health Survey (NFHS)<sup>15</sup>, nearly 60% of women who sought divorce faced social stigma, particularly in rural areas where traditional views on marriage remain deeply entrenched. This reflects the enduring influence of ancient ideas that regard divorce as a failure, particularly for women.

- *Saroj Rani v. Sudarshan Kumar Chadha (1984)*: The Supreme Court recognized that women have the right to seek divorce if they face cruelty, thereby reinforcing the idea that marriage is not a prison but a partnership that should be based on mutual respect and well-being. This judgment empowered women to seek legal relief from abusive marriages.
- *V. Bhagat v. D. Bhagat (1994)*: The Supreme Court held that mental cruelty is a valid ground for divorce, acknowledging that emotional and psychological abuse in marriage is as damaging as physical abuse. This case broadened the scope of what could be considered grounds for divorce, particularly benefiting women trapped in emotionally abusive marriages.
- *Shah Bano Case (1985)*: In this landmark case, the Supreme Court ruled in favor of granting maintenance to a divorced Muslim woman under the *Criminal Procedure Code*, setting a precedent for the rights of women to seek financial support post-divorce, regardless of their religion.

### ❖ Dowry

The tradition of dowry in marriage, often considered a customary practice in ancient Indian society, reflects a deeply embedded patriarchal view that values women based on their financial contribution to the marriage. Ancient texts like the Manusmriti reinforce the notion that a bride's family should provide gifts or financial assistance as a form of "tribute," effectively commodifying women and creating a transactional aspect in marriages. Although dowry was initially intended as a form of financial

<sup>14</sup> Manusmriti, translated by G. Buhler, The Laws of Manu, Sacred Books of the East, vol. 25 (Clarendon Press, 1886)

<sup>15</sup> National Family Health Survey (NFHS), 2018.

security for the woman, over time, it became a practice that positioned women as financial burdens rather than valued partners<sup>16</sup>.

This financial burden also led to the devastating practice of female infanticide, as many families believed that a son would be a more beneficial addition to the family, free from dowry obligations and likely to carry on the family name. In regions with deeply rooted dowry customs, the birth of a daughter often came to be seen as an economic strain, pushing families to extreme measures to avoid the anticipated expenses of future dowry payments.

**Impact on Society:** The dowry system has left a profound and harmful impact on women in contemporary society. Despite legal reforms, dowry-related harassment and violence remain widespread issues, with women often facing abuse, neglect, and even physical harm if their families cannot meet the demanded dowry amounts. This expectation creates an environment where women are perceived as secondary in value, reinforcing their dependency on male family members and diminishing their autonomy and self-worth<sup>17</sup>.

According to a National Crime Records Bureau (NCRB)<sup>18</sup> report, India still sees thousands of dowry-related deaths every year, with cases particularly prevalent in rural and conservative areas where traditional beliefs are entrenched. Furthermore, dowry acts as a significant deterrent for parents who are financially strained, sometimes leading to the abandonment of female children and fostering a cultural preference for sons.

Landmark judgments have addressed the dowry issue, aiming to protect women's rights and reduce dowry-related violence:

- *S. 498A of the Indian Penal Code (IPC) and Dowry Prohibition Act (1961)*: These laws criminalize dowry demands and harassment, seeking to empower women to report abuse and protect them from exploitation.
- *Kamesh Panjiyar v. State of Bihar (2005)*<sup>19</sup>: This Supreme Court ruling highlighted that dowry-related violence is a serious offense, affirming the need for strict enforcement of anti-dowry laws to protect women's dignity.
- *Arnesh Kumar v. State of Bihar (2014)*<sup>20</sup>: The court ruled that arrests in dowry cases should be made after proper investigation to avoid misuse, underscoring a balanced approach to addressing dowry abuse without causing unnecessary harm to either party.

Despite legal protection, dowry continues to be a pervasive issue, affecting women's well-being and perpetuating gender inequality. Traditional beliefs about women as financial liabilities still influence societal attitudes, often translating into discrimination and exploitation in marriage. Reports from the National Family Health Survey (NFHS)<sup>21</sup> in 2018 indicate that nearly 50% of married women in certain regions experience dowry-related expectations, emphasizing the urgent need for continued

---

<sup>16</sup> Manusmriti, Chapter 3, Verse 55, in G. Buhler, *The Laws of Manu* (Clarendon Press, 1886)

<sup>17</sup> Seema K. Banerjee, "Dowry System and Domestic Violence," *Indian Journal of Social Justice*, vol. 12, no. 4 (2022): 329

<sup>18</sup> National Crime Records Bureau (NCRB), *Crime in India Report*, Ministry of Home Affairs (2021)

<sup>19</sup> *Kamesh Panjiyar v. State of Bihar*, (2005) 2 SCC 388.

<sup>20</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273

<sup>21</sup> National Family Health Survey (NFHS), 2018

advocacy, public awareness, and a shift in cultural attitudes toward viewing marriage as an equal partnership.

### ❖ Domestic Violence

In traditional society, women were often taught that their husbands held complete authority over them, grounded in the belief that wives were, in essence, the property of their husbands. This perception led to an expectation that women should endure hardship, including violence, as a part of their marital duty. Ancient scholars and religious texts played a role in perpetuating these norms, asserting that a wife's primary role was to serve and obey her husband, and that any form of resistance or complaint was against the natural order of marriage<sup>22</sup>.

- **Manusmriti:** Manu's teachings reinforced a patriarchal view of marriage, stating that a wife should be completely obedient to her husband, even under harsh circumstances. Manu asserted that "a wife should never seek to act independently of her husband," thereby fostering a mindset where women were expected to endure hardship, including abuse, as a marital duty. This ideology set the foundation for societal acceptance of male authority over women, even if it meant tolerating mistreatment.<sup>23</sup>
- **Yajnavalkya Smriti:** Yajnavalkya also highlighted the wife's role as subordinate, emphasizing that a woman's loyalty and obedience to her husband were paramount. According to him, women were bound by "Dharma" to their husbands, positioning the husband as a figure of authority over her life and well-being. This belief allowed husbands to exert control over their wives, often with little consequence for abusive behavior.<sup>24</sup>
- **Kautilya (Arthashastra):** While Kautilya's Arthashastra addressed the duties and rights of householders, it also implied that a husband's authority within the home extended to disciplining his wife as he saw fit. This concept of control was rooted in the belief that a wife's role was to support and submit to her husband, leaving little room for women to challenge or escape abusive treatment.<sup>25</sup>

**Impact on Society:** These beliefs laid the groundwork for generations of women to suffer in silence. Many were taught to see their suffering as a marital duty, with family and societal pressures discouraging them from speaking out or seeking help. Domestic violence became a hidden epidemic, as cultural expectations demanded that women prioritize family honor over their own safety and well-being. According to a report by the National Crime Records Bureau (NCRB)<sup>26</sup>, domestic violence remains one of the most underreported crimes in India, as many women still fear the stigma and consequences of exposing abuse.

Over time, India's legal system has evolved to address domestic violence and protect women's rights, with landmark cases and laws aimed at providing recourse for those facing abuse:

---

<sup>22</sup> Priyanka Sharma, *Women in Ancient Indian Society: Societal Constructs and Gender Roles* (New Delhi: Oxford University Press, 2019): 107.

<sup>23</sup> Manusmriti, Chapter 5, Verse 148, in G. Buhler, *The Laws of Manu* (Clarendon Press, 1886).

<sup>24</sup> Yajnavalkya Smriti, Chapter 1, in Manmatha Nath Dutt, *The Yajnavalkya Smriti* (Calcutta: Elysium Press, 1905).

<sup>25</sup> Kautilya, *Arthashastra*, translated by R. Shamasastri (Bangalore: Government Press, 1915), Book 3, Chapter 4.

<sup>26</sup> National Crime Records Bureau (NCRB), *Crime in India Report*, Ministry of Home Affairs (2021)

- *Protection of Women from Domestic Violence Act (2005<sup>27</sup>)*: This law broadened the definition of domestic violence to include physical, emotional, economic, and sexual abuse, granting women the right to seek protection and justice.
- *Shakila Banu v. Gulam Mustafa (1971)*: The court ruled that cruelty towards a wife is grounds for judicial intervention, challenging the traditional view of a husband's "right" to authority over his wife.
- *D. Velusamy v. D. Patchaiammal (2010)*: The Supreme Court's recognition that domestic violence protections extend to live-in relationships reinforced the idea that abuse is unacceptable in any intimate partnership.

Despite legal advancements, domestic violence remains a pervasive issue due to enduring traditional beliefs that view a wife's role as submissive to her husband. These ideas reinforce the notion that women should silently endure mistreatment, leading many to remain trapped in abusive situations. According to a National Family Health Survey, nearly 30% of married women in India have experienced domestic violence, yet most do not seek help. This highlights the urgent need to dismantle harmful cultural attitudes and advocate for women's autonomy, safety, and dignity within marriage.

### ❖ Sexuality and Objectification

Ancient texts like the Manusmriti and Kamasutra entrenched the objectification of women, reducing their identity to their chastity and roles as subordinates to men. These doctrines enforced the belief that women were property, their worth tied solely to sexual purity, thus normalizing control over their bodies to preserve male honor. This legacy persists today, influencing societal attitudes toward women, particularly in issues like domestic violence and harassment. Even with legal safeguards like *Vishaka v. State of Rajasthan*, deep-seated biases rooted in these ancient norms continue to undermine women's rights, highlighting the urgent need to challenge and reform these harmful perceptions.

### Traditional Views:

- **Manusmriti Says:** Women are often portrayed in terms that objectify their roles in reproduction and as companions to men. There are strict rules regarding chastity and fidelity, largely aimed at ensuring male lineage purity. Women's sexuality is controlled, and they are seen as potential sources of temptation or impurity that need to be regulated by male authority.<sup>28</sup>
- **Kamasutra:** Women are depicted as objects of male desire, likened to land that a man cultivates. Their value is closely tied to their physical appearance and their ability to satisfy men, reinforcing objectification.<sup>29</sup>
- **Yajnavalkya Smriti:** The text treats women as property of men, with expectations of chastity and loyalty to uphold family honor, reducing their identity to their roles within the household.<sup>30</sup>

<sup>27</sup> Protection of Women from Domestic Violence Act, 2005, Ministry of Women and Child Development.

<sup>28</sup> Manusmriti, Chapter 5, Verse 147, in G. Buhler, *The Laws of Manu* (Clarendon Press, 1886).

<sup>29</sup> Vatsyayana, *Kamasutra*, translated by Sir Richard Burton and F. F. Arbuthnot (Dover Publications, 1962)

<sup>30</sup> Yajnavalkya Smriti, Chapter 1, in Manmatha Nath Dutt, *The Yajnavalkya Smriti* (Calcutta: Elysium Press, 1905).

- **Gargi Vachaknavi's Cultural Context (Brahadaranyaka Upanishad):** A woman's chastity and fidelity are emphasized as the measure of her worth, reducing her identity to these traits.<sup>31</sup>
- **Kautilya's Arthashastra:** Women's chastity is highlighted as their greatest asset, and they are viewed with suspicion as potentially deceptive, objectifying them as beings in need of control.<sup>32</sup>
- **Vidyaranya:** "A woman's chastity is her greatest virtue; she must guard her purity above all else." (Panchadasi, Chapter 1, Verse 106). Women are reduced to their sexual purity and virtue, reinforcing objectification by focusing on their chastity as their defining trait.<sup>33</sup>
- **Ramanuja:** "A virtuous woman must guard her chastity; her honor and the honor of her family depend on her purity." This reflects the objectification of women, tying their worth to their sexual purity and defining their value based on their ability to preserve their chastity.<sup>34</sup>
- **Tulsidas:** "The drum, the illiterate, the lower castes, animals, and women, all deserve to be beaten." (Ramcharitmanas, Aranya Kand 3.33.4). Tulsidas places women on the same level as animals and lower castes, reducing them to beings deserving of punishment and control, which reflects a deeply objectified view of women as subjugated entities. Though celebrated for its progressive stance on sexuality, the *Kamasutra* also reduced women to objects of male pleasure. Women were described as being like a "piece of land," cultivated by men for their own satisfaction. The notion of women being mere instruments of pleasure reflects the legal maxim "*Res corporales*" (Tangible objects), highlighting how women's bodies were commodified in ancient texts.<sup>35</sup>

**Impact on Society:** These ancient texts helped normalize the objectification and subordination of women, perpetuating a cultural belief that women exist primarily to satisfy men's desires. This mindset persists in various forms, from media representations that objectify women to societal expectations that they conform to traditional gender roles in marriage.

The *Geena Davis Institute* reported in 2019 that women in Indian films were twice as likely to be objectified compared to their male counterparts, reflecting the lingering cultural belief that women's value lies in their physical appearance and sexual appeal.

- *Indra Sarma v. V.K.V. Sarma* (2013)<sup>36</sup>: The court recognized that domestic violence laws extend beyond physical abuse, addressing the issue of emotional control and objectification within relationships.

---

<sup>31</sup> Swami Madhavananda, *The Brihadaranyaka Upanishad* (Advaita Ashrama, 1950): 4.2.7

<sup>32</sup> Kautilya, *Arthashastra*, translated by R. Shamasastri (Bangalore: Government Press, 1915), Book 3, Chapter 4.

<sup>33</sup> Vidyaranya, *Panchadasi*, Chapter 1, Verse 106.

<sup>34</sup> Swami Adidevananda, *Ramanuja on the Bhagavad Gita* (Ramakrishna Math, 1991)

<sup>35</sup> Tulsidas, *Ramcharitmanas*, Aranya Kand 3.33.4, translated by R. C. Prasad (Motilal Banarsidass, 1981).

<sup>36</sup> *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755

- *Vishaka v. State of Rajasthan* (1997)<sup>37</sup>: This landmark case addressed workplace sexual harassment, protecting women from objectification and reinforcing their right to dignity in the workplace.

### ❖ Chastity and Virtue

Ancient Hindu texts like the Manusmriti and Yajnavalkya Smriti placed immense emphasis on a woman's chastity, framing it as her highest virtue. These texts dictated that a woman's worth was tied to her sexual purity and loyalty to her husband, overshadowing her individual achievements. This cultural focus persists today, where women who deviate from these ideals face stigma and victim-blaming, particularly in cases of sexual violence. For instance, the invasive questioning of rape victims' sexual history highlights this bias. Although cases like *State of Punjab v. Gurmit Singh* (1996) challenge such norms, societal attitudes remain resistant to change.

### Traditional Views:

- **Manusmriti**<sup>38</sup>: Manu placed enormous value on a woman's chastity, declaring that a virtuous wife would be rewarded in the afterlife even if she bore no children. The emphasis on a woman's sexual purity reflected the belief that her worth was tied solely to her chastity, not her individual accomplishments.
- **Yajnavalkya Smriti**<sup>39</sup>: Yajnavalkya echoed similar sentiments, reinforcing that a woman's primary virtue lay in her fidelity and loyalty to her husband.
- **Tulsidas**: Tulsidas in the Ramcharitmanas equates a woman's virtue with her unwavering fidelity, likening her devotion to that of worship. These beliefs have entrenched a culture where women's value is judged by their chastity, affecting legal and societal attitudes, especially in cases of sexual violence and harassment.

**Impact on Society:** The emphasis on chastity as a woman's greatest asset has had profound societal consequences. Women who deviate from this ideal—whether through sexual assault, extramarital relationships, or personal choices—are often ostracized, blamed, or stigmatized. This cultural focus on a woman's purity persists in victim-blaming attitudes, where women are held responsible for preserving their own virtue, even in cases of sexual violence<sup>40</sup>.

In cases of rape, victims are often subjected to intrusive questioning about their sexual history. A 2018 study by *Amnesty International* found that 75% of rape victims in India were asked about their sexual history during trials, a practice that reflects the continued emphasis on chastity as a measure of a woman's worth<sup>41</sup>.

---

<sup>37</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011

<sup>38</sup> Manusmriti, Chapter 5, Verse 164, in G. Buhler, *The Laws of Manu*.

<sup>39</sup> Yajnavalkya Smriti, Chapter 1.

<sup>40</sup> A. R. Rao, *Gender and Society in India* (New Delhi: Sage Publications, 2018): 216.

<sup>41</sup> Amnesty International, *Justice Denied: Sexual Violence and Impunity in India*, 2018.

- *State of Punjab v. Gurmit Singh* (1996)<sup>42</sup>: The court held that the character of a rape victim should not influence the judgment, reinforcing that a woman's chastity should not be scrutinized in cases of sexual violence.
- *Vishaka v. State of Rajasthan* (1997)<sup>43</sup>: The court reinforced that women have the right to work with dignity and that their personal virtue should not be questioned in cases of harassment.

---

<sup>42</sup> *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

<sup>43</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

## Conclusion & Suggestions

### Conclusion:

The influence of ancient Indian texts on societal norms and legal frameworks has been profound, shaping generations of attitudes towards women. However, as we strive for a more inclusive and equitable society, it becomes clear that these age-old perspectives often perpetuate harmful gender biases that hinder progress. Ancient texts like *Manusmriti* and *Kamasutra*, while rich in cultural and historical significance, reflect a worldview that often relegates women to a position of subjugation. The societal norms arising from such beliefs continue to impact the legal and social spheres, maintaining discriminatory practices and laws.

As we move forward, we must critically re-evaluate these traditional frameworks and their lasting impact. The examples set forth by scholars like Gargi Vachaknavi and Kautilya provide an alternative, more egalitarian vision of women's roles in society, but these ideas have struggled to gain traction in a legal system still influenced by outdated norms. The persistence of such inequalities, particularly in areas like inheritance rights and marriage, calls for urgent reform.

In a legal system that upholds the dignity and equality of all its citizens, we must shift from merely preserving ancient traditions to constructing a forward-looking framework that aligns with modern values of gender equality. This transformation involves deconstructing these harmful historical legacies and implementing measures that ensure that women are not just symbols of duty and service but active participants in societal development.

### Suggestions:

- 1) Reforming Legal Frameworks:** Lawmakers must prioritize the revision of legal provisions that perpetuate gender bias, ensuring that women's rights are enshrined with equal importance as those of men. Revisiting outdated legal structures influenced by ancient texts, such as inheritance laws and marriage practices, is essential for gender equality.
- 2) Promoting Gender Equality Education:** In order to challenge the deep-rooted gender stereotypes propagated by ancient texts, educational initiatives must focus on promoting gender equality and dismantling patriarchal beliefs. Schools and universities should include curriculum elements that teach the egalitarian ideals found in texts by thinkers like Gargi Vachaknavi and Kautilya.
- 3) Public Awareness Campaigns:** Nationwide awareness campaigns are essential to sensitize the public about the importance of women's rights, legal equality, and the impact of cultural norms.

These initiatives can help change societal attitudes and encourage the acceptance of progressive legal reforms.

- 4) Empowering Women through Legal Reforms:** Special attention must be given to empowering women in areas where legal provisions are still discriminatory, such as guardianship rights, marriage, and inheritance. Creating laws that protect women from all forms of discrimination, both social and legal, is crucial.
- 5) Restoring Women's Agency:** Encouraging more participation of women in the formulation of policies, legal frameworks, and societal leadership will help in creating laws and systems that are truly reflective of the diverse needs and roles of women in society. This empowerment can help ensure that legal and societal norms truly reflect the experiences and aspirations of women.
- 6) Research and Documentation:** Further research must be conducted to systematically examine the role of ancient texts in shaping contemporary gender norms and laws. This will help uncover both the positive and negative influences of these texts and provide a basis for informed legal reforms that support gender equality.